

**AMENDMENTS TO THE RULES OF COURT
IN THE COURT OF APPEAL FOR SASKATCHEWAN**

Pursuant to the power conferred on The Court of Appeal for Saskatchewan by section 22 of *The Court of Appeal Act, 2000*, the Court amends *The Court of Appeal Rules* as follows.

Rule 2 amended

1. Rule 2 is amended by repealing the definition of the words “Act” and “judge” and substituting the following:

“Act” means *The Court of Appeal Act, 2000*;

“judge” means, unless otherwise indicated, a judge of the Court of Appeal acting under section 20 of the *Act*.

New Rule 10.1

2. The following Rule is added after Rule 10:

Filing judgment or order appealed against

10.1 Where an appeal is taken against a judgment or order of the Court of Queen’s Bench, a copy of the judgment or order, as taken out in the Court of Queen’s Bench, shall be filed contemporaneously with the notice of appeal.

Rule 15 amended

3. Subrule 15(4) is repealed and the following substituted:

(4) Where the execution of a judgment or order is stayed pending an appeal, all further proceedings in the action, other than the issue of the judgment and the taxation of costs under the judgment, are stayed unless otherwise ordered.

Rule 26 amended

4. Paragraph 26(b) is repealed and the following substituted:

(b) file proof of service in accordance with paragraph (a), together with four copies of the appeal book (being the original and three copies), or such other number as the registrar requires.

Subrule 28(1) amended

5. Part VII of Subrule 28(1) is repealed and the following substituted:

Part VII. Authorities: This part shall contain a table of authorities and statutes that the party has referred to, arranged alphabetically and citing the Supreme Court Reports where possible. Counsel citing decisions from electronic databases in factums and memorandums of authority must also provide the citation from traditional print sources.

New Rule 32

6. Rule 32 is repealed and the following substituted:

Services and filing of factum

32(1) An appellant shall serve the appellant's factum at the same time and in the same manner as the appeal book is required to be served under Rule 26 (Service and filing of appeal book).

(2) An appellant shall also file the appellant's factum at the same time and in the same manner as the appeal book is required to be filed under Rule 26 (Service and filing of appeal book).

(3) A respondent or intervener shall serve and file its factum within 30 days after the receipt of the appeal book.

(4) All parties filing factums with proof of service shall give the registrar four copies (being the original and three copies), or more as the registrar may require.

New Rules 33 and 33.1

7. Rule 33 is repealed and the following substituted:

Factum in reply on Cross Appeal

33 Within 15 days after receipt of a respondent's factum dealing with a cross appeal, an appellant may serve and file a factum in reply.

Factum in reply in other cases

33.1(1) Subject to Subrules (2), (3), and (4), an appellant may serve and file a factum in reply if the respondent's factum contends:

(a) that the judgment appealed from should be upheld whether in whole or in part, notwithstanding error in the reasons for the decision as contended for by the appellant; and

(b) that the judgment should be upheld for reasons not found in the decision.

(2) A factum in reply contemplated by Subrule (1) shall be served and filed within 15 days after receipt of the respondent's factum.

(3) Where the registrar is of the opinion:

(a) that the conditions requisite to serving and filing of a factum in reply under Subrule (1) do not exist; or

(b) that the factum in reply tendered for filing is excessive or otherwise offensive to the purpose of Subrule (1);

the registrar may refuse to file the factum in reply or, if filed, remove it from the file and return it to the appellant.

(4) Where any dispute arises out of the filing of a factum in reply, the registrar may refer the dispute to a judge for final resolution.

New Rule 36

8. Rule 36 is repealed and the following substituted:

Book of Authorities

36(1) A party may serve a book of authorities when serving that party's factum.

(2) Where a party has served a book of authorities along with its factum, that party shall, when filing its factum, file the book of authorities in triplicate, or in such numbers as the registrar requires.

(3) The parties may agree upon a common book of authorities and, where they so agree, they shall file the book in triplicate, or in such numbers as the registrar requires.

(4) A book of authorities shall contain an index and shall have the cases in it individually tabbed by number or letter. Where possible, Supreme Court Reports shall be used for decisions of that court.

(5) Where a book of authorities includes decisions from electronic databases, counsel must provide the citation from traditional print sources.

Rule 39 amended

9. The following Subrules are added after Subrule 39(3):

(4) Counsel for the appellant, or the appellant if self-represented, shall:

(a) serve on the respondent, if self-represented, notice of the time and place set for the hearing of the appeal; and

(b) file proof of service of the notice referred to in paragraph (a) at least 15 days before the appeal is set to be heard.

(5) If Subrule (4) is not complied with:

(a) the hearing of the appeal may be adjourned; and

(b) the appellant may be ordered to pay costs.

