

Court of Appeal of Alberta
Part J. - Procedural or Custody or Access Appeals - Check/Return Form

This checklist return form provides an itemized summary of the most common problems when filing documents in the Court of Appeal. However, this form does not include each requirement of the Alberta Rules of Court and Practice Directions. Accordingly, you should rely on the appropriate authority when preparing a document for filing in the Court of Appeal.

1. Deadlines for Appeal Books:

- 5(a) The appellant must order any necessary transcript within 7 days of filing of the appeal.
- 5(b) The appellant must file and serve the Appeal Books within one month of filing of appeal, or one business day after the Appeal Books are ready, whichever comes first.
Note: If either of these deadlines are missed, counsel/appellant must obtain a fiat allowing them to file the material late. The clerk will stamp the material as "Filed Late".
- 5(c) If the transcript will not be ready within one month of filing the appeal, the appellant may mention that fact in the table of contents, and file and serve the transcript later as a Supplemental Appeal Book volume as soon as it is ready.

2. Appeal Book Contents:

Rule 530 and Part B. of the Consolidated Practice Directions (CPD) apply to Part J. appeals with the following exceptions:

- 6(a) If the appellant desires, and the total contents do not exceed 200 pages, the Appeal Book may
 - (i) leave affidavits and their exhibits together in their original arrangement;
 - (ii) not number all the pages in the Appeal Book consecutively, and use lettered or numbered cardboard tabs instead, so long as each tab's contents are clearly and consecutively paged in one continuous run;
 - (iii) be all in one volume and, if so, have a red cover; and
 - (iv) reproduce transcript in single-spaced or double-spaced format.**Notes:** If the total contents exceeds 200 pages, the appeal books must be produced in accordance with Rule 530 (refer to the Regular Appeal Book Check/Return form for requirements).
 A fiat is required to dispense with the filing of the electronic appeal book if a double-spaced transcript is used and it is over 100 pages (Rules 530(13) & (13.1) apply to transcripts which are 100 pages or less). If the transcript was produced before the notice of appeal was filed, a fiat may be sought, at the time the appeal books are filed, by providing a letter to the Registry requesting same.
- 6(b) No agreement as to contents is necessary. If respondent disagrees with inclusion of an item in the Appeal Books, he or she must say so in his or her factum. If the respondent disagrees with the omission of an item, the

respondent may file and serve the omitted item in white covers and entitle it "Disputed Appeal Book". If under 15 pages, the Disputed Appeal Book may be an appendix to the respondent's factum.

- 6(c) Subject to part 6(d), an Appeal Book must contain all of the following:
 - (i) table of contents;
 - (ii) transcript of any oral, or written, reasons of the judge appealed from, and of any Master or tribunal who was appealed to the judge who is now appealed from;
 - (iii) transcript of oral argument, unless argument exceeded one-half day;
 - (iv) notices of motion or notices of appeal from any Master, referee, or tribunal from whom the judge now appealed from was hearing an appeal;
 - (v) respondents' notices given for this motion under R. 384(3); and
 - (vi) affidavit evidence or any other material which is
 - (A) referred to in item 6(c)(iv) or (v), or
 - (B) expressly referred to in the reasons of the judge appealed from, or
 - (C) expressly cited in the transcript of argument, or
 - (D) expressly cited in a brief filed for the relevant motion;
 - (vii) formal order under appeal;
 - (viii) notice of appeal;
 - (ix) certificate in Form O, or if the appellant is unrepresented, Form S.
- 6(d) If desired, the appellant may place in the Appeal Book any pleadings which the appellant thinks useful to the appeal.
- 6(e) If desired, the respondent may reproduce other pleadings which the respondent thinks useful to the appeal, as appendix to the respondent's factum.
- 6(f) The Appeal Book need not duplicate an item already in a leave to appeal book described in Part J. 3(e) (CPD), if the Appeal Book's Table of Contents mentions and cross references that item specifically, and if the appellant files any additional copies of it which the Registrar may require.

3. Contents of Factums:

- 6(e) If desired, the respondent may reproduce other pleadings which the respondent thinks useful to the appeal, as an appendix to the respondent's factum.
- 7(a) Part C (CPD), paragraphs 2 to 8 inclusive, and paragraph 11, apply.
Note: Refer to the Regular Factum Check/Return form for these requirements.
- 7(c) The usual Rules on factums apply, subject to paragraphs (d) to (i) inclusive (below).
Note: Refer to the Regular Factum Check/Return form for further requirements.

Factum Deadlines, Copies Required and Consequences:

- 7(d) A factum shall not exceed a total of 12 pages, excluding appendices.
- 7(e) The original and 4 copies of the appellant's factum and authorities shall be filed and served by the earlier of:
 - (i) two weeks after the Appeal Book is filed; or

(ii) six weeks after the appeal is filed.

Note: If either of these deadlines are missed, counsel/appellant must obtain a fiat allowing them to file the material late. The clerk will stamp the material as "Filed Late".

- 7(f) The original and 4 copies of the respondent's factum and authorities, or letter of intention not to file a factum, shall be filed and served by 12:00 noon, within 30 days after service on the respondent of the appellant's factum, or at least 15 days before the opening day of the sittings, whichever is earlier.
- 7(g) Where a factum, or letter of intention not to file a factum, is not filed by the respondent within the time periods set out in para. 7(f), the party in default will not be allowed to present oral argument, nor be entitled to costs, unless otherwise ordered.
- 7(h) If a respondent fails to file a factum, the appeal may proceed in the absence of that factum.
- 7(i) The number of copies required under this subpart does not include copies for counsel, parties or service.

4. Contents of Book of Authorities:

The usual Rules and Practices apply with the following exceptions:

- 8(c) Passages need not be highlighted.

Note: Refer to the Regular Book of Authorities form for further requirements.

5. Consequences of Missed Deadlines:

- 12(b) Unless the appellant has been granted an extension of time for filing, any failure by the appellant to comply with the filing deadlines for appeal books or factums in the Alberta Rules of Court and Consolidated Practice Directions will result in the Registrar striking the appeal from the general procedural appeal list.
- 12(f) Any appeal which has been struck from the general procedural appeal list and has not been restored within three months from the day that the case was struck from the list, will be deemed to have been abandoned.

6. Application of Other Parts of Consolidated Practice Directions and Rules:

All Rules of Court and Court of Appeal Practice Directions apply to procedural appeals, except:

- 16(a) Parts A.7, B.3, B.4, B.5, all of D.4 after first two sentences, D.8, E, G.6, and I, of the Consolidated Practice Directions.
- 16(b) Rr. 515, 515.1(1)-(7), 515.1(9), 517, 530(8)(a), 530(10), 530(14), 530(15), 530(18), 538(1)-(3), and Form N.
- 16(c) Any parts of other Rules or Practice Directions which parts are inconsistent with this Part J.

Calgary Registry: (403) 297-2206

Edmonton Registry: (780) 422-2416

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Access this form on the Alberta Court's website at
<http://www.albertacourts.ab.ca/ca/publication/index.htm>