

RULE 4
COURT DOCUMENTS

FORMAT

Standards

- 4.01** (1) Every document in a proceeding shall meet the following standards:
1. The text shall be printed, typewritten, written or reproduced legibly, with double spaces between the lines and a margin of approximately 40 millimetres on the left-hand side.
 2. The characters used shall be of at least 10 or 12 pitch size.
 3. Good quality white paper 216 millimetres by 279 millimetres shall be used.

One Side or Both

- (2) The text may appear on one side or on both sides of the paper.

Standards – Electronic Documents

- (3) An electronic document in a proceeding shall meet the following standards:
- (a) The document shall contain the information and data prescribed in these rules, in a format substantially the same as prescribed in these rules.
 - (b) The information and data contained in the document shall be accessible and usable for subsequent reference.
 - (c) The document shall be capable of being printed as an accurate rendering or reproduction of the document produced or transmitted.
 - (d) The document shall be capable of being printed to produce a document in writing that substantially meets the standards in subrule (1).
 - (e) The document shall use,
 - (i) if Rule 4.05.1 applies, the software authorized by the Ministry of the Attorney General,
 - (ii) in any other case, information technology as defined in Rule 1.03.

Electronic Forms Requiring Signature

- (4) If a form that requires a signature is issued or produced by the court as an electronic document, the use of a unique identifier satisfies the signature requirement.

Electronic Documents – Original Written Versions

- (5) An affidavit or a signed or certified document that is filed as an electronic document shall,
 - (a) clearly identify the signatory; and
 - (b) be accompanied by a statement of the person filing the electronic document, indicating that,
 - (i) the original written version of the document is signed by the person identified as signatory in the electronic document, and by a person authorized to administer oaths or affirmations, if applicable, and
 - (ii) any interlineations, erasures or other alterations in the original written version are initialed by the person or persons mentioned in subclause (i).
- (6) A person who makes a statement under clause (5) (b),
 - (a) shall keep the original written version of the document until the proceeding, including any appeals, is finally disposed of, or until the registrar requests that it be filed, whichever is earlier; and
 - (b) shall file the original written version forthwith on the registrar's request.
- (7) When any person files a requisition to inspect the original written version of the document, the registrar shall make a request under clause (6)(b).
- (8) If a person makes a false statement under clause (5)(b) or fails to comply with subrule (6) the court may,
 - (a) in the case of a statement made by or on behalf of a plaintiff, dismiss the action;
 - (b) in the case of a statement made by or on behalf of a defendant, strike out the statement of defence; or
 - (c) make such other order as is just.

Copies

- (9) If these rules permit the electronic filing of a document in a proceeding, any requirement that more than one copy be filed is satisfied if,
 - (a) the document has already been filed electronically; or
 - (b) a single version of the document is filed electronically.

CONTENTS

General Heading

- 4.02** (1) Every document in a proceeding shall have a heading in accordance with Form 4A (actions) or 4B (applications) that sets out,
- (a) the name of the section of the court and the court file number; and
 - (b) the title of the proceeding in accordance with Rule 14.06 (action or application) or subrule 70.03(3) (divorce action), but in a document other than an originating process, pleading, record, order or report, where there are more than two parties to the proceeding, a short title showing the names of the first party on each side followed by the words "and others" may be used.

Body of Document

- (2) Every document in a proceeding shall contain,
 - (a) the title of the document;
 - (b) its date;
 - (c) where the document is filed by a party and not issued by the registrar or is an originating process, the name, address and telephone number of the solicitor filing the document or, where a party acts in person, his or her name, address for personal service and telephone number; and
 - (d) the signature of the solicitor filing the document or of the party acting in person.

Backsheet

- (3) Every document in a proceeding shall have a backsheet in accordance with Form 4C that sets out,
 - (a) the short title of the proceeding;

- (b) the name of the section of the court and the court file number;
- (c) the location of the court office in which the proceeding was commenced;
- (d) the title of the document; and
- (e) the name and address of the solicitor serving or filing the document or, where a party acts in person, his or her name, address for service and telephone number.
- (f) the fax number, if any, of the solicitor serving or filing the documents or, where a party acts in person, his or her fax number, if any; and
- (g) the fax number, if any known, of the person on whom the document is served.

