

Civil Applications Guide

A step-by-step manual







For self-represented litigants and legal professionals

REVIEWED NOVEMBER 2026



Court of Appeal of Alberta

Contact information

The Court of Appeal is the highest court in Alberta with offices in Edmonton and Calgary. These offices are called the Registry. Hours of operation are Monday to Friday from 8:15 a.m. to 4 p.m. Registry offices are closed on weekends, statutory holidays and between Christmas and New Year's Day.

Edmonton
Court of Appeal of Alberta
Law Courts Building
1A Sir Winston Churchill Square
Edmonton AB T5J 0R2
Edmonton.Registry@albertacourts.ca
Phone: 780-422-2416
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Applications relating to matters that originate north of Red Deer are filed in Edmonton.

Calgary
Court of Appeal of Alberta
2600, 450 – 1st Street SW
Calgary AB T2P 5H1
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Applications relating to matters that originate in or south of Red Deer are filed in Calgary.

The information contained in this guide is an overview of the relevant legislation, the ***Alberta Rules of Court*** and Consolidated Practice Directions. It is not a substitute for the *Rules of Court* or the Consolidated Practice Directions. Nothing in this guide is intended as, or should be understood as, legal advice. Court staff cannot provide legal advice or conduct or respond to an appeal on your behalf. For comments on this guide, email **communications.coa@albertacourts.ca.**

How to use this guide

This is a guide to civil applications at the Court of Appeal of Alberta. Civil applications can address issues that arise between the parties to a civil appeal. This guide explains how applicants can bring, and respond to, various applications. For applications for permission to appeal to start an appeal, see the *Civil Appellant Guide*.

There are three guides on civil appeals.
The ***Civil Applications Guide*** is designed to be used with a primary guide—either the ***Civil Appellant Guide*** or the ***Civil Respondent Guide***. If you are bringing an appeal, use the *Civil Appellant Guide*. If you are responding to an appeal, use the *Civil Respondent Guide*.
Civil appeal applications are governed by Part 14 of the *Alberta Rules of Court*. If there is an inconsistency between this guide and the *Rules of Court*, the *Rules of Court* apply.

Part 1 introduces applications and highlights the types of issues which may be resolved with an application.

Part 2 covers applications and requests for direction from a case management officer (CMO).

Part 3 covers applications to a single appeal judge in chambers.

Part 4 covers applications to a panel of judges.

Part 5 outlines how to schedule a hearing for single judge and panel applications.

Part 6 outlines hearing methods with a focus on virtual hearings.

Part 7 outlines specific requirements for common applications at the Court of Appeal.

To navigate this guide, we recommend using the table of contents and an internal search function[1] to find the topics and terms you need.

[1] For example, on a Windows computer use Ctrl + F.

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Part 1

Part 1 | Introduction to applications

This is a guide to assist parties to an appeal to bring, or respond to, an application related to their appeal.

Applications can be made to a case management officer (CMO), a single Court of Appeal judge or a panel of three judges to resolve issues that arise between the parties before an appeal is heard.

- The party who makes an **application** to resolve an issue is called the **applicant**. The party who responds to the application is called the **respondent** (not to be confused with the respondent in an appeal). Either an appellant or respondent to an appeal can make an application.
- There are many types of applications, including applications to extend deadlines or amend documents, for permission to appeal, to admit new evidence and to restore an appeal. This guide covers common types of applications. **For information about applications for permission to appeal to start a matter** at the Court of Appeal, see **Part 2.6.B** of the *Civil Appellant Guide*.

What issue do the parties need to resolve?

The type of issue that arises between the parties will guide which decision maker (the CMO, a single judge or a panel of judges) must decide the issue and the process the applicant must follow. Legislation identifies the required decision maker. Review the list of issues in Appendix 1 titled "Who will hear my matter?" to determine your next steps.

- If you are unsure who the correct decision maker is for your application, email the CMO for directions.
    - Edmonton: Bobbi.McDevitt@albertacourts.ca
    - Calgary: Laurie.Baptiste@albertacourts.ca
- Once you identify the correct decision maker, follow the requirements outlined in the relevant section—**Part 2** (CMO), **Part 3** (single judge) or **Part 4** (panel of judges).



Part 2

Part 2 | Applications to the CMO

The case management officer (CMO) is a senior Court of Appeal staff lawyer who manages the progress of matters before the Court. The CMO reviews all appeals from the start to identify and resolve issues related to an appeal's progress. The CMO can also decide a range of applications and issue administrative directions.

- The CMO does not act for either party and cannot provide legal advice to the parties.
- For information on communicating with the CMO, see **Part 2.4.C.II** in the *Civil Appellant Guide* or *Civil Respondent Guide*.

A. Types of matters the CMO can decide

Apply to the CMO to[2]:

- Recategorize an appeal as fast-track or standard.
- Make a direction about whether permission to appeal or an extension of time to appeal is required.
- Set, approve or modify timetables for filings.
- Grant a fiat to permit the filing of deficient documents, to amend documents and to vary the contents or format of documents to be filed.
- Consider an application to restore an appeal by consent.
- Settle the terms of orders or judgments or approve an order or judgment (when it is to be filed without all signatures or after the deadline in the *Rules*.)
- Enforce, stay, shorten or extend any timeline or deadline in the *Rules* (except for the deadline to file an appeal or application for permission to appeal if permission is required.)
- Permit a filed document to be amended or additional materials to be filed after the deadline.
- Provide an administrative direction on other procedural matters.

B. How to request directions from the CMO

At the Court of Appeal, an administrative direction or decision means a decision or formal instruction provided by the CMO that must be complied with.

[2] This list is not exhaustive.

APPLICATION FOR DIRECTIONS FROM CMO —OVERVIEW

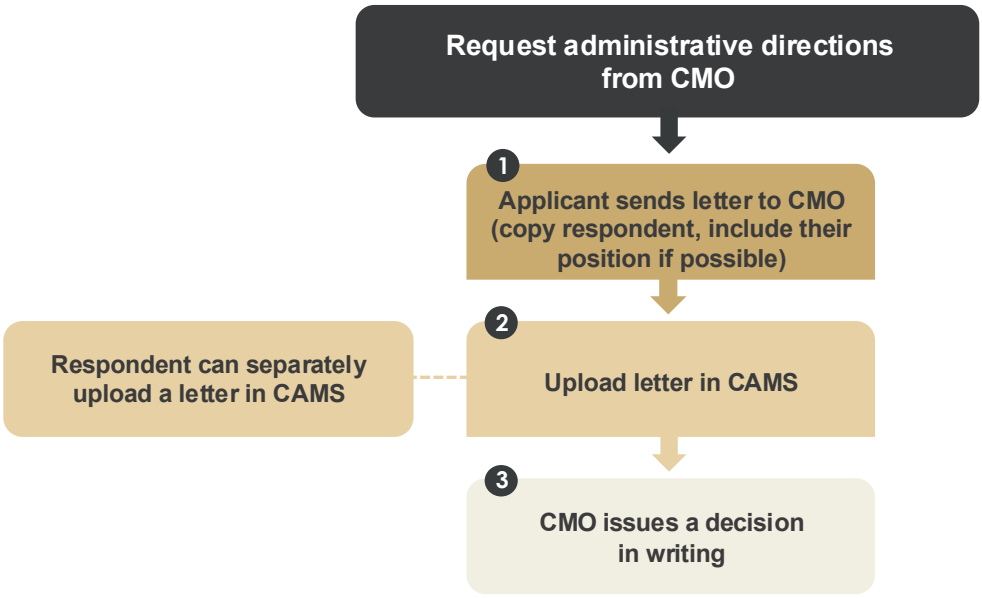


Figure 1: How to apply for directions from a CMO

I. FORM AND CONTENT

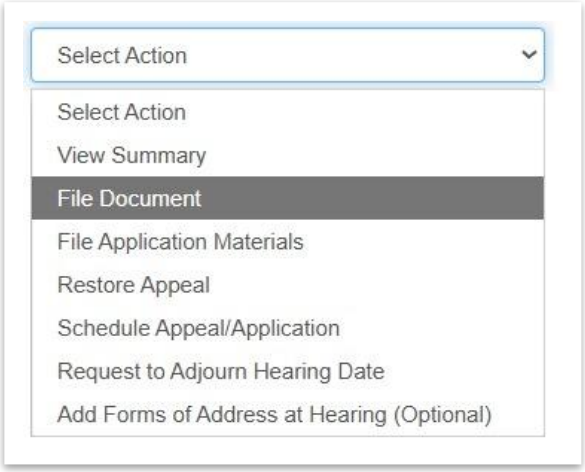
Requests for administrative directions from a CMO are made informally in writing by letter (rule 14.39), subject to any directions from the CMO.

- These applications must:
  - Give a reason or explanation for the request, even if the other party consents to the request.
  - Provide evidence, as may be necessary to support of the application.
  - Provide the other party's position with respect to the request (if possible).
  - Copy the other party.
  - Note: The following instructions **do not** apply to applications to restore an appeal by consent. For information on applications to restore an appeal by consent, go to **Part 7.B.III** below.

