

Most Common Errors/Reasons for Rejection on Documents Filed at Court of Appeal

Note: If a document is being rejected for something that is mandatory, the clerk will also reject for any other non-mandatory items. If there are numerous non-mandatory reasons for rejection, and there is time for corrections to be made before a deadline will be missed, the clerk does have the authority to reject for all.

	Type of Document	Most Common Errors/Reasons for Rejection	Reject Yes	Reject No
1.a.	Notice of Appeal	All questions not answered, and/or all sub-questions within an item marked “yes” not answered.	Party must complete or rejected	
1.b	Notice of Appeal	Style of Cause is not the same as the lower court style of cause (e.g. showing appellant on top when they were the defendant in lower court, or leaving names out altogether).	Party must correct or rejected	
1.c	Notice of Appeal	If order/judgment filed in trial court, should be provided at time Notice of Appeal is filed. If not available, must be provided as soon as possible thereafter.		No
1.d	Notice of Appeal	Checking off more than one of the items set out in 9 - 12 (JDR, Case Management, No Oral Argument, Expedite).		No.
2.	Agreement as to Contents of Appeal Book	<p>Preparing the Agreement as they would the appeal book table of contents (separating into Parts I - IV)</p> <p>Note: If an Agreement is divided into Parts and any of the documents are set out in the wrong Part, it is up to the party to advise whomever is preparing the appeal books to place the documents in the proper Part in the Appeal Book in accordance with Rule 530.</p>		No, but suggest party not separate into Parts in future.

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3.a	Appeal Books/ Appeal Record	Documents listed in wrong Part (e.g. Part I is Pleadings, Part II is Final Documents, however, often Pleadings are listed in the Final Documents section and vice versa.) Note: For purposes of clarification, Part I - Pleadings are to contain all pleadings and any other document by which proceedings are commenced or by which the issues in the action are defined.	Yes	
3.b	Appeal Books/ Appeal Record	Exhibits not in chronological date order. Note: Chronological date order means documents must be sorted and attached to the appeal book in the order they occurred; oldest dates to newest dates, with undated documents at the end.	Yes, if Notice of Appeal was filed before August 1, 2008.	No, if Notice of Appeal was filed on or after August 1, 2008.
3.c	Appeal Books	Documents listed in Table of Contents missing the issued/filed dates. Note: Documents that do have dates, should have their dates shown in Table of Contents.	Yes, if undated documents do not follow dated documents.	No, if the undated documents follow the dated documents.
3.d	Appeal Books/ Appeal Record	Order/judgment being appealed is missing	Yes	
3.e	Appeal Books/ Appeal Record	Material included is illegible.	Yes	
3.f	Appeal Books/ Appeal Record	On sentence appeal volumes, if the appeal book is contained in more than one volume, the sentence must be included in both the digest and the evidence volume.	Yes	

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3.g	Appeal Books/ Appeal Record	Document format appeal books: where there was viva voce evidence (argument from chambers application(s)), and that evidence is listed in the Table of Contents as “Proceedings”, rather than being broken down into more comprehensive subheadings (e.g. Submissions of Applicant, Submissions of Respondent, Argument, Decision, etc.)		No, but suggest they provide a more comprehensive break down in the Table of Contents on future appeal books.
3.h	Appeal Books/ Appeal Record	Documents in the appeal book are backwards (e.g. backer is first page and first page is at the end), or the pages have not been bound with the printed pages to the left.	Yes	
3.i	Appeal Books/ Appeal Record	Part J. appeal books, which are over 200 pages, have been prepared in the condensed format provided for under subpart J.6. CPD. Note: The condensed format can only be used on Part J. appeal books when the total contents of the appeal book are 200 pages or less. Otherwise, the appeal books must be prepared in the normal format set out under Rule 530.	Yes	
4.a	Factum	Standard of Review not provided as a separate section under Part III in the body of the document, as provided for in C.11 CPD.	Yes	
4.b	Factum	Standard of Review not listed in Table of Contents as provided for in C.12 CPD.	Yes.	
4.c	Factum	Using titles for Parts I - IV that do not match those provided in Rule 538 (e.g. Listing Part III as “Argument” instead of “Points of Law”.)		No, but suggest party use same headers as set out in Rules in future.