CERTIFIED COPIES OF COURT DOCUMENTS

4.03 On the requisition of a person entitled to see a document in the court file under subsection 62.(1) of the *Judicature Act* and on payment of the prescribed fee, the registrar shall issue a certified copy of the document.

NOTICE TO BE GIVEN IN WRITING OR ELECTRONICALLY

- 4.04(1)** A notice required to be given by these rules shall be given,
- (a) in writing; or
 - (b) electronically, if the use of electronic means is authorized.

ISSUING AND FILING OF DOCUMENTS

Issuing Documents

4.05 (1) A document may be issued only on personal attendance in the court office by the party seeking to issue it, by someone on the party's behalf or by facsimile transmission.

Electronic Issuing

- (1.1) Where these rules provide for the electronic issuing of a document in a proceeding, the document may be issued electronically by using,
- (a) if Rule 4.05.1 applies, the authorized software; or
 - (b) in any other case, information technology as defined in Rule 1.03.

Deemed Issuing

- (1.2) A document issued under subrule (1.1) shall be deemed to have been issued by the Supreme Court of Prince Edward Island and the Prince Edward Island Court of Appeal.

Notice – Document Issued

- (1.3) After a document is issued electronically, notice that it was issued shall be sent to the party that had it issued.

Delivery of Documents

- (1.4) Where a document has been filed under subrule 4.05.1 and a certificate of service has been electronically filed in accordance with subrule 4.05.1, the document shall be deemed to have been delivered.

Issuing Originating Process

- (2) Except as provided in subrules (3) and (4), an originating process may be issued in the court office in Charlottetown.
- (3) An originating process in the Supreme Court, General Section or Small Claims Section may be issued in the court office in Summerside with the original copy of the document being sent to the court office in Charlottetown and a copy left in the court office in Summerside.
- (4) An originating process in the Small Claims Section may be issued in the court office in Georgetown with the original copy of the document being sent to the court office in Charlottetown and a copy left in the court office in Georgetown.

Place of Filing

- (5) All documents required to be filed in a proceeding shall be filed in the court office in which the proceeding was commenced, except where they are filed in the course of a hearing or where the rules provide otherwise, and any document filed in Summerside or Georgetown will have the original thereof forwarded to the court office in Charlottetown.
- (6) An affidavit, transcript, record or factum to be used on the hearing of a motion or application shall be filed, in the court office where the motion or application is to be heard.

Court File Number

- (7) a. Every proceeding commenced in the Court Office in Charlottetown shall be assigned the following identification to identify the Charlottetown Court Office:

S1

- b. Every proceeding commenced in the Court Office in Summerside shall be assigned the following identification to identify the Summerside Court Office:

S2

- c. Every proceeding commenced in the Court Office in Georgetown shall be assigned the following identification to identify the Georgetown Court Office:

S4

- d. Every proceeding commenced in a Court Office shall also be assigned the appropriate identification as follows:

- (1) the letters “CA” for a proceeding in the Court of Appeal;
- (2) the letters “GS” for General Civil proceedings;
- (3) the letters “GC” for Criminal proceedings;
- (4) the letters “DV” for Divorce Petitions;
- (5) the letters “FS” for Family proceedings;
- (6) the letters “ES” for Estate proceedings;
- (7) the letters “ME” for a Maintenance Enforcement proceeding;
- (8) the letters “SC” for Small Claims proceedings;
- (9) the letters “YA” for Young Offenders Appeals in the Supreme Court; and
- (10) the consecutive number of the proceeding in order of filing in that office.
- (11) i.e., a general civil filing in the Charlottetown Court Office would have the following identification:

S1GS16000

Filing by Leaving in Court Office or by Mail or by Facsimile Filing

- (8) (a) Any document, other than an originating process, may be filed by leaving it at a court office, by mailing it to a court

office accompanied by the prescribed fee or by facsimile transmission.