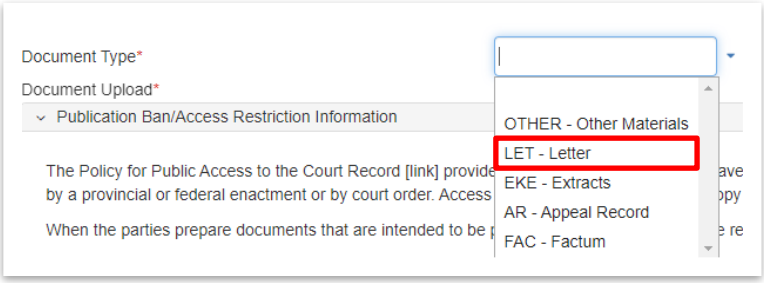
II. UPLOAD THE APPLICATION

Instructions to upload the letter in CAMS are found in the CAMS Manual at p. 62.

- Log in to your CAMS account and locate the My Appeals tab. **Select Action** > **File Document**.



- On the page that opens, beside Document Type, select **LET - Letter**, then **Choose File** to upload the letter.
  The document must not exceed 100MB.



- Answer the questions and click Proceed.
- Each time you correctly upload a document in CAMS, you will receive an email. This automatic email will include a generic link for online payment. Ignore this payment request. No payment is required to file a letter.
- These emails come from CAMSInquiries@albertacourts.ca. Please ensure your spam filters do not block this email address. If you do not receive this email, the document did not upload correctly.
- No fee is paid to make a request for an administrative direction from a CMO.

C. Responding to an applicant's application to a CMO

As noted, an applicant must:

- Ask for the respondent's position on an application and include the response if possible, before uploading the letter to CAMS, and

- Copy the respondent on all requests.

- A respondent can provide their position with reasons on an applicant's request by uploading a letter in CAMS. Follow the instructions in **Part 2.B.II**.

D. CMO's decision

You will receive an email notification from **CAMSInquiries@albertacourts.ca** once the decision is added to CAMS.

Ensure your spam filters do not block this email address. Log in to your CAMS account to view the decision.

E. Appealing a decision from a CMO

Decisions from a CMO can be reviewed within one month by filing an application to a single appeal judge who can rescind, confirm, amend or enforce the decision (rule 14.36(3)).

The process for appealing a decision to a single appeal judge is explained in **Part 3**.



Part 3

Part 3 | Applications to a single appeal judge

The *Alberta Rules of Court* require a single judge to hear some applications.

Hearings before single appeal judges are virtual and are scheduled twice weekly—on Wednesdays and Thursdays at 9:30 a.m. The **court calendar** on the Court's website lists the dates.

- Applications for permission to appeal to start a matter at the Court of Appeal are heard by a single judge. They are detailed in **Part 2.6.B** in the *Civil Appellant Guide* under how to file a civil appeal.
- Applications to a single judge must be filed in CAMS, unless you have an e-filing exemption. See **Part 2.2.A** in the *Civil Appellant Guide* or the *Civil Respondent Guide*.
- The cost to file an application to a single appeal judge is $100, except for:
    - An application for permission to appeal that is filed to start a matter at the Court of Appeal (see the *Civil Appellant Guide*), and
    - An application to restore an appeal. See **Part 7.B** below.
- For information on waivers for filing fees, see **Part 1.4** in the *Civil Appellant Guide* or *Civil Respondent Guide*.
- See the **Applications to a Single Appeal Judge or CMO** information sheet.
- The process is as follows:

APPLICATIONS TO A SINGLE APPEAL JUDGE —OVERVIEW

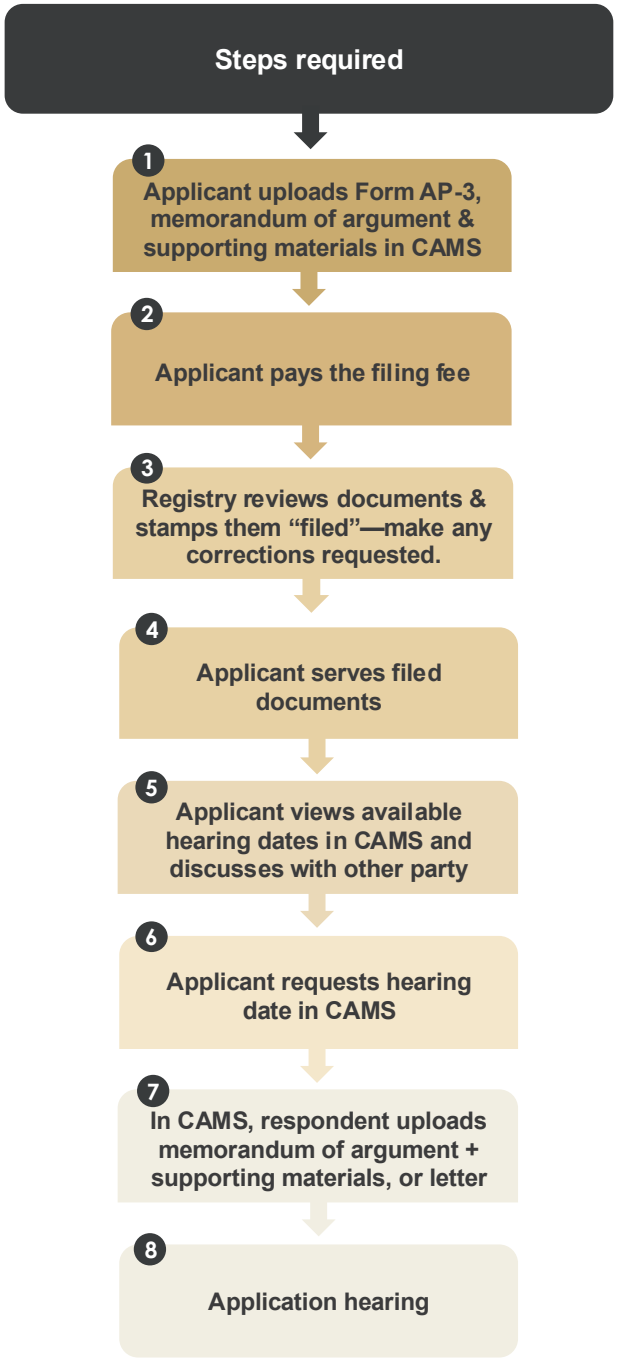


Figure 2: Steps required for an application to a single appeal judge

A. Matters a single judge can decide

A single judge can decide any matter "incidental to an appeal"[3] (rule 14.37):

- Grant permission to appeal, including permission to appeal a decision of a single Court of Appeal judge.
- Declare an appeal struck, dismissed or abandoned for failure to comply with a mandatory rule, prior order or direction of the Court of Appeal.
- Strike an appeal or application for permission to appeal that is not filed in time.
- Extend the time to appeal or to seek permission to appeal.
- Dismiss an appeal if it has not been significantly advanced in more than **6 months** and significant prejudice has resulted to a party.
- Grant permission to intervene.
- Order a stay of proceedings or enforcement of a decision that is pending appeal.
- Grant security for costs.
- Restore an appeal (if opposed).
  - See **Part 7.B** for details.

B. Deadlines

The applicant must serve a filed copy of the application, memorandum of argument and other materials on all parties at least **10 days before** the application is scheduled to be heard (rule 14.40(2)).

- If an application, other than an application for permission to appeal, is not heard within **three months** of being filed, it is deemed abandoned unless a CMO directs otherwise (rule 14.52).
- Review the Deadlines for Applications and Responses chart.

C. Content of an application to a single judge

Applications on matters to be heard by a single appeal judge must include (rule 14.40):

I. APPLICATION FORM AP-3 (REQUIRED)

Use Form AP-3 (rule 14.53) and:

- Briefly state the grounds, i.e., reasons for filing the application, but do not include argument.

[3] This list is not exhaustive.

- Identify any:
  - Materials to be relied on—for example, a memorandum of argument, and
  - Evidence to be relied on—for example, an affidavit.
- Refer to any applicable provision of an enactment or rule.
- State the remedy sought.

II. MEMORANDUM OF ARGUMENT (REQUIRED)

A **memorandum of argument** that meets the requirements of rule 14.54 is required. See Appendix 2 for instructions on preparing a memorandum of argument. If you do not upload a memorandum of argument at the same time as your application, the application will be returned to you, unfiled. Note the exception.[4]

- Do not include evidence in a memorandum. Use an affidavit instead. See **Part 3.C.III** below.
- The memorandum may include a brief chronology, if relevant. A chronology is a simple list of events, facts and developments in the case from its beginning to present. Do not include commentary.
- List of Authorities: Include a table of authorities at the end of the memorandum of argument with hyperlinks. See Appendix 2.

III. ACCOMPANYING AFFIDAVIT (OPTIONAL)

Include an affidavit if you are providing evidence. Do not include argument in an affidavit.

See Appendix 2 for information on affidavits including content, formatting and resources.

IV. OTHER DOCUMENTS (DEPENDS ON APPLICATION TYPE)

Include all **other documents** to be relied on (if any), even if they were previously filed. For example, if you want to rely on an affidavit that was previously filed in the Court of King's Bench, you must file a copy at the Court of Appeal.

- If there is more than one document, do not upload them individually. Attach them to a memorandum or affidavit as relevant or save the documents into one PDF to upload.
- The exact documents required will depend on the application being made.

