

**SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
TRIAL DIVISION**

Rules of the Supreme Court, 1986

**PRACTICE NOTE
P.N. (TD) No. 2011-02**

DATE ISSUED: October 28, 2011

RULES AFFECTED: 56A.17, 56A.18

EFFECTIVE DATE: October 28, 2011

PREVIOUS PRACTICE NOTES REVISED: N/A

The following Practice Note is published pursuant to Rule 4.04 of the *Rules of the Supreme Court, 1986*.

EX PARTE APPLICATIONS IN FAMILY PROCEEDINGS

Background and Purpose

1. The following practice note is issued to provide guidance on the issuance and disposition in family proceedings of *ex parte* applications (an application by one party without notice to any other party or person). Examples of such applications provided for in the *Rules of the Supreme Court, 1986* are: renewal of an originating document (r. 5.06(2)); order for substituted service (r. 6.04(2)); leave to issue a contempt application (r. 53.02(1)); leave to file an interim application pursuant to r. 56A.16(8).
2. This Practice Note does **not** apply to warrants under the *Children and Youth Care and Protection Act*, S.N.L. 2010, c. C-12.2.

Practice Note

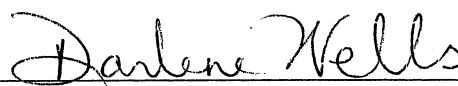
3. Wherever possible, the applicant should include with the application a draft of the formal order sought by the application.
4. Provided that all necessary documents are provided in prescribed form including, where appropriate, the documents required by r. 56A.17(2), the *ex parte* application will be issued by the Registry.
5. The application will be brought to a judge for review. The judge may, in his or her discretion, do one or more of the following:

- (i) without ruling on the application, require the applicant to provide additional information in appropriate form, and so indicate by means of a signed and dated endorsement on the application itself;
 - (ii) without ruling on the application, require the applicant to appear in open court to address the application, and so indicate by means of a signed and dated endorsement on the application itself;
 - (iii) allow the application and so indicate on the application itself by means of a signed and dated endorsement which provides, where the judge considers it necessary, reasons in summary form for allowing the application;
 - (iv) dismiss the application and so indicate on the application itself by means of a signed and dated endorsement which includes reasons in summary form for dismissing the application;
 - (v) sign a formal order reflecting the disposition of the application;
 - (vi) where appropriate, direct the Registry to set a return date for an *inter partes* appearance in accordance with r. 56A.18(2).
6. In the event that no formal order is signed reflecting the disposition of the application, the endorsement of the judge on the application itself will be considered for all purposes to be the formal order.
7. Upon the return of the file to the Registry, the Registry will advise the applicant of the disposition of the application as reflected in the written endorsement on the application, and will cause the disposition of the application (granted, refused, or otherwise) to be entered into the court's case management system.

Authorized by:



David B. Orsborn
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for REGISTRAR OF THE SUPREME COURT
OF NEWFOUNDLAND AND LABRADOR