

LOCAL PROTOCOL FOR PROVINCIAL OFFENCES ACT APPEALS AT THE ONTARIO COURT OF JUSTICE IN ORANGEVILLE

In order to efficiently manage the use of Court time and to assist the Court in understanding the issues and reasons in support of Appeals and related Applications and Motions in *Provincial Offences Act* (POA) matters, the following forms and procedures shall be used for all POA Appeals and related Applications and Motions in the Ontario Court of Justice in Orangeville, unless a Judge of the Court orders otherwise.

I: FORMS

A: Part I and II Appeals

1. For Appeals under Parts I and II (section 135, POA) where the proceedings were commenced by a Certificate of Offence (“ticket”), a fully completed Notice of Appeal is required as set out in O. Reg. 722/94.
2. The Part I and II Notice of Appeal must have attached to it a completed and signed Schedule 1.

B: Part III Appeals

3. For Appeals under Part III (section 116, POA) where the proceedings were commenced by a Summons, a fully completed Notice of Appeal is required as set out in O. Reg. 723/94.
4. The Notice of Appeal must have attached to it a completed and signed Schedule 1.
5. The Part III Notice of Appeal and the attached Schedule 1 shall both be served on the responding party and both shall be filed together with an affidavit of service or an admission of service in writing by the responding party on the face of the original document.

C: Applications and Motions for all Appeals

6. An Application to Extend Time to Appeal (section 85, POA) shall be made in the form of Schedule 2. By law, no more than one application for an extension of time for filing an appeal may be made in respect of a conviction.
7. An Application to File the Appeal without Paying the Fine (section 111, POA) shall be made in the form of Schedule 3.
8. An Application to Stay Pending Appeal (section 112, POA) shall be made in the form of Schedule 4.

9. A Motion to Restore an Appeal (sections 128(3) and 137(3), POA) shall be made in the form of Schedule 5.

D: Consent Forms

10. Consents for Appeals shall be in the official form of the blue Consent on Appeal.
11. Consents for Applications and Motions shall be in the official form of the green Consent on Motion.

E: Availability of Forms

12. Blank printed Schedules, Consents, and other relevant forms are available without cost at the Ontario Court of Justice, 2nd Floor, 10 Louisa Street, Orangeville L9W 3P9, (519) 941-5802 and at the Town of Caledon 6311 Old Church Road, Caledon, L7C 1J6, (905) 584-2272.
13. Blank electronic Schedules, Consents, and other relevant forms are available without cost at the Town of Caledon website.

II: PROCEDURES

A: Service of Documents

14. All Applications or Motions shall be served on the responding party and must be filed together with an affidavit of service or an admission of service in writing by the responding party on the face of the original document: Rule 11, O. Reg. 722/94 (Part I and II Appeals); Rule 10, O. Reg. 723/94 (Part III Appeals).
15. The Notice of Appeal and Schedule 1 for Part III Appeals must be filed together with an affidavit of service or an admission of service in writing by the responding party on the face of the original document.
16. For Part III Appeals, the Appellant shall file a Certificate of the Clerk of the Ontario Court of Justice as to transcript of evidence in Form 2 together with the Notice of Appeal and Schedule 1: Rule 8, O. Reg. 723/94 (Part III Appeals).

B: Consent Appeals, Applications, and Motions

17. For Consent Orders on Appeals, Applications, and Motions, these matters may be filed together with the written consent of both parties at the Ontario Court of Justice in Orangeville not later than one week prior to any assigned or scheduled Court date. Consent matters will be reviewed by an Appeal Judge in Chambers as soon as practicable.

18. Where the Appeal Judge authorizes the consent in Chambers, the Appeal Judge's Order on the Appeal, Application, or Motion shall be issued and released to both parties forthwith.
19. Where the Appeal Judge does not authorize the consent, the Clerk of the Court shall inform the parties and the Clerk shall place the matter on a POA Appeal date to be addressed before a Judge at that time for scheduling.

C: Opposed Applications and Motions

20. For opposed Applications and Motions, the Clerk of the Court shall set the matter on a POA Appeal date to be assigned by the Clerk at which time an Appeal Judge will determine what materials or information, if any, are required before scheduling an actual hearing of the Application or Motion.
21. Scheduling of contested Applications and Motions will be done in court before an Appeal Judge.

D: Opposed Appeals

22. For opposed Appeals, the Clerk of the Court shall send the parties a Notice of Hearing stating the date and time at which the matter will be addressed before an Appeal Judge. At that time, a status hearing will take place to determine what materials or information, if any, are required before scheduling an actual hearing of the Appeal.
23. Scheduling of opposed Appeals will be done in court before an Appeal Judge.

E: POA Appeal Date Proceedings

24. POA Appeals, Applications and Motions and all matters relating thereto shall be heard on the first Friday of each month commencing March 1, 2019 unless otherwise ordered by the Orangeville Local Administrative Judge.
25. On the POA Appeal date, the conduct of proceedings shall be as follows, unless otherwise ordered by the presiding Judge:
 - (a) 9:00 to 10:00 a.m.: the parties may discuss their matters out of court;
 - (b) 10:00 a.m. to 11:15 a.m.: resolutions on consent, adjournment requests, appeal status hearings, scheduling of Applications and Motions, and other minor matters shall be addressed before the Appeal Judge;

- (c) 11:15 a.m. to 11:30 a.m.: morning recess;
- (d) 11:30 a.m. to 1:00 p.m.: contested Applications and Motions which shall be limited to a maximum of 25 matters being listed;
- (e) 1:00 p.m. to 2:00 p.m.: lunch recess; and
- (f) 2:00 p.m. to 4:30 p.m.: contested Appeals which shall be limited to a maximum of 10 matters being listed.

26. Appeals, Applications, or Motions estimated to be longer than 30 minutes will be scheduled to be heard on a date other than on a regular POA Appeal day, unless otherwise ordered by the presiding Appeal Judge.

III: EFFECTIVE DATE OF LOCAL PROTOCOL

27. It is anticipated that this Protocol will be in full effect as of March 1, 2019. During the transition, the cooperation of all parties is appreciated.

November 7, 2018

Mr. Justice Richard Schwarzl
Local Administrative Judge
Ontario Court of Justice at Orangeville