- (b) Subject to Rule 4.02, a document which is issued or filed by facsimile transmission shall include a cover page indicating:
 - (i) the sender's name, address and telephone number;
 - (ii) the date and time of transmission;
 - (iii) the names of the parties in the proceeding and the file number, if one is assigned;
 - (iv) the total number of pages transmitted, including the cover page;
 - (v) the telephone number from which the document is transmitted;
 - (vi) the name and telephone number of a person to contact in the event of transmission problems;
- (c) Subject to clause (d), the issuing or filing of a document shall be deemed complete at the time the facsimile transmission is issued or filed by the court and the issued or filed facsimile shall have the same force and effect as the original;
- (d) Documents received by facsimile transmission shall only be issued or filed on working days and all documents received after court office hours will be issued or filed the following court office business day after receipt and clearly marked on their face "RECEIVED BY FAX" .
- (e) The original of any document issued or filed by facsimile transmission shall be filed in the court file within three days of the original facsimile transmission and the Registrar shall destroy the facsimile and only maintain the original copy in the file. All fees must be paid at the time the original document is filed with the court.
- (f) Upon failure to comply with any of the requirements of this rule, the court may make such orders as are just, including but not limited to, an order striking pleadings or parts thereof, staying further proceedings until compliance is complete or dismissing the proceeding or any part thereof.

- (g) Any certified document sent by the court by facsimile transmission in accordance with clause (b) shall be deemed to be a certified original document notwithstanding the seal of the court is not impressed thereon. Such transmitted document may be further certified at an office of the court by its proper officer.

Electronic Filing

- (8.1) Where these rules provide for the electronic filing of a document in a proceeding, the document may be filed electronically by using,
 - (a) if Rule 4.05.1 applies, the authorized software; or
 - (b) in any other case, information technology as defined in Rule 1.03.

Notice – Document Filed

- (8.2) After a document is filed electronically, notice that it was filed shall be sent to the party that filed it.

Date of Filing Where Filed by Mail

- (9) Where a document is filed by mail, the date of the filing stamp of the court office on the document shall be deemed to be the date of its filing, unless the court orders otherwise.

Where Document Filed by Mail not Received

- (10) Where a court office has no record of the receipt of a document alleged to have been filed by mail, the document shall be deemed not to have been filed, unless the court orders otherwise.

ELECTRONIC DOCUMENTS

- 4.05.1(1)** Where an action has been commenced or is to be commenced in the Supreme Court of Prince Edward Island, a lawyer, or another person who has filed a requisition with the registrar, may use the authorized software or the information technology as defined in Rule 1.03 to issue or to file electronically the following documents, to date them and to record the date of issue or filing:
 - (a) Notice of Application.
 - (b) Notice of Action.
 - (c) Statement of Claim.
 - (d) Notice of Intent to Defend.
 - (e) Notice of Defence.

- (f) Statement of Defence.
 - (g) Statement of Defence and Counterclaim.
 - (h) Statement of Defence and Crossclaim.
 - (i) Third or Subsequent Party Claim.
 - (j) Defence to Counterclaim.
 - (k) Defence to Crossclaim.
 - (l) Defence to Third Party Claim.
 - (m) Reply.
 - (n) Certificate of Service.
 - (o) Any other type of document as may be authorized by the Registrar after consultation with the Chief Justice of Prince Edward Island and the Chief Justice of the Supreme Court.
- (2) Where proof of service of an electronically filed document is required by the Rules of Civil Procedure, service shall be proved by electronically certifying using the authorized means that service has been effected.
 - (3) The certifying party shall keep the proof of service required by the Rules of Civil Procedure and shall produce it for inspection within five days if requested by the Court or the party served.
 - (4) A certificate of service shall be deemed to have been filed when the certifying participant receives a notice of accepted filing.