[4] In some cases, a permission to appeal application is filed to preserve a time limit. In this case, you do not need to file a memorandum at this time.

D. Formatting documents

I. FORMATTING A MEMORANDUM OF ARGUMENT

See Appendix 2 for guidelines on formatting a memorandum of argument.

II. FORMATTING AN AFFIDAVIT

See Appendix 2 for guidelines on formatting an affidavit.

E. Filing and serving an application to a single judge

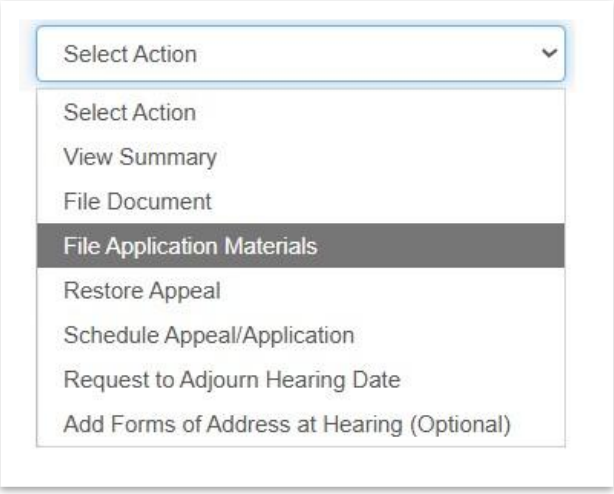
Before uploading your documents in CAMS, review:

- Checklist: Application—mandatory requirements and check/return form
- Checklist: Memorandum of argument—mandatory requirements and check/return form
- Checklist: Affidavit—mandatory requirements and check/return form, and
- Information sheet: Applications to a single appeal judge or CMO

- The Registry only files documents that comply with the *Rules of Court*.

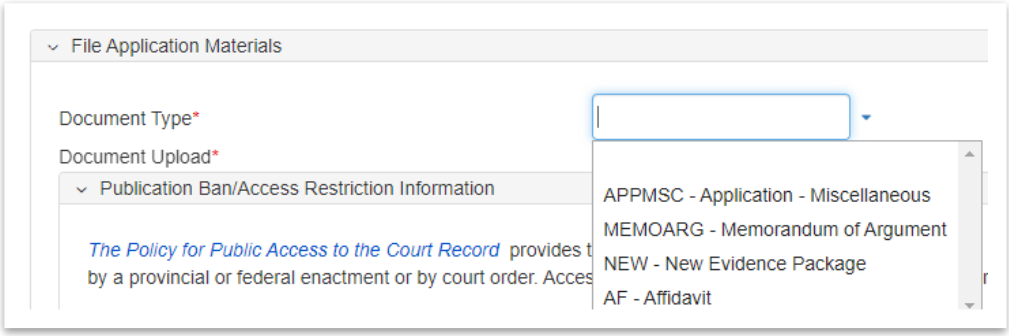
I. UPLOAD APPLICATION MATERIALS IN CAMS

To upload the documents, log in to your CAMS account, locate the appeal under the My Appeals tab and **Select Action** > **File Application Materials**.



- For information on filing an application to restore an appeal, see **Part 7.B** below. The steps are different.

- On the next page, beside Document Type, select **APPMSC – Application – Miscellaneous**, then **Choose File** to upload the completed Form AP-3. The form must not exceed 100MB.

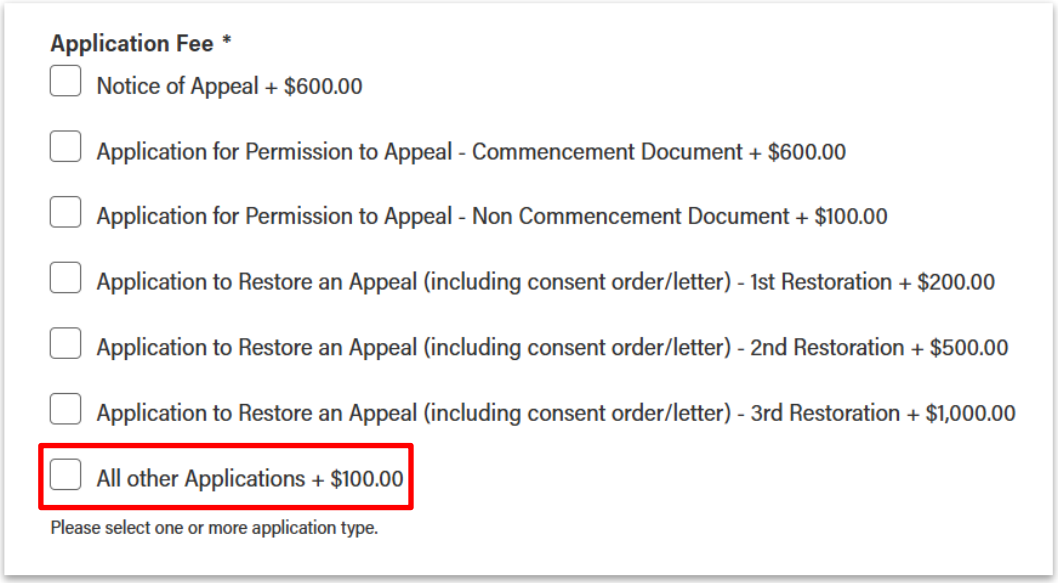


  - Answer the questions and click Proceed.
  - If you correctly upload a document in CAMS, you will receive an email. This automatic email includes a generic link to pay online. The process to pay is explained below.
  - These emails come from CAMSInquiries@albertacourts.ca. Please ensure your spam filters do not block this email address. If you do not receive this email, the document did not upload correctly.
  - Repeat this process to upload the memorandum of argument and any affidavit or supporting materials. Select the correct document type each time from the drop-down list. Each document must be uploaded individually.

II. PAY THE FILING FEE

After you receive the email link, pay the filing fee at https://eservices.alberta.ca/courtofappeal-filing-fees-civil.html unless you have a valid fee waiver. The application fee is paid once per application. For information on fee waivers, see **Part 1.4** of the *Civil Appellant Guide* or *Civil Respondent Guide*.

- If you do not already have an Alberta.ca account, you will need to create one.
- To pay the filing fee, click on Alberta.ca account under the heading "Sign in with Alberta.ca Account".
- Once you have logged in to Alberta.ca click **Begin Form** to get started.
- Enter your name, the appeal number, and the style of cause.
- The style of cause is the title of your appeal—made up of the names of the parties, as spelled in the court or tribunal being appealed from.
- Select the correct fee shown below:



- Once the filing fee is paid, email a copy of your receipt to Calgary.Registry@albertacourts.ca or Edmonton.Registry@albertacourts.ca or upload the receipt to CAMS so your application can proceed. The Registry **cannot file your application until you provide proof of payment**.

III. SERVE THE DOCUMENTS

The applicant must serve a filed copy of the application, memorandum of argument and other materials on all parties at least **10 days before** the application is scheduled to be heard (rule 14.40(2)).

- See Appendix 8 of the *Civil Appellant Guide* or *Civil Respondent Guide* for information on service.
- Applications and related documents, excluding applications for permission to appeal to start an appeal, are non-commencement documents. This means they do not start an appeal.

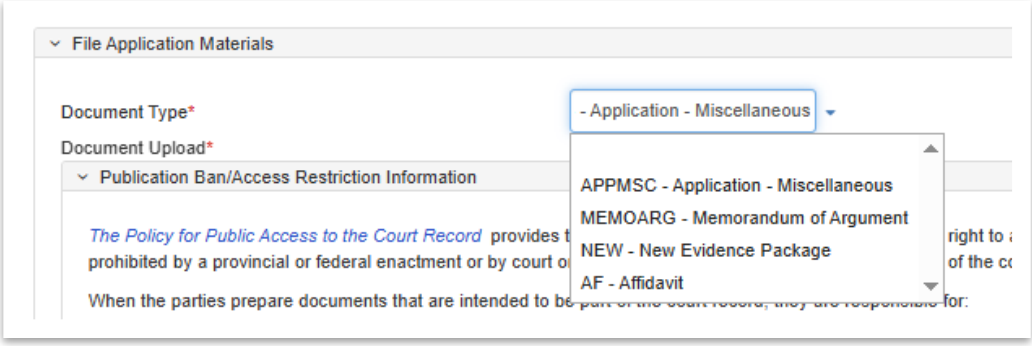
IV. APPLICANT REQUESTS A HEARING DATE VIA ESCHEDULING IN CAMS

Request a hearing date in CAMS by following the steps outlined in **Part 5.C** of this guide. Select a hearing date that falls at least **10 days** after the documents have been filed and served.
Note: The parties must discuss hearing dates before booking. If the parties cannot agree on a hearing date, they can apply to a CMO to settle a date.

F. Responding to an application to a single judge

The applicant must serve the respondent with a copy of the filed application. The respondent is required to respond at least **five** days before the application is scheduled to be heard (rule 14.41).

- Review the Deadlines for Applications and Responses chart.
- Respond by uploading in CAMS either:
  - A memorandum of argument and any affidavit and supporting materials, or
  - A letter indicating that no materials will be filed.
- Follow the instructions in **Part 3.E.I** for uploading application materials. The respondent and appellant take the same steps to upload their application materials. Use **Application – Miscellaneous** to upload a letter of intention, if applicable.