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4.d	Factum	The List of Authorities at the back of the factum must set out the neutral (if applicable) and parallel (if available) citations.	Yes, if there are neutral and parallel citations party must fix or rejected.	No, if there are none.
4.e	Factum	<p>Estimate of time is not included or is shown as more than 45 minutes.</p> <p>Note:</p> <ol style="list-style-type: none"> 1. Even if you are seeking the maximum allowed for oral argument, the estimate of time must be inserted so that everyone will know you have addressed this issue. 2. Requests for extension of time to argue should be made by way of letter to the Registry, copied to the other parties. The letter will be put before the panel/justice hearing the appeal/application when the materials are distributed. 		No, but clerk will stamp factum advising counsel that the maximum time for oral argument is 45 minutes.

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4.f	Factum	<p>More than 30 pages of Appendices are included at the back of a factum.</p> <p>Note:</p> <ol style="list-style-type: none"> 1. The standard volume size provided for under Rule 530(2)(h)/Rule 530.4(1)(g) is applied to all materials filed in the Registry. Where any volume exceeds 200 pages, it should be split into separate volumes of approximately equal length. 2. It is strongly recommended that Part D.3 CPD, which reads “Authorities should not be bound to a factum unless they are brief (under 30 pages)” be applied to not only authorities, but also to appendices, statutes, regulations, rules, etc. 		No, unless volume exceeds 200 pages total. However, suggest in future that any attachments to a factum (e.g. authorities, appendices, statutes, regulations, rules, etc.), whose combined total is 31 pages or more, be separated from the factum and bound in a separate volume.
5.a	Book of Authorities	The Table of Contents/List of Authorities must set out the neutral (if applicable) and parallel (if available) citations.	Yes, if there are neutral and parallel citations party must fix or rejected.	No, if there are none.
5.b	Book of Authorities	Table of Contents not provided	Yes	

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5.c	Book of Authorities	Book of Authorities is over 200 pages. Note: The standard volume size provided for under Rule 530(2)(h)/ Rule 530.4(1)(g) is applied to all materials filed in the Registry. Where any volume exceeds 200 pages, it should be split into separate volumes of approximately equal length.	Yes	
5.d	Book of Authorities	Authorities are photocopied on both sides of the page. Note: This is the one area where photocopying on both sides of the page is allowed and encouraged.		No
5.e	Book of Authorities	References in authorities have not been highlighted, underlined, or side barred.		No
6.a	Order/Judgment	Signature line must state “Registrar of the Court of Appeal” not “Clerk of the Court”		No, but must be corrected before filing.
6.b	Order/Judgment	Order/Judgment does not match clerks notes (e.g. missing items that were ordered, or includes items that were not addressed). Note: If counsel/parties cannot agree that missing or extra items should or should not be included in the Order/Judgment, they may file an Appointment to Settle Minutes of the Order/Judgment, returnable before the Taxing Officer.	Yes	
6.c	Order/Judgment	Order does not have an “entered” area for the date and Registrar’s signature.		No, but clerk will stamp before filing.
6.d	Order/Judgment	Judgment was reserved, but preamble does not set out the date of hearing, date the decision was reserved and date decision was rendered.	Party must correct or rejected.	

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6.e	Order/Judgment	Preamble does not fully and accurately reflect the particulars (e.g. incorrect title of parties, dates, materials filed, etc.)	Party must correct or rejected.	
6.f	Order/Judgment	Document entitled “Order” presented for filing when the document should be entitled “Formal Judgment” (for Criminal) or “Judgment” (for Civil). Note: All of these documents provide for the same requirements, so as long as all requirements are there, should not be rejected.		No, but suggest party use specific title in future.
7.a	Bill of Costs	Judgment/Order allowing costs has not been filed.	Yes	
7.b	Bill of Costs	The Bill of Costs has not been consented to and counsel/parties were present at the court hearing/application. Note: 1. If a Bill of Costs <u>is consented to by counsel for the opposite party</u> , it can be taxed and allowed by the clerk without alteration or further consideration pursuant to Rule 629.1 ARC. However, if the Bill of Costs <u>is consented to by the opposing party (not their counsel)</u> , the Bill of Costs must be taxed by the clerk in accordance with Schedule C of the ARC (Rule 629.1 does not apply). 2. If counsel/parties cannot agree to the contents, an Appointment for Taxation must be filed, returnable before the Taxing Officer.	Yes	

