



SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
Rules of the Supreme Court, 1986

PRACTICE NOTE
P.N. No. 2024-01

DATE ISSUED: January 26, 2024

RULES AFFECTED: Rule 4A

EFFECTIVE DATE: February 26, 2024

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*.

**AMENDMENTS TO THE RULES OF THE SUPREME COURT, 1986:
PSEUDONYM ORDERS UNDER RULE 4A**

Background and Purpose

1. Pursuant to approval of the Rules Committee of the Supreme Court, amendments to the *Rules of the Supreme Court, 1986* (the “Rules”), are coming into force on February 26, 2024.
2. The newly created Rule 4A establishes a process by which parties may file an application for a Confidentiality Order. These can be orders that seal a Court record, restrict publication of information in the matter, or otherwise provide for all or part of the confidentiality of a particular file.
3. Rule 4A shall specifically read:

4A - ACCESS TO COURT RECORDS

Confidentiality orders

4A.01 (1) Subject to subrule (5), the Court may, on application or on its own motion, make an order

(a) sealing a court document or an exhibit filed in a proceeding;

(b) restricting access to the sound recording of all or part of a proceeding;

(c) restricting publication of some or all information about a proceeding;

(d) permitting a person referred to in a document to be identified by a pseudonym; or

(e) otherwise providing for the confidentiality of the court record.

(2) A person may, when applying for an order under subrule (1), make a written request to a judge, on an *ex parte* basis, for an interim order for relief under subrule (1).

(3) Subject to subrule (5), the Court may, upon receipt of a written request for an interim order, make an order restricting access to the record of the application, and to any other record sought to be made the subject of the order, for such time as is required to give notice of the application and bring the application to a hearing.

(4) Subject to subrule (5), the Court may extend the time provided by an interim order made pursuant to subrule (3), and the judge who hears an application for an order pursuant to subrule (1), may give directions about access to the records in issue pending determination of the application.

(5) The Court may only make an order pursuant to this rule where it is satisfied that it is in accordance with law to do so, including s. 2(b) of the *Canadian Charter of Rights and Freedoms* and the open court principle.

4. In light of the foregoing, the Court issues the following Practice Note to provide standard language and further guidance for parties applying for a Pseudonym Order.

Practice Note:

5. Parties seeking a Pseudonym Order should file their Confidentiality Application concurrently with their originating documents. The Court has the authority to make an order restricting access to both the underlying Application and the Confidentiality Application prior to determination of the request for a Pseudonym Order.
6. Where the Application requesting a Pseudonym Order is filed concurrently with originating documents, the accompanying Draft Order shall provide that:
 - (a) The [Plaintiff/Applicant] may commence their [action/application] using a pseudonym of [proposed pseudonym];
 - (b) Further pleadings and documents filed hereafter shall be entitled with the pseudonym [proposed pseudonym] as [Plaintiff/Applicant];
 - (c) The [Affidavit, letter or report] of [the professional supporting the application] shall be sealed. Should the author be called as a witness at trial, the admission of the [Affidavit, letter or report] into evidence in any form will be determined by the trial judge;
 - (d) Aside from the [Affidavit, letter or report] referred to above, all documentation before the court that references the [Plaintiff/Applicant's] true name shall be sealed and a copy shall be filed with identifying details redacted or obscured thereon;
 - (e) That the [Defendant/Respondent] shall be served with notice of the Pseudonym Order alongside service of the [Statement of Claim/Originating Application]. The [Defendant/Respondent] shall be served with copies of the [Statement of Claim/Originating Application] in both anonymized and un-redacted versions;
 - (f) That the [Defendant/Respondent] is barred from filing any document that references the [Plaintiff/Applicant's] true name, and they are barred from publishing or otherwise distributing that identity to any person in any way or from publishing or otherwise distributing any information that could reasonably suggest their true identity; and,
 - (g) All parties to the action shall have leave to seek further directions with respect to this Order, as may be required from time to time.
7. In the event a party requests a Pseudonym Order after originating documents have already been filed, the above clauses may be altered as appropriate to the circumstances.

Authorized by:

Raymond P. Whalen
CHIEF JUSTICE OF THE SUPREME COURT

Susan Foss
REGISTRAR OF THE SUPREME COURT