- Documents must be served. See **Part 3.E.III**.
- If the respondent does not file a memorandum of argument, they may not present oral argument at the hearing unless the judge allows (rule 14.49).

G. Application hearing

The standard method of hearing for an application to a single judge is virtual. But parties can request to change the hearing method to an in-person or hybrid hearing. See **Part 6** below for more information.

- Oral argument cannot exceed 15 minutes for each party including reply, unless the judge allows otherwise. Exception: The time limit for oral argument in a permission to appeal application is 30 minutes.
- A judge can also decide applications without hearing oral argument (rule 14.51).
- A respondent who fails to respond to an application or files a letter of intention not to respond cannot present oral argument unless the judge permits (rule 14.49).

- Note: Applications for permission to appeal a decision of a single Court of Appeal judge are in writing only. See **Part 3.H** below.

H. Appealing the decision of a single Court of Appeal judge

For applications that were made to a single appeal judge (other than an application for permission to appeal) a party can apply for permission to appeal the judge's decision (rule 14.5(1)(a)). The same judge will consider the application in writing only (rule 14.5(2)).

- The deadline to seek permission to appeal the decision of a single appeal judge is within **one month**.
- Single judge decisions on applications for permission to appeal cannot be further appealed to the Court of Appeal (rule 14.5(3)). A party can seek leave to appeal to the Supreme Court of Canada.



Part 4

Part 4 | Applications to a Court of Appeal panel of judges

The *Alberta Rules of Court* require a panel of three judges to hear some applications.

- Panel applications are scheduled one Thursday per month at 10 a.m. except in July and August. The **court calendar** on the website lists the dates.
- Applications to a Court of Appeal panel must be filed in CAMS, unless you have an e-filing exemption. See **Part 2.2.A** in the *Civil Appellant Guide* or the *Civil Respondent Guide*.
- All applications, except for permission to appeal and to restore an appeal, cost $100.
- See the **Panel Applications** information sheet.

The process is outlined below:

APPLICATIONS TO A PANEL OF JUDGES —OVERVIEW

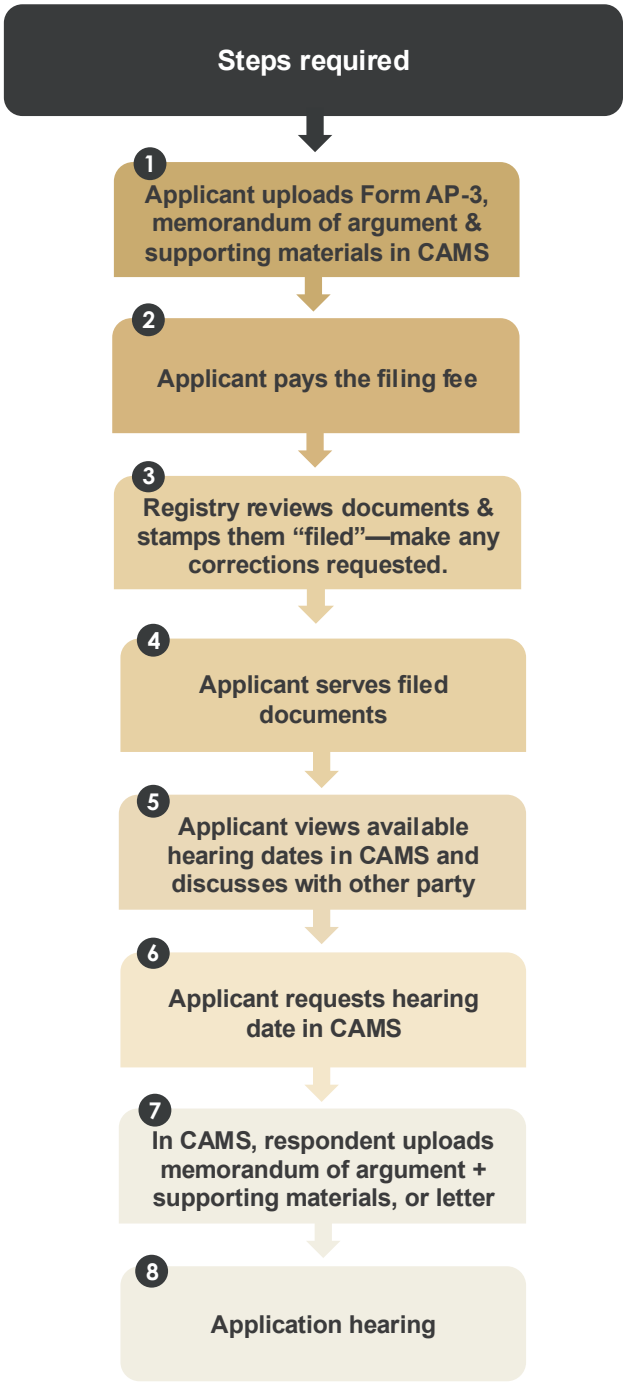


Figure 3: Steps required for an application to a panel of judges

A. Types of matters a panel must decide

A panel of judges can hear any application, but matters that must be heard by a panel (rule 14.38(2)) include:

- Allowing or dismissing an appeal on the merits.
- Admitting new evidence. (This application is heard at the same time as the appeal.)
  - See **Part 7.A**.
- Rearguing or reopening an appeal (rule 14.38(2)(c)). This application is heard in writing by the same panel who heard the appeal. This application can only be made if the formal judgment has not yet been filed. Consult the CMO before filing the application.
- Seeking directions required to give effect to any decision of the Court of Appeal. This application is heard in writing only by the same panel who heard the appeal. Consult the CMO before filing the application.
- Reconsidering a prior precedential decision of the Court (rule 14.46).
- Any application referred by a single appeal judge (rule 14.37(2)(f)).

B. Deadlines

The applicant must serve a filed copy of the application, memorandum of argument and other materials on all parties to the appeal at least **20 days before** the application is scheduled to be heard (rule 14.42(2)).

- If an application is not heard **within three months** of filing, it is deemed abandoned unless a CMO directs otherwise (rule 14.52).
- Review the Deadlines for Applications and Responses chart.

C. Content of application to a panel

Rule 14.42 outlines the contents of an application to a Court of Appeal panel.

I. APPLICATION FORM AP-3 (REQUIRED)

Use Form AP-3 (rule 14.53) and:

- Briefly state the grounds, i.e., reasons for filing the application, but do not include argument.
- Identify any:
  - Materials to be relied on—for example, a memorandum of argument, and

        - Evidence to be relied on—for example, an affidavit.
    - Refer to any applicable provision of an enactment or rule.
    - State the remedy sought.

II. MEMORANDUM OF ARGUMENT (REQUIRED)

A **memorandum of argument** that meets the requirements of rule 14.54 is required. See Appendix 2. If you do not upload a memorandum of argument at the same time as your application, your application will be returned to you, unfiled.

- Do not include evidence in a memorandum. Do that in an affidavit instead. See **Part 3.C.III**.
- The memorandum may include a brief chronology, if relevant. A chronology is a simple list of events, facts and developments in the case from its beginning to the present. Do not include commentary.
- List of Authorities: Include a table of authorities at the end of the memorandum of argument with hyperlinks. See Appendix 2.

III. ACCOMPANYING AFFIDAVIT (OPTIONAL)

Include an affidavit if you are providing evidence.

See Appendix 2 for information on affidavits including content, formatting and resources. Do not include argument in an affidavit.

IV. OTHER DOCUMENTS (DEPENDS ON APPLICATION TYPE)

Include all **other documents** to be relied on for the application (if any), even if they were previously filed. For example, if you want to rely on an affidavit that was previously filed in the Court of King's Bench, you must file a copy of it at the Court of Appeal.

- If there is more than one document, do not upload them individually. Attach them to a memorandum or affidavit as relevant or save the documents into one PDF to upload.
- The exact documents required will depend on the type of application being made.

D. Formatting documents

I. FORMATTING A MEMORANDUM OF ARGUMENT

See Appendix 2 for guidelines on formatting a memorandum of argument

II. FORMATTING AN AFFIDAVIT

See Appendix 2 for guidelines on formatting an affidavit.

