

# **Consolidated Practice Directions of the Court of Appeal of Alberta**

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## **Consolidated Practice Directions**

### **A. General**

#### **1. Sample Forms**

Examples of the commonly used appeal forms can be found on the Alberta Courts website <https://www.albertacourts.ca>, under “Court of Appeal > Registry > Filing Information”.

#### **2. Assigned Panels**

The names of the panel assigned to hear appeals will be posted at the Registry counters in each city, and placed on the Alberta Courts website <https://www.albertacourts.ca>, under “Court of Appeal > Registry > Court Lists”, on the Wednesday before the opening of the sittings.

Counsel and litigants are advised, however, that the panel may change, without notice, at any time before the hearing.

#### **3. Applications**

- (a) A single appeal judge will hear applications at 9:30 a.m. every Wednesday and Thursday (statutory holidays excluded) in both Edmonton and Calgary. The only exception will be the months of July and August, at which time one judge will hear applications for both Edmonton and Calgary from whichever city is specified.
- (b) Applications cannot be pre-booked with the Registry before sending documentation for filing. However, it is recommended that the Registry be contacted before filing any application to ensure there is space available on the list on the desired date.
- (c) Applications to a single appeal judge may be made on other days or times only in exceptional cases, by arrangement with the Registry.

#### **4. Scheduling Applications**

- (a) The Registry will not schedule an application set for a hearing date too early for the required notice to be given. In urgent circumstances, the filing party may provide written submissions, along with their application materials, on why an abridgment of time is necessary and the Registry will contact the assigned judge to see if the matter can be scheduled as requested.
- (b) The Registry will not file an application unless the applicant provides, at the same time the application is being filed, the supporting affidavit (if applicable), memorandum and any other supporting materials required for the application. An

exception will be on applications for permission or leave to appeal where the preservation of time is needed.

## 5. **Release of Judgments**

Unless otherwise ordered:

- (a) On the business day before a judgment is to be released, the Registry will contact the lawyers or parties involved to advise that the judgment will be released at 9:30 a.m. on the following morning. Notice of the judgments to be released the following business day will also be posted on the Alberta Courts website at <https://www.albertacourts.ca> by 4:00 p.m.
- (b) On the day of release the judgment will be:
  - (i) provided to the lawyers or parties between 9:30 a.m. and 10:00 a.m.,
  - (ii) sent to the Canadian Legal Information Institute (CanLII) at 10:00 a.m., for subsequent publishing on its website at [www.canlii.org](http://www.canlii.org), and
  - (iii) available to the public at the offices of the Court at 10:05 a.m.

(Any concerns with on-line judgments should be raised directly with CanLII.)

- (c) Users can subscribe to a free email service that will notify users when Court of Appeal notices and bulletins, or notice of judgments to be filed, have been posted to the Court's website. For details, see the website <https://www.albertacourts.ca> under "Court of Appeal> About > Subscription Services".

## 6. **Notices to the Profession and Public**

Notices to the Profession and Public are issued periodically and posted on the Alberta Courts website at <https://www.albertacourts.ca>. Users can subscribe to a free service that will distribute all notices and bulletins from the Court. For details see the website <https://www.albertacourts.ca> under "Court of Appeal> About > Subscription Services".

## 7. **Variation of Conditional Sentence or Probation Order**

Where the Court of Appeal has granted (or varied) a conditional sentence or probation order, and the Crown or the accused later wishes to seek a variation (or further variation) of the sentence or order, that party should apply in the first instance to the trial court which imposed the original sentence.

**B. Transcripts**

1. The acceptable format for the filing of the electronic copy of Part 3 of the Appeal Record (Transcripts) under R. 14.21(2) is Adobe Acrobat.
2. The electronic copy shall be named in accordance with the following Universal Transcript Format naming conventions:

E - Edmonton C - Calgary R - Regional	V - Civil C - Criminal F - Family Y - Youth O - Other	P - Provincial K – King’s Bench	Last two digits of year produced “14”	Person’s full last name followed by first initial of first name
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- (i) The first character shall coincide with the first letter of the location where the transcript is being produced: ‘E’ for Edmonton, ‘C’ for Calgary (includes Airdrie, Banff, Canmore, Cochrane, Didsbury, and Okotoks), and ‘R’ for Regional (includes all other locations);
- (ii) The second character shall coincide with the type of proceeding: ‘V’ for Civil, ‘C’ for Criminal, ‘F’ for Family, ‘Y’ for Youth, and ‘O’ for Other;
- (iii) The third character shall coincide with the name of the trial court: ‘P’ for Provincial Court of Alberta, and ‘K’ for Court of King’s Bench;
- (iv) The next two characters shall be the last two digits of the year the transcript is produced: ‘14’ for 2014;
- (v) The next characters shall coincide with the full last name of the first plaintiff/accused;
- (vi) The last character shall coincide with the first initial of the first name of the first plaintiff/accused:

For example: For an Edmonton, Criminal, King’s Bench, 2014 file, where the accused’s name is John Doe, the UTF electronic file name would be: ECK14DOEJ.pdf

- (vii) If the electronic file already exists, the naming convention would be altered to include the full last name followed by the first four letters of the first name:

For example: ECK14DOEJOHN.pdf

- (viii) If the electronic file already exists, the naming convention would be altered to include a sequential number:

For example: ECK14DOEJOHN1.pdf

- (ix) In cases where a style of cause contains a party name that is so common that confusion could result (such as the City of Edmonton), the least common name in the style of cause should be used.
- (x) In cases where a style of cause contains two company names, use the least common name in the style of cause.