New Rule 39.1

10. The following Rule is added after Rule 39:

Adjournments

39.1(1) All requests to adjourn the hearing of an appeal set down for hearing in accordance with the list of scheduled appeals shall be made to the registrar immediately upon receipt of the schedule and upon three days' notice to the other party.

(2) In the event of an objection, the registrar:

(a) may adjourn or decline to adjourn the hearing, subject to consulting with the court when appropriate in the opinion of the registrar, and, if adjourned, set a new date for the hearing; or

(b) may refer the request to a judge in chambers.

(3) The decision of the registrar is final.

Rule 43 amended

11. The following Subrule is added after Subrule 43(2):

(3) If a dispute arises over the contents of an appeal book on an expedited appeal, either party may apply to a judge to have the matter in dispute settled.

New Part XIII.1

12. The following Part is added after Rule 46:

PART XII.1

PROHIBITING VEXATIOUS PROCEEDINGS

46.1(1) On application by any party to an appeal, the court may make an order quashing an appeal on the ground:

- (a) it discloses no right of appeal;
- (b) it is frivolous or vexatious;
- (c) it is manifestly without merit; or
- (d) it is otherwise an abuse of the process of the court.

(2) Before an order is made under Subrule (1), the appellant shall be given an opportunity to be heard in accordance with Part XIV.

46.2(1) If, on application of any person, the court or a judge is satisfied that a person has habitually, persistently, and without reasonable cause commenced frivolous or vexatious proceedings in the court, the court or a judge may make an order prohibiting the commencement of proceedings without leave of the court or a judge.

(2) Before an order is made under Subrule (1), the person against whom such an order may be made shall be given an opportunity to be heard in accordance with Part XIV.

Rule 54 amended

13. Subrule 54(1) is repealed and the following substituted:

- (1) Unless otherwise ordered:
 - (a) the costs of an appeal or application shall be taxed as between party and party by the registrar in accordance with the fees set out in the appropriate column of Schedule I; and
 - (b) Column 2 of Schedule I “A” applies to the taxation of costs where non-monetary relief is involved.

New Rule 57.1

14. The following Rule is added after Rule 57:

Taking out judgments and orders

57.1(1) The party responsible for taking out a judgment or order of the court, or an order of a judge of the court, shall before submitting the proposed judgment or order to the registrar serve a copy on the opposite party or parties at least three days in advance, so as to permit the other to raise with the registrar such concerns, if any, as that party may have as to the consistency of the judgment or order with the decision upon which it is based.

(2) The party responsible for taking out a judgment or order referred to in Subrule (1) shall, when submitting the proposed judgment or order to the registrar, file proof of service on the opposite party or parties.

(3) Failing proof of service, the registrar shall not settle or issue the judgment or order.

New Subrule 60(1)

15. Subrule 60(1) is repealed and the following substituted:

60(1) The registrar may hear and determine applications under Rules 10(2) (Filing notice of appeal), 18 (Appeal book required), 22(5) (Agreement as to contents and completion of appeal book), 28(1) (Contents of factum), 34(1) (Late filing of factum), or 43(3) (Content of appeal book on expedited appeal).

New Rule 67

16. Rule 67 is repealed and the following substituted:

Service

67(1) The provisions of Part Three of *The Queen's Bench Rules* apply, with any necessary modification, to service required by these Rules.

(2) For greater certainty, a document commencing proceedings in the court shall be an Acknowledgement of Service in Form 3 of *The Queen's Bench Rules*.

New Rule 73

17. Rule 73 is repealed and the following substituted:

73 Except as otherwise provided by law, no person shall record by any device, machine, or system the proceedings in the court or in chambers without leave of the court or a judge, as the

case may be.

Appendix amended

18. The Appendix to the Rules is amended by adding the following forms:

FORM 10a

(Judgment Dismissing Appeal)

[Court file no.]

IN THE COURT OF APPEAL FOR SASKATCHEWAN

BETWEEN

Appellant(s)

-and-

Respondent(s)

BEFORE

The Honourable [Chief Justice of Saskatchewan]
or [Mr. or Madam Justice] (name)
The Honourable [Mr. or Madam] Justice (name)
The Honourable [Mr. or Madam] Justice (name)

JUDGMENT OF THE COURT

THIS APPEAL from the judgment [or order] of the Honourable [Mr. or Madam] Justice (name), dated the ____ day of _____, _____ was heard on the ____ day of _____, _____ at Regina [or Saskatoon].

ON READING the material filed with the court, including the judgment pronounced [or order made] by the Honourable [Mr. or Madam] Justice (name) and the reasons therefor, and

ON HEARING the submissions on behalf of the parties,

THIS COURT HEREBY ORDERS:

1. That this appeal be dismissed.
2. That the appellant forthwith pay the respondent's taxed costs on appeal as determined under column _____ of The Court of Appeal Tariff of Costs.