E. Filing and serving an application to a panel

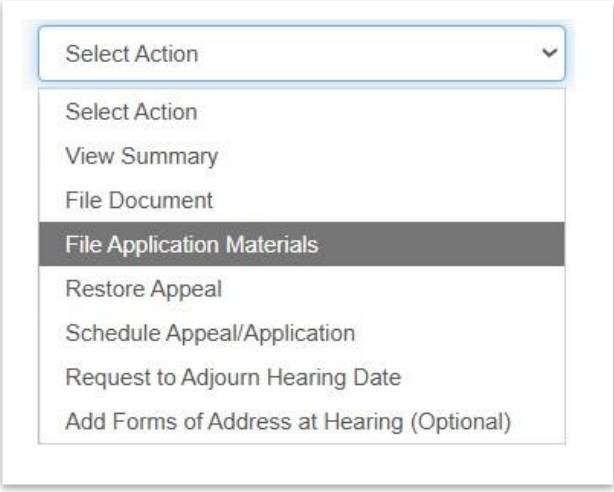
Before uploading your documents in CAMS, review:

- Checklist: Application—mandatory requirements and check/return form
- Checklist: Memorandum of argument—mandatory requirements and check/return form
- Checklist: Affidavit—mandatory requirements and check/return form, and
- Information sheet: For panel applications

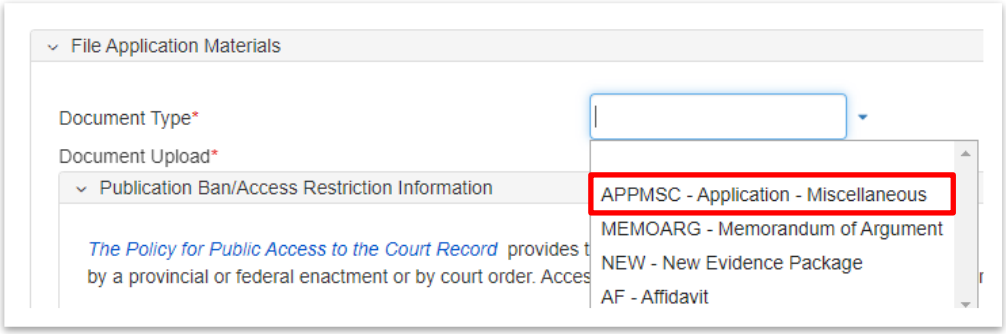
- The Registry only files documents that comply with the *Rules*.

I. UPLOAD APPLICATION MATERIALS IN CAMS

To upload the documents, log in to your CAMS account, locate the appeal under the My Appeals tab and **Select Action** > **File Application Materials**.



- For information on filing an application to admit new evidence see **Part 7.A** below. The steps are different.
- On the page that opens, beside Document Type, select **APPMSC – Application – Miscellaneous**, then **Choose File** to upload the completed **Form AP-3**. The form must not exceed 100MB.

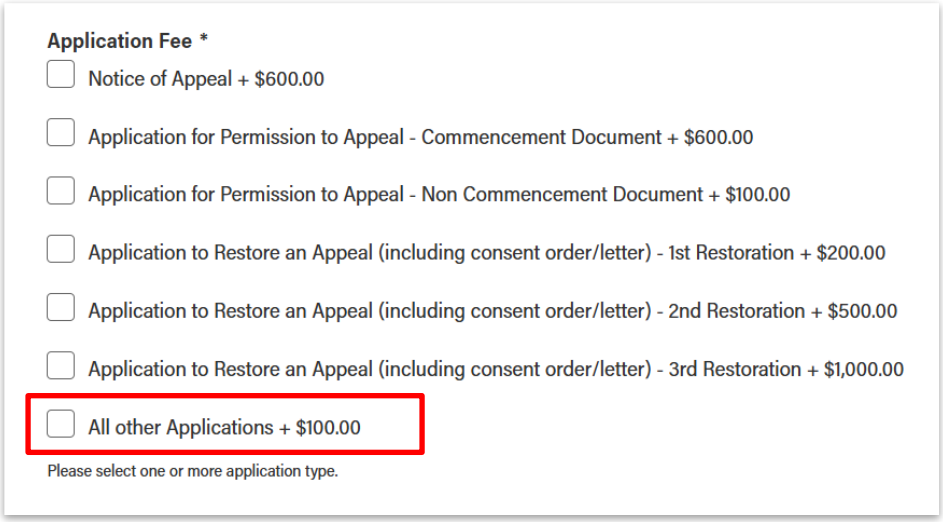


- If you correctly upload a document in CAMS, you will receive an email. This automatic email includes a generic link to pay online. The process to pay is explained below.
- These emails come from CAMSInquiries@albertacourts.ca. Please ensure your spam filters do not block this email address. If you do not receive this email, the document did not upload correctly.
- Repeat this process to upload the memorandum of argument and any affidavit or supporting materials. Select the correct document type each time from the drop-down list. Each document must be uploaded individually.

II. PAY THE FILING FEE

After you receive the email link, pay the filing fee at https://eservices.alberta.ca/courtofappeal-filing-fees-civil.html unless you have a valid fee waiver. The application fee is paid once per application. For information on fee waivers, see **Part 1.4** of the *Civil Appellant Guide* or *Civil Respondent Guide*.

- Click **Begin Form** to get started. Enter your name, the appeal number, and the style of cause.
- The style of cause is the title of your appeal—made up of the names of the parties, as spelled in the court or tribunal being appealed from.
- Select the correct application and fee (shown below).



- Once the filing fee is paid, email a copy of your receipt to Calgary.Registry@albertacourts.ca or Edmonton.Registry@albertacourts.ca or upload the receipt to CAMS so your application can proceed. The Registry cannot file your application until you provide proof of payment.

III. SERVE THE DOCUMENTS

The applicant must serve a filed copy of the application, memorandum of argument and other materials on all parties to the appeal at least **20 days before** the application is scheduled to be heard (rule 14.42(2)). The applicant requests a hearing date in the next step.

- See Appendix 8 of the *Civil Appellant Guide* or *Civil Respondent Guide* for information on service.
- Applications and related documents, excluding applications for permission to appeal to start an appeal, are non-commencement documents. This means they do not start an appeal.

IV. REQUEST A HEARING DATE VIA ESCHEDULING IN CAMS

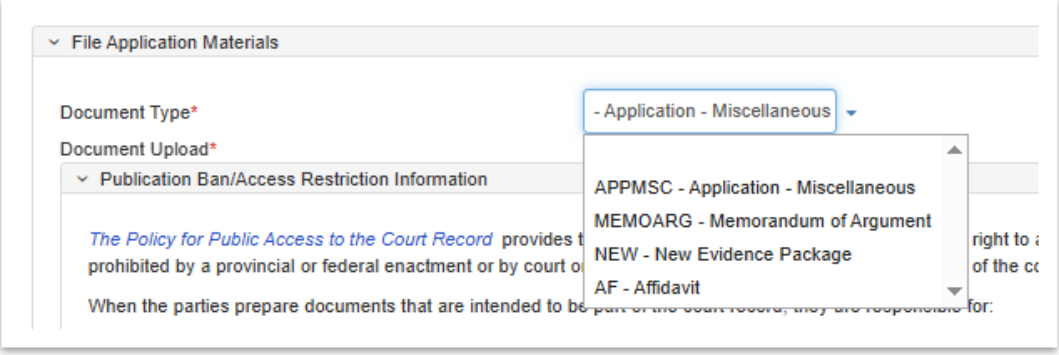
An applicant requests a hearing date in CAMS by following the steps outlined in **Part 5.C** of this guide.

- The parties must discuss hearing dates first.
- The selected hearing date must be at least 20 days after the applicant served the materials on the respondent.
- If the parties cannot agree on a hearing date, they can apply to a CMO to settle a date.

F. Responding to an application to a panel

The applicant must serve the respondent with a copy of the filed application. The respondent must respond to the application **at least 10 days** before the application is scheduled to be heard (rule 14.43).

- Review the Deadlines for Applications and Responses chart.
- Respond by submitting either:
  - A memorandum of argument and any affidavit and supporting materials, or
  - A letter of intention not to respond, indicating that no materials will be filed.
- Follow the instructions in **Part 4.E.I** to upload application materials. The respondent and appellant take the same steps to upload application materials. Use **Application – Miscellaneous** to upload a letter of intention, if applicable.



- Documents must be served. See **Part 4.E.III**.
- If the respondent does not file a memorandum of argument, they may not present oral argument at the hearing unless the judge allows (rule 14.49).

G. Application hearing

The standard method of hearing for an application to a panel of judges is in person. But parties can request to change the hearing method to a virtual or hybrid hearing. See **Part 6** below for more information.

- In the case of a hearing with oral argument, oral argument cannot exceed 15 minutes for each party including reply.
- A panel of judges can also decide applications without oral argument (rule 14.51). An application to reargue or reopen an appeal and an application for directions required to give effect to a decision in writing are heard in writing only.

- A respondent who fails to respond to an application or files a letter of intention not to respond cannot present oral argument at the hearing unless permitted by a judge (rule 14.49).

H. Appealing the decision of a panel of judges

There is no further appeal to the Court of Appeal from decisions of a panel. A party can seek leave to appeal to the Supreme Court of Canada.



Part 5

Part 5 | Scheduling application hearings

A. Introduction

Scheduling is the process of setting a hearing date.

Note: The applicant must discuss hearing dates with the respondent before scheduling a date. Read below about viewing and finding available hearing dates to discuss with the other parties.

For an application that will be heard by a single judge or panel, the applicant will first file and serve application materials before scheduling the hearing date.

- To view hearing dates for an application, go to eScheduling in CAMS. **Part 5.C** explains how to use eScheduling.
- The Court of Appeal hears single judge applications and panel applications in both Calgary and Edmonton.
    - Single judge applications are heard twice a week. These virtual hearings are on Wednesdays and Thursdays at 9:30 a.m.
    - Civil panel applications are heard once a month in person in each city from September to June.
    - Panel application dates are also listed on the Court calendar on the website.

Additional Notes:

It is strongly recommended that parties agree on dates before making any requests through the portal. If the parties cannot agree, there may be scheduling delays. Once an application is scheduled for hearing, it may not be adjourned or rescheduled unless the CMO or a judge allows.