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7.c	Bill of Costs	<p>The Bill of Costs is not consented to, but no one appeared at the court hearing for the other side.</p> <p>Note: Rule 639 allows the Bill to be taxed by a clerk on an ex parte basis.</p>		No, the assigned clerk must tax and sign the Bill of Costs in accordance with Schedule C of the ARC.
7.d	Bill of Costs	The Bill of Costs has been consented to by counsel for one party, but has not been consented to by another counsel, but that counsel is not responsible for paying the costs.		No, only the counsel/parties that are responsible for paying the costs must consent to the Bill.
7.e	Bill of Costs	<p>Signature line must state “Registrar of the Court of Appeal” not “Clerk of the Court”</p> <p>Note: A live signature from the taxing clerk in the Court of Appeal is required on Bills of Costs.</p>		No, but must be corrected before filing.
7.f	Bill of Costs	The words “taxed and allowed at \$ _____” are missing.		No, but must be corrected before filing.

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7.g	Bill of Costs	<p>The total in the columns are incorrect.</p> <p>Note: According to the Taxing Officer, the clerk is not to alter the Bill of Costs if it was consented to by counsel and Rule 629.1 is being applied (taxed and allowed without alteration or further consideration). However, if no one appeared on the other side, the clerk will tax the Bill ex parte in accordance with Schedule C, correct the totals, and then provide their live signature.</p>	Yes, if counsel consented to.	No, if clerk is taxing Bill of Costs ex parte pursuant to Schedule C since clerk will make the necessary corrections.
7.h	Bill of Costs	<p>The number of pages and cost per page for photocopies has not been set out.</p> <p>Note: According to the Taxing Officer, the clerk is not to alter the Bill of Costs if it was consented to by counsel and Rule 629.1 is being applied (taxed and allowed without alteration or further consideration). However, if no one appeared on the other side, the clerk will tax the Bill ex parte in accordance with Schedule C, insert the number of pages and cost per page for photocopies, and then provide their live signature.</p>		No, see Note.
7.i	Bill of Costs	<p>Item 13 on Schedule C (costs for speaking to the list) have been claimed more than once.</p> <p>Note: According to the Taxing Officer, if consented to by counsel, the clerk is not to alter the Bill of Costs if Rule 629.1 is being applied (taxed and allowed without alteration or further consideration). However, if no one appeared on the other side, the clerk will tax the Bill ex parte in accordance with Schedule C, reduce the Bill so that costs for speaking to the list is only allowed once (unless previously otherwise ordered), and then provide their live signature.</p>		No, see Note.

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8.a	Notice of Motion	<p>Estimate of time is not included or is shown as more than 15 minutes (regular motions) or 30 minutes (leave to appeal motions).</p> <p>Notes:</p> <p>1. Even if you are seeking the maximum allowed for oral argument, the estimate of time must be inserted so that everyone will know you have addressed this issue.</p> <p>2. Requests for extension of time to argue should be made by way of letter to the Registry copied to the other parties. The letter will be put before the justice/panel hearing the application when the materials are distributed.</p>		No, but clerk will stamp motion advising counsel that the maximum time for oral argument is 15/30 minutes.
8.b	Notice of Motion	Notice to Respondent is missing on backer, or incomplete.		No, clerk will insert the notice, but a note advising of the correction will go back to counsel/party for future use.
8.c	Notice of Motion	Single Duty Justice commencement time shown as 10:00 a.m. instead of 9:30 a.m.		No, but must be corrected before filing.
8.d	Notice of Motion	Motions Court commencement time shown as 9:30 a.m. instead of 10:00 a.m.		No, but must be corrected before filing.

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8.e	Notice of Motion	Failing to pre-book the matter before filing. Note: Before filing a Notice of Motion and supporting documents to be heard by a Single Duty Justice, counsel/parties must call the Registry to pre-book the date. All application materials must be filed within 3 business days thereafter or the pre-booked date may no longer be available.		No, if date is still available it will be filed. If date is no longer available, party can change date before filing.
8.f	Notice of Motion	Motions Court motions often don't state "before the presiding Justices in Motions Court"		No, but must be corrected before filing.
8.g	Notice of Motion	Missing designation of applicant and respondent in the style of cause.		No, but party must insert designations before filing.
8.h	Notice of Motion	Counsel list other materials to be relied upon, which were previously filed, but do not provide copies with the materials being filed.	Yes	
9.a	Memorandum	Respondent did not include their estimate of time. Note: Even if you are seeking the maximum allowed for oral argument, the estimate of time must be inserted so that everyone will know you have addressed this issue.		No, but clerk will stamp memorandum advising counsel that the maximum time for oral argument is 15/30 minutes.
9.b	Memorandum	Memorandum not provided at time of filing Notice of Motion. Note: A Memorandum is mandatory when filing a Notice of Motion.	Yes	

