

**COURT OF APPEAL OF ALBERTA  
AFFIDAVIT - 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.**

- A. **General Format of Document:**  
Refer to the General Format - Check/Return Form for formal requirements of all documents.
  
- B. **Copies Required (Part F.1(b) & (c), F.2(b) & (c) CPD):**  
The Registry will keep the original and:
  - (i) 2 copies, if the motion is scheduled before one Justice in Chambers, or
  
  - (ii) 4 copies, if the motion is scheduled before the Motions Court (panel of 3 justices),  
pursuant to Part F. of the Amended Court of Appeal Consolidated Practice Directions (CPD).
  
- C. **Affidavit in Support of or in Reply to (Parts F.1(a) & (b), F.2(a), (b)(i) & (ii) & (c)(i) & (ii) CPD):**
  - (i) An affidavit (if applicable) **in support** of a notice of motion must be filed at the same time that the notice of motion is filed.
  - (i) An affidavit (if applicable) **in reply** to a notice of motion must be filed within the time limits set out in Part F. CPD.
  
- D. **Relying on Materials Already Filed (Part F.3(c) CPD):**  
Where a party will be relying on material which has been previously filed, the materials must be contained in or attached to the notice of motion, affidavit, memorandum, or a separate covering letter. The party must provide sufficient copies of those documents to the Registry for distribution purposes, and must serve the other parties with same, all within the time periods set out in Part F. (CPD).
  
- E. **Materials Filed Late (Part F.7(a)(b) & (c) CPD):**
  - (i) When materials are not filed within the time fixed by Part F. (CPD), the party in default shall not be entitled to costs of the application, unless otherwise ordered.
  
  - (ii) When a respondent fails to file materials within the time fixed by Part F. (CPD), the respondent will not be allowed to present oral argument

on the application, unless otherwise ordered.

- (iii) The late-filed materials will be marked accordingly by the clerk (red stamped).

F. **Formal Contents of Affidavit:**

- (i) **first person (Rule 298(1)(b)):** an affidavit must be drawn up in the first person, stating the deponent's name in full, occupation and place of residence (city/town and province),
- (ii) **name and date (Rule 298(1)(c)):** an affidavit must have the full name of the deponent and the date it was sworn stated at the top of the front page and the backer,
- (iii) **execution (Rule 299):** an affidavit shall be signed by the deponent and the jurat shall be signed by the person before whom it was sworn (commissioner). The name of the person signing the document must be legibly printed directly beneath the signature (ARC 5.1),
- (iv) **date and place (Rule 300):** the date and the place where the affidavit is taken shall be expressed in the jurat,
- (v) **paragraphs (Rule 304(1)):** every affidavit shall be divided into paragraphs numbered consecutively, each paragraph being as far as possible confined to a distinct portion of the subject,
- (vi) **alterations (Rule 308):** any insertions, alterations, or deletions to the affidavit must be initialed by the commissioner before the affidavit is sworn, unless leave of the court has been given,
- (vii) **exhibits attached (Rule 311):**
  - (a)  any document to be used in conjunction with an affidavit shall be an exhibit to the affidavit,
  - (b)  the exhibit certificate (the rubber stamp on each exhibit) must be signed and dated the same date that the affidavit was commissioned,
  - (c)  exhibits to an affidavit must be legible, and
  - (d)  if the total number of pages for an affidavit and exhibits exceeds 25 pages and if the exhibits are attached to the affidavit:
    - (I)  the exhibit must be separated by tabs, and the pages within each tab must be numbered consecutively, or
    - (II)  the pages of the affidavit and all exhibits must be consecutively numbered using a single series of numbers, and

- ❑ (viii) **exhibits not attached (Rule 312):** where a properly marked exhibit is referred to in an affidavit filed and is not annexed thereto, the exhibit need not be filed and shall be handed out on the disposal of the motion, unless otherwise ordered.

Calgary Registry: (403) 297-2206  
Edmonton Registry: (780) 422-2416

Form Revised: July 9th, 2004

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