### **C. Electronic Filing**

1. The Court of Appeal now maintains its records in electronic form, using the Court of Appeal Management System (CAMS). Unless an exception is obtained from the case management officer, all filings with the Court are now done electronically in accordance with the *Court of Appeal of Alberta Practice Direction on Electronic Filing*.

### **D. Guidelines for Judicial Dispute Resolution (JDR)**

1. The purpose of judicial dispute resolution (JDR) is to reach a settlement on all issues, or to resolve as many issues as possible, with the assistance of a Justice of the Court of Appeal. See R. 14.60.
2. JDR may be requested at any time throughout the appeal by contacting the Case Management Officer.
3. Upon agreement by all parties to engage in JDR, the Case Management Officer will coordinate a mutually agreeable date with all counsel, parties and the JDR judge.
4. A letter will be forwarded by the Case Management Officer to counsel, confirming the date and setting out the minimum filing requirements. In addition, at the request of the JDR Judge, a pre-meeting may be arranged with counsel to discuss and agree upon any further materials and procedures required for JDR to proceed.
5. Once a date has been scheduled for JDR, time limits on the appeal will not apply until after the JDR meeting. See R. 14.61. If JDR is not successful, the JDR Judge (or the Case Management Officer) will set time lines for filing the remaining materials on the appeal.
6. All parties must agree to JDR and be represented by counsel, unless otherwise permitted.
7. To promote success, parties with authority to make settlement decisions must be present and participate in the JDR process.
8. The materials submitted for the JDR meeting will not be filed by the Registry. Instead, the Registry will stamp them “Received” and forward them directly to the JDR Judge.

9. JDR meetings are conducted informally in a conference room setting. Gowning is not required.
10. The process is confidential. All documents prepared for JDR and statements made by counsel, or by the parties, during JDR are confidential and without prejudice, and cannot be used for any purpose or in any proceeding other than JDR. See R. 4.20. All documents submitted to the judge for JDR will be destroyed following the JDR meeting. See. R. 4.21(2).
11. Unless the parties consent, the JDR Judge will not hear any applications on the appeal, or sit on the appeal of the matter. See R. 4.21(1). The JDR Judge will not discuss the JDR process with the appeal panel, should the matter proceed to appeal.
12. If JDR is successful the Appellant must file a Discontinuance, or a Consent Judgment (if appropriate), within 30 days or such time as the JDR Judge directs, failing which the appeal will be deemed abandoned three months after the completion of the JDR.
13. As in any judicial process, the JDR Judge is non-compellable as a witness in any proceedings. See R. 4.21(3).

**E. Emergency Directions**

1. These directions affecting the management of matters before the Court and the business of the Court shall be called the “Emergency Directions”. For the purposes of the Emergency Directions, the following definitions apply:
  - (a) “Acting Chief Justice” means the holder of that office by appointment or by designation of the Chief Justice, or, in the absence of such person, the senior justice of the Court as may be then available.
  - (b) “Chief Justice” means the Chief Justice of Alberta and includes the Acting Chief Justice where necessary to give effect to the Emergency Directions.
  - (c) “Court” means the Court of Appeal.
  - (d) “designate of the Chief Justice” means any judge of the Court, or the Registrar, Deputy Registrar, or case management officer as designated by the Chief Justice.
  - (e) “electronic hearing” means the hearing of any matter before the Court conducted, in whole or part, by electronic means in which all participants in the hearing, and the Court, can hear each other, whether or not all or some of the participants and the Court can see each other or are in each other’s presence.
  - (f) “emergency” means any situation that the Chief Justice or designate of the Chief Justice believes exists or may exist that affects the management of matters before

the Court or the business of the Court to such a degree that it is found necessary by the Chief Justice or designate of the Chief Justice to put these Emergency Directions into effect. This includes any emergency declared by an official authority.