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9.c	Memorandum	Memorandum is longer than 3 double-spaced pages (or 10 double-spaced pages for leave applications)	Yes	
9.d	Memorandum	Line spacing decreased in an attempt to stay within 3 page (or 10 page - leave applications) limit.	Yes	
9.e	Memorandum	Margins decreased in an attempt to stay within 3 page (or 10 page - leave applications) limit. Note: Margins should be no less than one-half inch. Otherwise, words may be cut off when copies made.		No, provided that no words are cut off on copies.
9.f	Memorandum	Memorandum does not set out all of the suggested topics outlined in Part F.4 CPD (e.g. relief sought, succinct statement of facts relevant to relief sought, precise statute/rules/principles application is being made, and grounds). Note: See Part F.4.CPD for suggested format/contents.		No, counsel/parties are at liberty to choose their own format as it will vary from case to case.
10.a	Affidavit	Date sworn and name of deponent has not been included on the front and back of the Affidavit.		No, but must be inserted before filing.
10.b	Affidavit	Affidavit not provided at time of filing Notice of Motion and Memorandum. Note: An Affidavit is optional.		No
11.	Part J. - Leave Applications	The applicant's supporting materials for the Part J. Leave Application are not bound with orange colored stock covers as required under subpart J.3.(e) CPD, or the respondent's memorandum is not bound with lilac colored stock covers as required under subpart J.3.(f) CPD.	Yes	

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12.a	Judicial Interim Release	All mandatory reporting conditions (including CPD E.3(d) - proceeding expeditiously) have not been set out on the order.	Yes	
12.b	Judicial Interim Release	A dollar amount has not been set out in the paragraph which reads “Entering into a Recognizance before a Justice with (or without) surety(ies), in the amount of \$ _____, but/upon.....” Note: If a dollar amount is not provided, even if it is just “zero”, the hearing office may refuse to release the prisoner.	Yes	
13.	Criminal Notice of Appeal	“Her Majesty the Queen” has not been included in the style of cause, or does not appear before the accused’s name.		No, handwrite it in.
14.	Appointment for Taxation	Missing “I, S. Stushnoff, Registrar of the Court of Appeal, hereby appoint....(date)....”		No, as long as the appointment provides a time, place and reason for the appointment.
15.	General Format - all documents	The document headers (on front and back) set out Court of Appeal of Alberta, but go on to indicate “In the Judicial District of Edmonton (or Calgary).” Note: The Court of Appeal is not divided into jurisdictions. The headers should only read Court of Appeal of Alberta.		No, but must be corrected before filing.

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16.	Confirmation Letters	<p>The confirmation letters do not contain all of the requirements as set out on the Pre-booking General Appeal Form.</p> <p>Note: Refer to the Pre-booking General Appeal form located on the Alberta Court's website at www.albertacourts.ab.ca under Court of Appeal > Publications & Forms > Informational/ Instructional Forms.</p>		No, the clerk must ask that a replacement letter be provided setting out all of the required points.
17.	Incoming Correspondence	<p>Correspondence is received which states the style of cause, but does not set out the appeal number.</p> <p>Note: All correspondence should reference the appeal number and style of cause.</p>		No, provided that the clerk can find the appeal number from the style of cause provided.
18.	Deadlines	<p>The Registry receives numerous phone calls from counsel/parties asking what the filing deadlines are or, when the next speak-to list is. Also, many appeals are struck because counsel/parties miss impending deadlines.</p> <p>Note: Counsel/parties should refer to the “What Are My Deadlines?” document located on the Alberta Court's website at www.albertacourts.ab.ca under Court of Appeal > Publications & Forms > Informational/ Instructional Forms to determine at a glance what deadlines may be impending. They should also refer to the Alberta Court Calendar to determine the next speak-to dates. The Court Calendar is located under Locations & Sitings.</p>		
19.	Precedents, Check/Return Forms, Practice Directions	<p>Precedents, Check/Return forms, Practice Directions, etc. can become outdated as amendments are made to Acts/Rules. Always refer to the Court of Appeal website for the most recent revised copies.</p>		

Revised: March 20, 2009