ISSUING AND FILING DURING PILOT PROJECT PERIOD

- 4.05.2(1)** Where an action has been commenced in the Court Office in Charlottetown on or after July 1, 2003, a lawyer or another person who has filed a requisition with the registrar may, subject to subrule (5), use electronic documents for issuing and filing in that action during the pilot project period at that court office.
- (2) The Attorney General shall establish a list of lawyers and other persons for the pilot period at a court office named in the Schedule to subrule (1), in accordance with the following rules:
 - (i) Only a person who has demonstrated capacity and willingness to use information technology as defined in Rule 1.03 may be named on the list.
 - (ii) The Attorney General may add persons to the list and remove persons from the list during the pilot period.
 - (iii) The Attorney General shall keep the list current and shall make copies available at the court office.
 - (3) During the pilot period, only a person who is named on the list may use electronic documents as provided in subrule (1).

AFFIDAVITS

Format

- 4.06** (1) An affidavit used in a proceeding shall,
- (a) be in Form 4D;
 - (b) be expressed in the first person;
 - (c) state the full name of the deponent and, if the deponent is a party or a solicitor, officer, director, member or employee of a party, shall state that fact;
 - (d) be divided into paragraphs, numbered consecutively, with each paragraph being confined as far as possible to a particular statement of fact; and
 - (e) be signed by the deponent and sworn or affirmed before a person authorized to administer oaths or affirmations.

Contents

- (2) An affidavit shall be confined to the statement of facts within the personal knowledge of the deponent or to other evidence that the deponent could give if testifying as a witness in court, except where these rules provide otherwise.

Exhibits

- (3) An exhibit that is referred to in an affidavit shall be marked as such by the person taking the affidavit and where the exhibit,
- (a) is referred to as being attached to the affidavit, it shall be attached to and filed with the affidavit;
 - (b) is referred to as being produced and shown to the deponent, it shall not be attached to the affidavit or filed with it, but shall be left with the registrar for the use of the court, and on the disposition of the matter in respect of which the affidavit was filed, the exhibit shall be returned to the solicitor or party who filed the affidavit, unless the court orders otherwise; and
 - (c) is a document, a copy shall be served with the affidavit, unless it is impractical to do so.

By Two or More Deponents

- (4) Where an affidavit is made by two or more deponents, there shall be a separate jurat for each deponent, unless all the deponents make the affidavit before the same person at the same

time, in which case one jurat containing the words "Sworn (or affirmed) by the above-named deponents" may be used.

For a Corporation

- (5) Where these rules require an affidavit to be made by a party and the party is a corporation, the affidavit may be made for the corporation by an officer, director or employee of the corporation.

For a Partnership

- (6) Where these rules require an affidavit to be made by a party and the party is a partnership, the affidavit may be made for the partnership by a partner or employee of the partnership.

By an Illiterate or Blind Person

- (7) Where it appears to a person taking an affidavit that the deponent is illiterate or blind, the person shall certify in the jurat that the affidavit was read in his or her presence to the deponent, that the deponent appeared to understand it, and that the deponent signed the affidavit or placed his or her mark on it in the presence of the person taking the affidavit.

By a Person Who Does not Understand the Language

- (8) Where it appears to a person taking an affidavit that the deponent does not understand the language used in the affidavit, the person shall certify in the jurat that the affidavit was interpreted to the deponent in the person's presence by a named interpreter who took an oath or made an affirmation before him or her to interpret the affidavit correctly.

Alterations

- (9) Any interlineation, erasure or other alteration in an affidavit shall be initialled by the person taking the affidavit and, unless so initialled, the affidavit shall not be used without leave of the presiding judge or officer.

BINDING OF RECORDS, APPEAL BOOKS, FACTUMS, TRANSCRIPTS

- 4.07** (1) Subject to subrule (2), in the Supreme Court, records, factums, memorandums, and books of authorities shall have a frontsheet and backsheet of 176g/m² weight cover stock,
 - (a) in the case of a plaintiff, applicant or appellant, in blue;