DATED this ____ day of _____, _____ .

Registrar, Court of Appeal

FORM 10b

(Judgment Allowing Appeal and Granting Appellant Judgment Below)

[Court file no.]

IN THE COURT OF APPEAL FOR SASKATCHEWAN

BETWEEN

Appellant(s)

-and-

Respondent(s)

BEFORE

The Honourable [Chief Justice of Saskatchewan]
or [Mr. or Madam Justice] (name)
The Honourable [Mr. or Madam] Justice (name)
The Honourable [Mr. or Madam] Justice (name)

JUDGMENT OF THE COURT

THIS APPEAL from the judgment [or order] of the Honourable [Mr. or Madam] Justice (name), dated the ____ day of _____, _____ was heard on the ____ day of _____, _____ at Regina [or Saskatoon].

ON READING the material filed with the court, including the judgment pronounced [or order made] by the Honourable [Mr. or Madam] Justice (name) and the reasons therefor, and

ON HEARING the submissions on behalf of the parties,

THIS COURT HEREBY ORDERS:

1. That the appeal be allowed and the judgment [order] appealed from be set aside.
2. That the appellant shall have judgment in the proceedings in the Court of Queen’s Bench that gave rise to the judgment [order] appealed from.
3. That the respondent forthwith pay the appellant’s taxed costs in relation to the proceedings in the Court of Queen’s Bench that gave rise to the judgment [order] appealed from, such costs to be determined in the Court of Queen’s Bench in accordance with the rules of that Court and its Tariff of Costs.

4. That the respondent forthwith pay the appellant's taxed costs on appeal as determined under column ____ of the Court of Appeal Tariff of Costs.

DATED this ____ day of _____, _____.

Registrar, Court of Appeal

FORM 10c

(Judgment Allowing Appeal and Varying Judgment Below)

[Court file no.]

IN THE COURT OF APPEAL FOR SASKATCHEWAN

BETWEEN

Appellant(s)

-and-

Respondent(s)

BEFORE

The Honourable [Chief Justice of Saskatchewan]
or [Mr. or Madam Justice] (name)
The Honourable [Mr. or Madam] Justice (name)
The Honourable [Mr. or Madam] Justice (name)

JUDGMENT OF THE COURT

THIS APPEAL from the judgment [or order] of the Honourable [Mr. or Madam] Justice (name), dated the ____ day of _____, _____ was heard on the ____ day of _____, _____ at Regina [or Saskatoon].

ON READING the material filed with the court, including the judgment pronounced [or order made] by the Honourable [Mr. or Madam] Justice (name) and the reasons therefor, and

ON HEARING the submissions on behalf of the parties,

THIS COURT HEREBY ORDERS:

1. That the appeal be allowed and the judgment [order] appealed from be varied as follows:

.....

2. That the respondent forthwith pay the appellant's taxed costs on appeal as determined under column ____ of the Court of Appeal Tariff of Costs.

DATED this ____ day of _____, _____ .

Registrar, Court of Appeal

FORM 10d

(Judgment Allowing Appeal and Ordering New Trial)

[Court file no.]

IN THE COURT OF APPEAL FOR SASKATCHEWAN

BETWEEN

Appellant(s)

-and-

Respondent(s)

BEFORE

The Honourable [Chief Justice of Saskatchewan]
or [Mr. or Madam Justice] (name)
The Honourable [Mr. or Madam] Justice (name)
The Honourable [Mr. or Madam] Justice (name)

JUDGMENT OF THE COURT

THIS APPEAL from the judgment of the Honourable [Mr. or Madam] Justice (name), dated
the ____ day of _____, _____ was heard on the ____ day of _____, _____ at Regina [or
Saskatoon].

ON READING the material filed with the court, including the judgment pronounced by the Honourable
[Mr. or Madam] Justice (name) and the reasons therefor, and

ON HEARING the submissions on behalf of the parties,

THIS COURT HEREBY ORDERS:

1. That the appeal be allowed and the judgment appealed from be set aside.
2. That a new trial be had between the parties.
3. That the respondent pay the appellant's taxed costs on appeal as determined under column ____
_ of the Court of Appeal Tariff of Costs.

DATED this ____ day of _____, _____ .

Registrar, Court of Appeal

19. Pursuant to section 23 of *The Court of Appeal Act, 2000* these amendments shall be published in *The Saskatchewan Gazette* with as little delay as possible.

20. These amendments shall come into effect on the fourteenth day after their publication in *The Saskatchewan Gazette*.

21. Once the amendments are in force, a consolidated version of *The Court of Appeal Rules* shall be published with as little delay as possible.