The Court can hear and decide an application without oral argument.

B. Deadlines for scheduling an application hearing

Most applications must be heard **within three months** of being filed, or they will be deemed abandoned, subject to any direction from the CMO. Note the deadline for an application for permission to appeal is **6 months**.

A hearing must be scheduled and the application heard within this time.

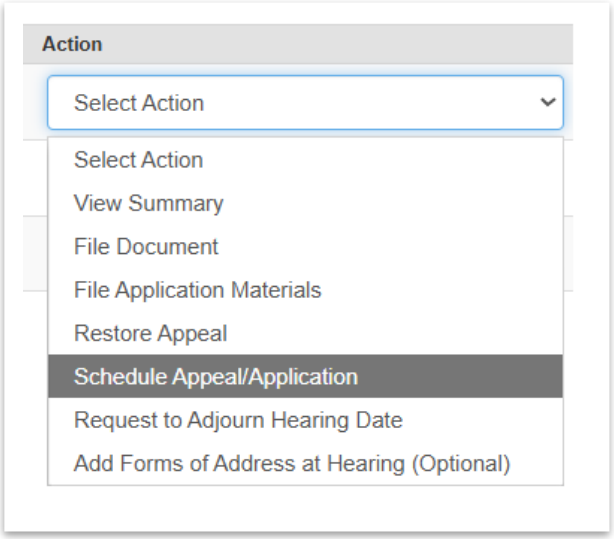
C. How to book an application hearing in CAMS

Use the eScheduling feature in CAMS.

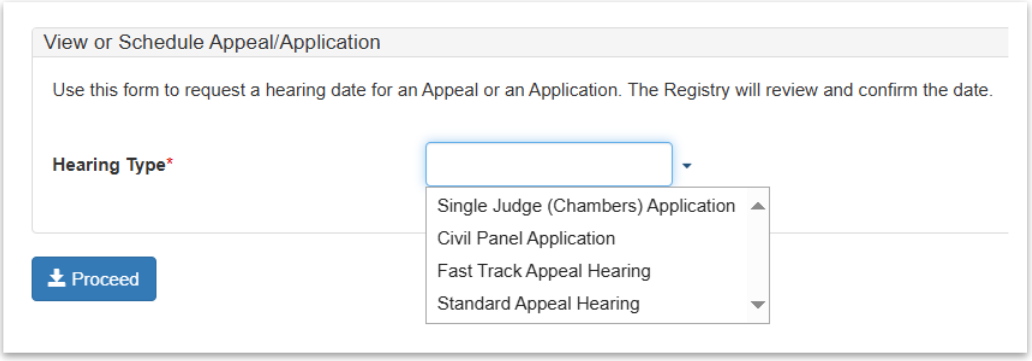
See the Manual/Tip Sheets on the CAMS website for guides and video tutorials on eScheduling and the information sheet Scheduling Appeals.

I. GO TO ESCHEDULING IN CAMS

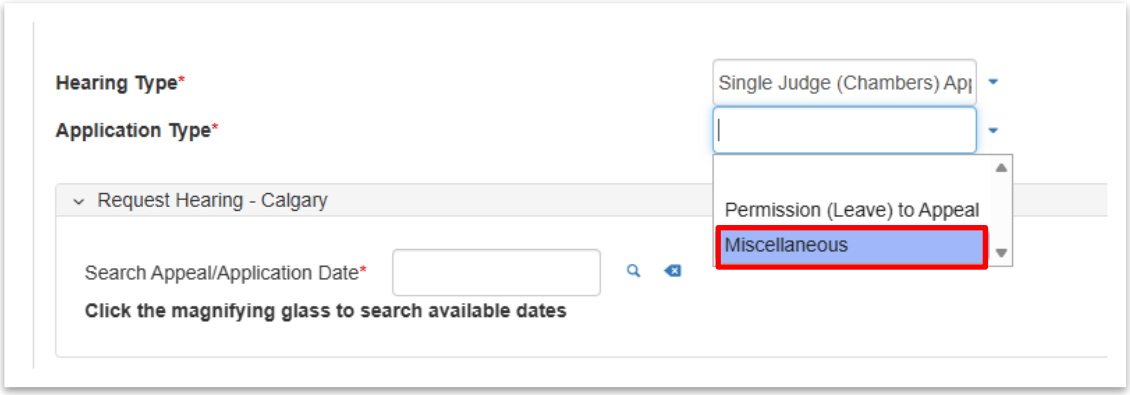
- Log in to your CAMS account.
- On the My Appeals page, select **Schedule Appeal/Application** from the **Select Action** drop-down menu.



- On the page that opens, select the appropriate application type: **Single Judge (Chambers) Application** or **Civil Panel Application**.

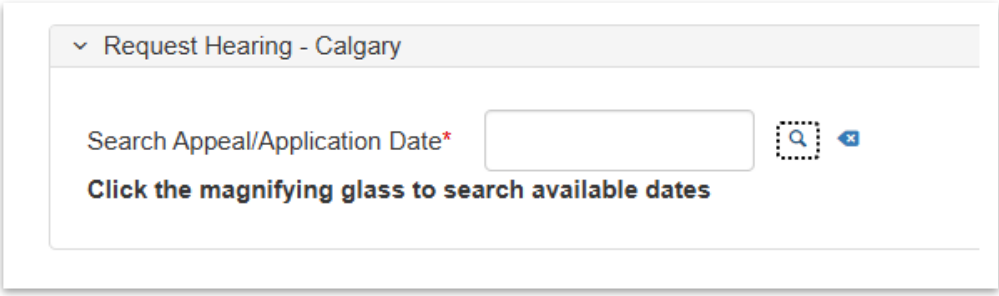


- Read the page that opens. Select the application type. All applications except permission to appeal are miscellaneous.



II. PARTIES CHECK AVAILABLE HEARING DATES AND DISCUSS

To search available hearing dates at the bottom of the page, click on the magnifying glass and then Proceed. All parties should agree on a potential hearing date before formally requesting a date online.



- Note the available dates to discuss with the other party.
- Contact the other party and agree on a preferred hearing date. Dates are first come, first served.
- If the parties cannot agree on a hearing date, they can apply to the CMO to settle a date.

III. APPLICANT REQUESTS THE PREFERRED HEARING DATE

Once the parties agree, the applicant sends a request by clicking on the magnifying glass to locate the preferred date. Click on the date. It will now appear in the Request Hearing box. Make sure the date is correct and click Proceed.

- The request is sent for approval, and the system will return you to the My Appeals page.
- The party that requested the hearing date will receive an automated email that confirms receipt of the request. At this stage, the request has not been reviewed.

IV. COURT OF APPEAL RESPONDS TO HEARING DATE REQUEST

A second email from the Court goes to all parties and will either:

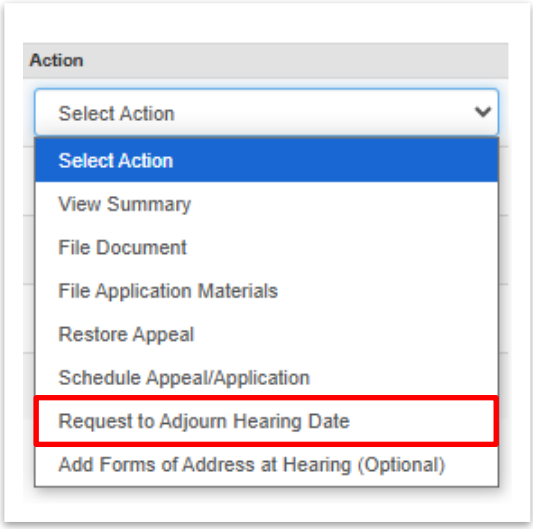
- Confirm the hearing date and provide hearing details, or
- Notify that the request was not approved.

- If the request is approved, the hearing date will appear in the Appeal Summary in CAMS under Hearings. In My Appeals, click the **Select Action** drop-down menu and choose **View Summary**.
- If the request is not approved, it could be for a number of reasons. For example, the date you selected may no longer be available.
- If you are unsure which steps to take next, contact the chambers coordinator, chambers.coordinator@albertacourts.ca.
- Once the hearing date is confirmed, return to the My Appeals page and the Select Action drop-down menu to upload your application materials. Return to the part in this guide that applies to your application if you require further assistance.

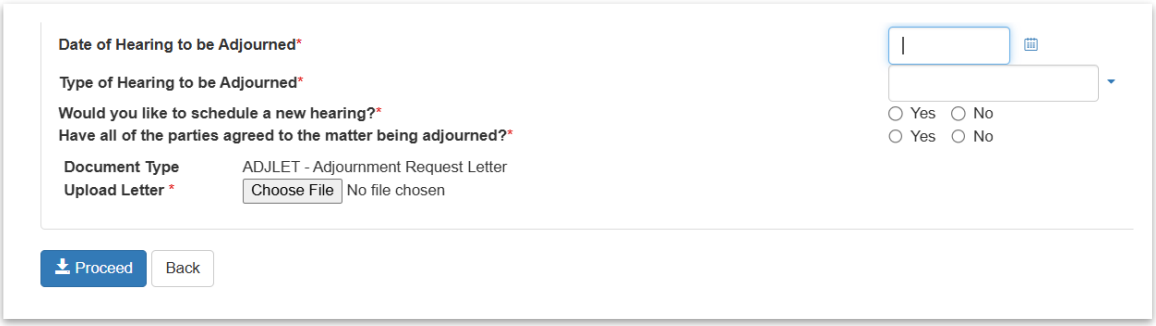
D. A party adjourns or cancels a hearing date

If you have a hearing date and want to adjourn or cancel it, follow the steps below. Do not use the eScheduling feature. Speak with the other party first. The position of the other party is required.