- (b) in the case of a defendant (including a third or subsequent party) or respondent, in yellow;
 - (c) in the case of a tribunal on an application for judicial review, in white; and
 - (d) in the case of an intervener, in orange.
- (2) Except where filed as part of a record or other document, transcripts of evidence for use in the Supreme Court shall have a frontsheet and backsheet of 176g/m² weight cover in light gray, and where there is more than one volume of transcripts, the volumes shall be clearly numbered.
- (3) Subject to subrule (4), in the Court of Appeal, appeal books records, factums, memorandums, and books of authorities shall have a frontsheet and backsheet of 176g/m² weight cover stock,
- (a) in the case of an appellant or applicant, in buff;
 - (b) in the case of a respondent, in green;
 - (c) in the case of a tribunal on an appeal from an application for judicial review, in white; and
 - (d) in the case of an intervener, in orange.
- (4) Except where filed as part of the appeal book, transcripts of evidence for use in the Court of Appeal shall have a frontsheet and backsheet of 176g/m² weight cover in red, and where there is more than one volume of transcripts, the volumes shall be clearly numbered.

REQUISITION

4.08 Where a party is entitled to require the Registrar to carry out a duty under these rules, the party may do so by filing a requisition (Form 4E) and paying the prescribed fee, if any.

TRANSCRIPTS

Paper Size

4.09 (1) Evidence shall be transcribed on paper 8 1/2 inches by 11 inches in size with a margin of approximately 1 inch wide on the left side delimited by a vertical line.

Heading

- (2) The name of the court or, in the case of an examiner, the examiner's name, title and location shall be stated on the first page.

Standards

- (3) The text shall be typewritten on thirty-two lines numbered in the margin at every fifth line.
- (4) Headings, such as swearing of a witness, direct examination and cross-examination, shall be capitalized and separated from the preceding text by the space of a numbered line, and the number of lines of text on the page may be reduced by one for each heading that appears on the page.
- (5) Every question shall commence on a new line and shall begin with the designation "Q.", followed, within 1/2 inch, by the question.
- (6) Every answer shall commence on a new line and shall begin with the designation "A.", followed, within 1/2 inch, by the answer.
- (7) Each page of the transcript shall have on a line one-half inch from the top of the page the name of the witness, the page number of that witness' examination and the person is on "direct", "cross-examination", "re-direct" or "by the Court". To be usable in digital technology mode, transcripts shall be consecutively numbered.
- (8) In a transcript of evidence taken in or out of court, every line of question or answer shall begin 1/2 inch from the margin and shall be 5 1/2 inches in length.
- (9) Lines of text other than questions and answers shall be indented 1 1/2 inches from the margin and shall be 5 inches in length.
- (10) Every transcript of evidence taken in court or out of court shall have,
 - (a) a cover page setting out,
 - (i) court,
 - (ii) title of the proceeding,
 - (iii) the nature of the hearing or examination,
 - (iv) the place and date of the hearing or examination,
 - (v) the name of the presiding judge or officer, and

- (vi) names of counsel; and
- (b) a table of contents setting out,
 - (i) the name of each witness with the page number at which the examination, cross-examination and re-examination of the witness commence,
 - (ii) page number at which the charge to the jury, the objections to the charge and the re-charge commence,
 - (iii) the page number at which the reasons for judgment commence,
 - (iv) a list of the exhibits with the page number at which they were made exhibits, and
 - (v) at the foot of the page, the date the transcript was ordered, the date it was completed and the date the parties were notified of its completion.

TRANSMISSION OF DOCUMENTS

- 4.10** (1) Where documents filed with the court or exhibits in the custody of an officer are required for use at another location, the registrar shall send them to the registrar at the other location on a party's requisition, on payment of the prescribed fee.
- (2) Documents or exhibits that have been filed at or sent to a location other than where the proceeding was commenced for a hearing at that location shall be sent by the registrar, after the completion of the hearing, to the registrar at the court office where the proceeding was commenced.

NOTICE OF CONSTITUTIONAL QUESTION

- 4.11** The notice of a constitutional question referred to in section 49 of the *Judicature Act* shall be in Form 4F.

CASP et al. v. AG of Canada 2015 PESC 9

In a motion for recusal, the judge reviewed the rules relating to the submission of evidence. The Court struck the affidavits of one of the affiants in its entirety as it contained substantial

commentary, and were replete with hearsay, speculation, scandalous allegations, illogical conclusions, and improper opinion