



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

**NOTICE TO THE PROFESSION – UPCOMING RULE AMENDMENTS – SETTING  
HEARING DATES FOR APPLICATIONS**

The Rules Committee of the Supreme Court of Newfoundland and Labrador, Trial Division, recently approved amendments to the *Rules of the Supreme Court, 1986*. The regulations will be published in the November 3, 2017, edition of the *Newfoundland and Labrador Gazette*. The amendments clarify how the Court sets dates for hearings under Rule 29 (“Applications”).

**Summary of Amendments – scheduling hearings of civil applications**

Rule 29.02 is amended. The rule clarifies which form must be used when filing an application, and what must be appended thereto when filed. Notably, the rule requires that a draft order be attached to the application when filed and issued. The rule also provides that an application must be filed and issued before being served (this was not required for interlocutory applications, previously).

Rule 29.03 is amended to provide that, upon the filing and issuance of an application, the registry will provide the applicant with a return date. This will be a brief appearance at which the Court may set a date for the hearing of the application on its merits, and make any orders required to organize the application. The date indicated on the Notice to Respondent(s) will be the return date.

In the case of an application for an extension or abridgment of time a return date will not be given. In that case, the registry may set a date for the hearing of the application itself (see rule 29.03(2)(b)).

Rule 29.04(2), which permitted a party to apply *ex parte* for a date for the hearing of an application where the “intended application could result in a long hearing”, is repealed. The hearing dates for applications will be set at the return date.

Rule 29.05(2) is amended to clarify that the time for serving an *inter partes* application is counted in relation to the return date, and not the date of the hearing. The times for service set out in the rule are not changed. For example, you must serve the respondent 10 days before the return date for an originating application and 2 days before the return date for an interlocutory application. Where the application is for the extension or abridgment of a time period, the application may be served the day before the hearing.

November 1, 2017

Rule 29.05(3) is amended. It sets out the powers of a judge presiding at the return date. Specifically, the rule provides that the judge may: (a) set a time for the hearing of the application; (b) amend a timeline set out in this rule; (c) order that an application and any attached affidavit be served upon any party or person in such manner and at such time as it may direct, and may adjourn any hearing to permit the service; (d) dispense with the service of an application and any attached affidavit on a party or person; (e) adjourn, continue, discontinue or dismiss an application when any person, who ought to have been served, has not been served; or (f) make any other order required to organize the application.

Rule 29.05(4) is added. This rule permits the parties to an application to contact the registry, in writing (by letter or email), requesting a date by consent. To request a date in this manner the parties must provide the following information: (a) an estimate of the time required for the hearing; (b) dates the parties are available; (c) the expected number of witnesses; and (d) proposed filing dates for affidavits, memoranda, and any other supporting document required.

Based on this information, the registry may, in consultation with a judge, set a date for the hearing of the application. In that case the registry will notify the parties in writing that they need not appear on the return date. Otherwise, parties are expected to appear on the return date.

Rule 29.08 is amended to clarify what must be served prior to the *hearing* of the application.

Rule 29.11 is amended to clarify that the Court may proceed in the absence of a party where they fail to appear at the return date, as required.

Form 5.02A and Form 29.02A are amended to clarify that the date given by the registry is a return date and not a date for the hearing of the application on the merits (unless the application is an interlocutory application for the extension or abridgment of a period of time).

If you have any questions with respect to the above, please email the Court at [supcourtinquiries@supreme.court.nl.ca](mailto:supcourtinquiries@supreme.court.nl.ca) (with the subject line: “Rules Question – Attn: Legal Officer”).

**RAYMOND P. WHALEN**  
Chief Justice of the Supreme Court of  
Newfoundland and Labrador, Trial Division