- (g) “official authority” means a person having power pursuant to applicable legislation of the Parliament of Canada or the Legislature of Alberta to declare an emergency, or to make authoritative directions in an emergency which may affect the management of matters before the Court or the business of the Court.
  - (h) “officer of the Court” includes any judge, Registrar, Deputy Registrar, case management officer and any other officer and employee of the Court.
- 2.
- (a) The Emergency Directions shall come into effect when the Chief Justice or the designate of the Chief Justice so declares.
  - (b) As soon as practicable after making Emergency Directions, the Chief Justice or the designate of the Chief Justice shall cause the details of the Emergency Directions to be published by any means of communication that the Chief Justice or the designate of the Chief Justice considers appropriate in the circumstances.
  - (c) Failure to publish either the Emergency Directions or any details of the Emergency Directions under s. 2(b) shall not affect any declaration made under s. 2(a) nor limit the discretion of the Chief Justice or the designate of the Chief Justice under s. 3.
- 3.
- (a) The extent to which the Emergency Directions come into effect or apply is within the discretion of the Chief Justice or the designate of the Chief Justice as the case may be.
  - (b) The designate of the Chief Justice may exercise any discretion under the Emergency Directions in the absence of the Chief Justice if necessary.
- 4.
- (a) If the Emergency Directions are in effect or apply to any extent, the Chief Justice or designate of the Chief Justice may in his or her discretion at any time cancel, suspend or alter the functioning or operation of the Court in any manner, including the following:
    - (i) the Court’s Registries and any other offices of the Court in any locations may be closed or have reduced hours of operation for any period or periods of time,
    - (ii) the sittings of the Court in any location may be canceled or suspended and any matters listed for hearing may by direction be adjourned either sine die or to a later specific date,

- (iii) the Court may sit in panels of two judges where permitted under law,
  - (iv) the running of any procedural time limitations applicable to appeals or motions before the Court may be suspended for any period or periods of time,
  - (v) any control, management or maintenance of records by the Court, and any filing of documents with the Court, may be suspended or be set to occur at a location other than the ordinary offices of the Court, and
  - (vi) any other business, procedures or communications with the Court may be conducted by alternative means or in alternative locations.
- (b) The examples of discretion set out in s. 4(a)(i) to 4(a)(v) are for clarity and not to restrict the generality of the discretion that may be exercised.
5. If the Emergency Directions are in effect or apply to any extent, the Chief Justice or designate of the Chief Justice may at any time arrange for an electronic hearing or a hearing at any alternative place or by alternative means that the Chief Justice or designate of the Chief Justice considers in his or her discretion to be appropriate.
6. (a) Despite any declaration or announcement of an official authority that rescinds or amends any declaration made as defined in s. 2(b), the Emergency Directions shall remain in effect unless otherwise declared by the Chief Justice or the designate of the Chief Justice.
- (b) Any application or effect of the Emergency Directions may be terminated by declaration of the Chief Justice or the designation of the Chief Justice at such time and on such terms and conditions as the Chief Justice or designate of the Chief Justice may in his or her discretion specify.

## **F. Extracts of Key Evidence**

1. Parties are reminded of the requirement in rule 14.27(1) that Extracts of Key Evidence should contain only the material needed to resolve the issues on appeal. An exhaustive electronic data dump of everything on the trial court file is inappropriate.
2. The appellant should attempt to include in its Extracts of Key Evidence all documents that will likely be required by any party, so as to minimize the need of any subsequent party to file further Extracts of Key Evidence.
3. Note that there is no reason to file materials in an “abundance of caution”, because rule 14.28(1) provides that all evidence or exhibits on the trial court’s record are a part of the Court of Appeal record, even if copies are not filed with the Court. Where appropriate, evidence or exhibits can be referred to in the factums, even if copies are not filed.

4. Where only a portion of a document (for example a transcript) is necessary to resolve the appeals, only the extract should be reproduced.
5. Rule 14.29(a) requires that the table of contents of the Extracts of Key Evidence describe each document sufficiently to enable a user to quickly identify and locate a relevant document. For example, describing a document as “Exhibit A” is unhelpful.
6. Rule 14.27(1)(c) provides that Extracts of Key Evidence are not to include any comment, argument, trial briefs, legal authorities or new evidence. Trial briefs are not permitted, even where there was no oral argument in the court below, because an appeal is not a re-trial of the action. The factums will focus on the alleged reviewable errors in the trial decision, something the trial briefs do not do.

#### **G. Condensed Books**

1. Rule 14.30(1) allows a party to file a Condensed Book of records and authorities to assist in the oral argument. The filing of a Condensed Book is optional and will be of greatest assistance in complex and document heavy appeals.
2. Condensed Books must be filed electronically on the CAMS system no later than two business days before the scheduled oral argument and be served on the other parties at the same time.
3. The Condensed Book shall only contain excerpts from the record and from any filed item that the panel will be asked to refer to during oral argument. Any excerpt from the record or a filed item, including from any transcript, affidavit, exhibit or authority, shall include only as much material as is required to understand the significance of the excerpt.
4. There is no page limit on Condensed Books, but they should not include more material than can realistically be referred to during the 45 minutes allocated for oral argument.
5. The Condensed Book must not include an outline of the oral argument or any new material that is not already part of the record before the Court.
6. The Condensed Book must (a) have a Table of Contents (b) have a cover page in Form AP-5, and c) be formatted in accordance with the *Court of Appeal of Alberta Practice Direction on Electronic Filing*, including the inclusion of bookmarks that permit the panel to easily locate the documents referenced.