- To request that an existing hearing date **be adjourned to a new date, cancelled or adjourned *sine die*** (with no return date), make an application to a CMO.
  - Log in to CAMS.
  - Go to the My Appeals page.
  - Choose the appeal.
  - From the Select Action drop-down menu, select **Request to Adjourn Hearing Date**. Follow the instructions.



- Answer the questions shown below.



- In your application, you must upload an adjournment request letter which provides the details and reasons for the request.
- In the adjournment request letter, include:
  - The reasons for the request.
  - The length of the requested adjournment (or indicate there is no return date).
  - Information about contact: Have you contacted the other party? What is their position, if known?
  - Information about consent: If you have consulted all parties, indicate whether they consent to the request. If they do not consent, explain why.
  - The position of the other party is required before any decision can be made on a request to adjourn.
- Click Proceed.

- You will be taken to the Scheduling Appeal/Application page. If you are not requesting a new hearing date, leave the page.

- If you need to request a new hearing date, stay on the page to view hearing dates to discuss with the other party.
  - Follow the steps in **Part 5.C** to request a new hearing date.

Part 6



Part 6 | Virtual and other hearing methods

A. Methods of hearing

I. STANDARD CIVIL APPLICATION HEARING METHODS

The standard method of hearing for an application to a single judge is virtual. See **Part 6.B** below.

The standard method for a hearing before a panel of judges is in person. See **Part 8** of the *Civil Appellant Guide* or *Civil Respondent Guide*.

II. CHANGING THE HEARING METHOD

Parties can make an application to change the hearing method for civil proceedings.

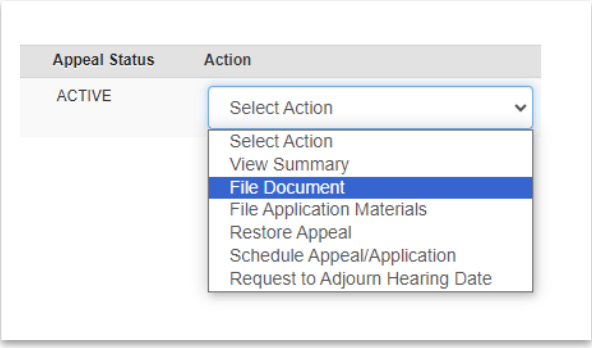
- Applications can be made to:
  - Change a hearing from in-person to virtual,
  - Change a hearing from virtual to in-person, or
  - Request a hybrid hearing, where some participants appear in person and others virtually.
- An application to change the hearing method can be made:
  - After a proceeding has been scheduled for hearing, and
  - No later than:

Civil Proceeding	In Advance of Scheduled Hearings
Applications (three judge panels)	1 week
Single Judge Applications	At least 48 hours

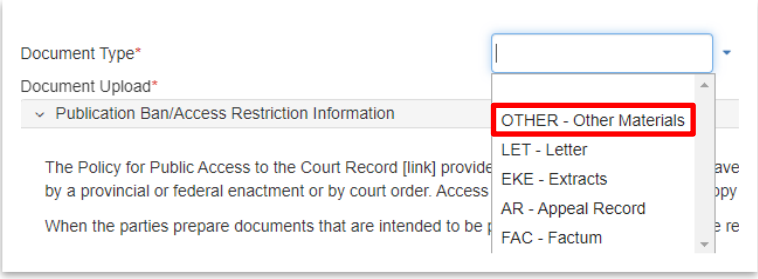
III. HOW TO MAKE AN APPLICATION TO CHANGE THE HEARING METHOD

Apply using the Application to Change Hearing Method form (on the Court of Appeal website under Filing, Fees and Forms).

- Log in to CAMS and click on the "My Appeals" tab to locate your appeal.
  Choose **Select Action** > **File Document**.



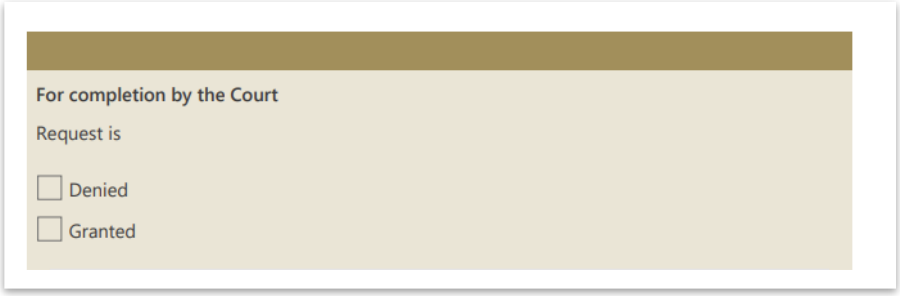
- On the page that opens, beside Document Type, select **OTHER – Other Materials**. Select **Choose File** and upload the completed Application to Change Hearing Method form.



- Answer the questions about privacy and access restrictions and click Proceed.
- If you correctly upload a document in CAMS, you will receive an email. This automatic email will include a generic link for online payment. Ignore this payment request. Emails come from CAMSInquiries@albertacourts.ca. Please ensure your spam filters do not block this email address. If you do not receive an email, the document did not upload correctly.

IV. RECEIVING THE DECISION

After your application is reviewed, the form in CAMS will be endorsed with the Court's decision—granted or denied.



- You will receive an email from CAMSInquiries@albertacourts.ca advising that the application has been endorsed. Log in to CAMS to see the Court's decision.

B. Virtual hearings

Virtual hearings are open to counsel, litigants, members of the public and media.

For more information about requirements and best practices for virtual hearings, see page 2 of this **procedure guide**.

I. BEFORE THE HEARING

Before the hearing, counsel and self-represented litigants must sign and submit a virtual appearance **attendance undertaking**. Upload this form in CAMS.

- The Court of Appeal uses Webex, an internet browser-based platform, for virtual hearings.
- The Registry will send the link the day before the virtual hearing.
- Review this helpful guide for **connecting and attending a virtual hearing** ahead of time to avoid problems on the day. It includes, for example, technical troubleshooting tips and best practices when appearing on camera.

II. DURING THE HEARING

Virtual hearings require the same level of formality and decorum as in-person hearings.

- Virtual hearings must not be recorded. Do not use an electronic device, other than to connect to the hearing, unless a judge or panel permits.
- Do not have food or drinks, other than water, with you. Connect from a quiet room with minimal background noise.
- Dress appropriately. Counsel are required to gown before a panel of judges only.
- Join the hearing 15 to 30 minutes before the scheduled start time and introduce yourself to the clerk.

C. After a hearing: decisions, orders and costs

See **Part 9** of the *Civil Appellant Guide* or *Civil Respondent Guide* for information about orders resulting from the court's decision. The Court prepares orders in all matters with at least one self-represented litigant.

- The judge may deliver a decision in court or reserve it. If the decision is reserved, the Registry will notify the parties the day before the decision is released.
- Also see **Part 9** of the *Civil Appellant Guide* or *Civil Respondent Guide* for costs, which is covered by rule 14.88.

Part 7



Part 7 | Specific applications: Admit new evidence & restore an appeal

This section provides further guidance for applications to admit new evidence and to restore an appeal.

For applications for permission to appeal to start an appeal, see **Part 2.6** in the *Civil Appellant Guide*.

A. Application to admit new evidence

Only the evidence given (oral or written) and exhibits entered in the lower court or tribunal can form part of the record on appeal. Anything else is considered new evidence.

- New evidence includes evidence, facts or other information that was not filed in the lower court or tribunal. For example, it includes information discovered after the matter was decided at the lower court or tribunal.
- New evidence will be considered on appeal only if the court grants permission to include it. The evidence must meet the "*Palmer* test" to admit new evidence explained below.
- An application to admit new evidence will be heard by the panel at the same time the appeal is heard. The panel will decide both the application to admit new evidence and the appeal itself after the hearing.
- To file this application, follow the requirements for applications to a Court of Appeal panel in **Part 4** of this guide. Then follow the directions in this section.
- For more information, read **Applications to Admit New Evidence FAQ**.

I. DEADLINES

An application to admit new evidence must be filed and served prior to the filing of, and prior to the filing deadline for, the applicant's factum (rule 14.45(1)).

II. FEES

The fee for an application to admit new evidence is $100.

III. "*PALMER* TEST" TO ADMIT NEW EVIDENCE[5]

The Court will consider the following factors known as the "*Palmer* test":

[5] ***Palmer v The Queen***, [1980] 1 SCR 759, 1979 CanLII 8 (SCC).

- Could due diligence have secured the evidence in time for the lower court or tribunal hearing?
- Does the evidence relate to a decisive or potentially decisive issue in the case?
- Is the evidence credible (reasonably capable of belief)?
- If the evidence is accepted and considered along with existing evidence, would the new evidence be expected to have affected the outcome in the lower court or tribunal?

