

**COURT OF APPEAL OF ALBERTA
CIVIL NOTICE OF APPEAL - 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. **Prescribed Form N - Notice of Appeal (Part A.8 CPD):**
Parties filing a civil appeal are directed to use Form N for the Notice of Appeal. This form can be found in the Court of Appeal Consolidated Practice Directions (CPD) and is also available in an interactive format on the Alberta Courts' website located at www.albertacourts.ab.ca > Court of Appeal > Publications and Forms. Please note that you are required to identify **which one, if any**, of the processes in questions 9 to 12 of Form N would be most helpful in advancing your appeal. A supporting letter and timetable (if applicable) must be filed with Form N or shortly thereafter depending on the selection you make (see pop-up messages on interactive Form N for more information).

Note:
 - 1. Form N may be used in place of a Notice of Intention to Vary or a Notice of Cross-Appeal, but must be labelled accordingly.

 - 2. If a cross appeal or notice of intention to vary is filed, where either the main appeal or the cross appeal falls within this Part J., the party filing it must apply immediately, on notice, to the list manager or duty judge, to set a timetable and give directions for the appeal.

- C. **Copies Required:**
The Registry will keep the original and 2 copies of the notice of appeal.

- D. **Filing Fee:**
A **\$600.00** commencement fee is required for each notice of appeal filed, unless this fee was paid at the time the notice of motion for leave to appeal was filed (if applicable). Payment may be made by cash, Visa, MasterCard, Interac, certified cheque or money order. Certified cheque or money order must be made payable to the "Minister of Finance".

- E. **Separate Notice of Appeal Required:**
 - (i) Except as ordered by the court in exceptional circumstances, a separate notice of appeal must be filed for each order being appealed,

unless those orders were granted by the same judge in the same suit (or, if applicable, consolidated suit) and arise out of the same hearing (ARC 506(3)), and

- (ii) a substantive order and a later order awarding or concerning costs of the earlier substantive order shall be deemed to arise out of the same hearing (ARC 506(4)).

F. **Appeal Period and Judgment/Order/Decision Particulars:**

The notice of appeal must indicate the name of the justice whose order is being appealed, and the date the judgment/order was pronounced, entered and served, in order to calculate when the appeal period ends (ARC 506(1)).

Note: Justice's judgment/order - appeal period is 20 days from the date the order is filed and served; divorce (ARC 577.3(b)) or adoption order - appeal period is 30 days from the date of granting; Family Law Act judgment/order - appeal period is 30 days from date of pronouncement (or if the appellant is able to establish to the Court's satisfaction the date on which the appellant received notice of the order, within 30 days following that date); bankruptcy order - appeal period is 10 days from the date of judgment; and board decision - the 20-day appeal period applies unless a particular statute or Board policy/regulation extends it to 30 days.

G. **Trial Court Number:**

Provide the trial court number on the front and back of the top right-hand corner of the notice of appeal. "Appeal No. _____" is to appear directly above the trial court number.

H. **Must Indicate What is Being Appealed:**

The notice of appeal must state whether the whole or only a specific part of the judgment, order or decision is being appealed (ARC 511).

I. **Signature Required:**

The notice of appeal must be signed by the appellant(s) or their solicitor. The name of the person signing the document must be legibly printed directly beneath the signature (ARC 5.1).

J. **Service:**

Directly above the signature line, indicate the name(s) of the party(ies) which must be served, or the lawyer's name and law firm representing the party(ies) (if applicable) (ARC 510(1)).

K. **Address for Service:**

Your address for service must be within 30 kilometres of the Registry office (ARC 5(1)(b)), or you must provide a facsimile number located in Alberta at

which a document may be served in accordance with ARC 16.1.

- L. **Copy of Judgment/Order/Decision Being Appealed Required:**
A copy of the judgment, order or decision appealed from must be filed at the same time the notice of appeal is filed (ARC 506(2)). If you are appealing an order of a justice who heard an appeal of a Queen's Bench Master's or Provincial Court Judge's decision, a copy of that order is also required.
- M. **Security for Costs:**
Security for costs is required on Public Utility Board matters in the amount of \$250.00 at the time of filing the notice of appeal.
- N. **Leave to Appeal Required:**
 - (i) **Require Leave of the Court to Appeal an Award of Costs Only:**
No judgment/order entered into by consent or order awarding costs only shall be subject of any appeal, except by leave of the court giving the judgment or making the order (ARC 505(3)).
 - (ii) **Require Leave of the Court if Matter Being Appealed Does Not Exceed \$25,000.00:**
Where the matter in controversy and the appeal can be estimated in money and does not exceed the sum of \$25,000.00, exclusive of costs, no appeal lies without leave of the court (ARC 505(4)).
 - (iii) **Require Leave of the Court to Appeal a Development Appeal Board Matter:**
Leave of the court is required on Development Appeal Board matters. To apply for leave, a notice of motion and supporting materials must be filed returnable before one justice in chambers.
 - (iv) **Require Leave of the Court to Appeal a Judgment/Order Made Under the Family Law Act (ARC 580.92(1)):** No appeal lies from a decision of the Court sitting as an appeal court for decisions made under the Act except to the Court of Appeal on a question of law or jurisdiction, or both, with leave of a judge of the Court of Appeal.
 - (v) **Filing Fee Required on Civil Leave to Appeal Applications:**
In all instances where leave to appeal is required on civil files, a \$600.00 filing fee must be paid at the time the notice of motion is filed.
- O. **Require Leave to Amend:**
Leave of the court is required to amend a notice of appeal (ARC 512).

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

Form Revised: October 25th, 2005

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