

April 18, 2013

## NOTICE TO THE PROFESSION

### **Amendment to Rule 56A.04: Access to Court Records in Family Proceedings**

The Rules Committee of the Supreme Court of Newfoundland and Labrador, Trial Division, recently approved an amendment to Rule 56A.04 of the *Rules of the Supreme Court, 1986*. The amendment was published in the April 12, 2013 edition of the *Newfoundland and Labrador Gazette* and is effective as of that date (NL Reg. 43/13). It establishes a new procedure for gaining access to court records, including exhibits, in family proceedings in both the General and Family Division.

#### *Access to family court records in closed proceedings*

Under the amended Rule 56A.04, when a family proceeding is **closed** by court order or legislative prohibition, only a party, a party's lawyer, court staff and judges may access the proceeding's record without application.

Any other person must make formal application to court for access to the record, unless the party or the party's lawyer has expressly authorized that person to access a document in the court record.

#### *Access to family court records in proceedings that are not closed*

When a family proceeding is **not closed** by court order or legislative prohibition, parties and their lawyers, officers of the court (which includes members of the Bar and court staff) and judges can access the court record without application.

Any other person must make formal application to court for access to the record, unless the party or the party's lawyer has expressly authorized that person to access a document in the court record.

Please see the appended table for a comparison of the former and amended Rules 56A.04. If you have any questions, please contact the Court's Legal Officer at 709-729-4743.

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Chief Justice of the Supreme Court  
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Trial Division

**Appendix**

<p align="center"><b>Former Rule 56A.04 (no longer in effect)</b></p>	<p align="center"><b>Amended Rule 56A.04 (in effect as of April 12, 2013)</b></p>
<p>56A.04 (1) The Court's record of a family law proceeding is confidential and only a party, a party's lawyer, an officer of the court or a judge may have access to it.</p> <p>(2) The registrar may permit a person authorized by a party or by a party's lawyer to access a document in the court record and may require that person to sign an undertaking to keep the information obtained from the Court record in confidence before giving them access.</p> <p>(3) The registrar may require that an application be made to the Court for access to Court records.</p>	<p>56A.04(1) The court's record of a family law proceeding, including exhibits,</p> <ul style="list-style-type: none"> <li>(a) that is closed under rule 56A.03 or by virtue of an order or a statutory provision may only be accessed by a party, a party's lawyer, court staff or a judge, unless an order permitting access is made following an application made with notice to the parties;</li> <li>(b) that is not closed under paragraph (a) may be accessed by             <ul style="list-style-type: none"> <li>(i) a party, a party's lawyer, an officer of the court or a judge;</li> <li>(ii) a person other than those referred to in (b)(i) only if an order permitting access is made following an application made with notice to the parties.</li> </ul> </li> </ul> <p>(1.1) An order made under paragraph (1)(a) or (b)(ii) shall be made on whatever terms the court considers just and the terms may include</p> <ul style="list-style-type: none"> <li>(a) redaction of personal data identifiers and personal information;</li> <li>(b) the requirement that the applicant sign an undertaking to keep information obtained from the court's record in confidence before giving them access.</li> </ul> <p>(2) The registrar may permit a person authorized by a party or by a party's lawyer to access a document in the court record and may require that person to sign an undertaking to keep the information obtained from the Court record in confidence before giving them access.</p> <p>[Rule 56A.04(3) has been repealed.]</p>