IV. DOCUMENTS REQUIRED

An application to admit new evidence requires an application (Form AP-3), a memorandum of argument and the proposed new evidence, called the New Evidence Package. Leave the hearing date on Form AP-3 blank.

- The proposed new evidence must not be attached to the application or to the memorandum of argument. It is filed as a separate document (rule 14.45(2)).
- The memorandum of argument should address the "*Palmer* test" factors. These factors guide the judges in deciding the application. See Appendix 2 for information on preparing a memorandum of argument.
- The application to admit new evidence is separate from the factum. The applicant's factum can refer to the new evidence, but the factum should identify clearly when the factum refers to the new evidence.

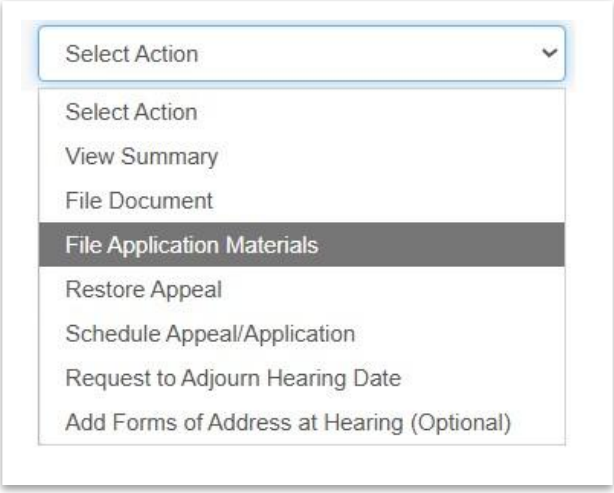
V. UPLOAD APPLICATION MATERIALS IN CAMS

Before uploading your documents in CAMS, review:

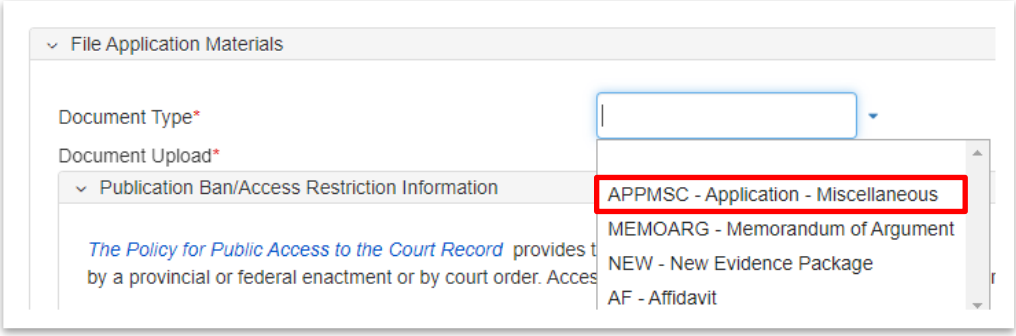
- **Checklist**: Application—mandatory requirements and check/return form
- **Checklist:** Memorandum of argument—mandatory requirements and check/return form
- **Checklist**: Affidavit—mandatory requirements and check/return form, and
- **Information sheet**: Admit new evidence

The Registry only files documents that comply with the *Rules of Court*.

- To upload your documents, log in to your CAMS account, locate the appeal under the My Appeals tab and **Select Action** > **File Application Materials**.



- On the next page, beside Document Type, select **APPMSC – Application – Miscellaneous**, then **Choose File** to upload the completed **Form AP-3**. The form must not exceed 100MB.



- Answer the questions and click Proceed.
- If you correctly upload a document in CAMS, you will receive an email. This automatic email includes a generic link to pay online. The process to pay is explained below.
- These emails come from CAMSInquiries@albertacourts.ca. Please ensure your spam filters do not block this email address. If you do not receive this email, the document did not upload correctly.
- Repeat the process to upload the memorandum of argument (MEMOARG), any affidavit and the New Evidence Package (NEW). Select the correct document type from the drop-down list each time. Upload each document separately.

VI. PAY THE FILING FEE

Pay the filing fee of $100. See **Part 4.E.II** for instructions. The applicant pays the filing fee once per application.

- Once the filing fee is paid, email a copy of your receipt to the correct registry at Calgary.Registry@albertacourts.ca or Edmonton.Registry@albertacourts.ca or upload the receipt to CAMS so your application can proceed. The Registry cannot file your application until you provide proof the fee is paid.

VII. SERVE THE DOCUMENTS

Follow the instructions for service as outlined in **Part 4.E.III**. Ensure all parties are served with all documents, including the new evidence package.

VIII. RESPONDING TO AN APPLICATION TO ADMIT NEW EVIDENCE

The applicant must serve the respondent with a copy of the application. The respondent must respond to the application at least **10 days** before the application and appeal are scheduled to be heard.

- Respond by submitting either:
  - A memorandum of argument and any affidavit and supporting materials, or
  - A letter indicating that no materials will be filed.
- Follow the instructions for uploading application materials in **Part 4.E.I**. The respondent and appellant take the same steps to upload application materials.
- Documents must be served. See **Part 4.E.III**.
- If the respondent does not file a memorandum of argument, they may not present oral argument at the hearing to admit new evidence unless the panel allows (rule 14.49).

IX. RESOURCES

- Checklist: Application—mandatory requirements and check/return form
- Checklist: Memorandum of argument—mandatory requirements and check/return form
- Checklist: Affidavit—mandatory requirements and check/return form
- Manual: PDF skills explained (CAMS Manual pp. 79-129)
- FAQs: Application to Admit New Evidence

X. APPLICATION HEARING

This application will be heard in person immediately before or during the appeal hearing. See **Part 8** of the *Civil Appellant Guide* or *Civil Respondent Guide* for information on preparing for and attending in-person hearings. **You do not schedule a separate application hearing**.

During oral argument for the appeal, the parties should advise the Court when they are relying on the new evidence.

B. Application to restore an appeal

Appeals can be struck or deemed abandoned for many reasons. If this happens, the appellant can apply to restore the appeal.

An application to restore an appeal can be made with or without the consent of the other parties (rule 14.65.) See subsections III and IV below. Different steps are required in each case.

See the **Application to Restore an Appeal FAQs**.

I. DEADLINES

Applications to restore an appeal must be filed, served **and heard** as quickly as possible (rule 14.47), but no later than:

- **Fast-track appeal: Three months** after it is struck, or
- **Standard appeal: Six months** after it is struck.

- The applicant must file, serve and schedule the application in time for it to be heard before the deadline.
- If an application to restore an appeal is not heard and granted before these deadlines, the appeal is deemed abandoned (rule 14.52).
- An appeal that is deemed abandoned can be restored, but it is more difficult to meet the threshold to restore the appeal.

II. FEES

The cost to file an application to restore an appeal is: $200 for the first restoration, $500 for the second and $1000 each for third and subsequent restorations.

- Fees apply to an application to restore an appeal with or without the other party's consent.
- Even if you have a fee waiver, you are required to pay this filing fee.

III. RESTORING AN APPEAL BY CONSENT

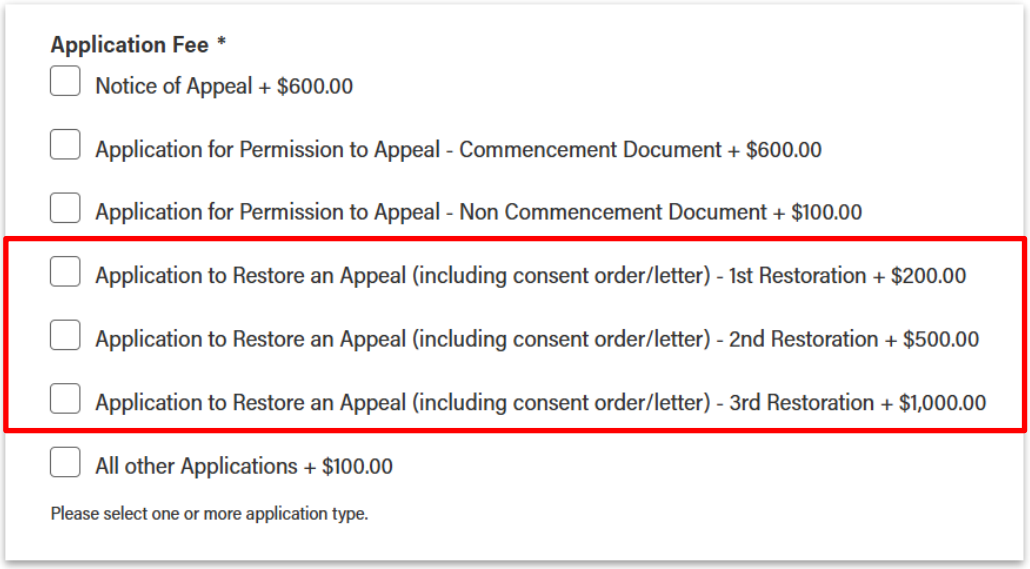
If the respondent consents to restoring the appeal, the appellant does not need to file an application to an appeal judge. Instead, apply to the CMO by uploading a letter in CAMS. Do not email the letter to the CMO.

The CMO will decide whether to restore the appeal. See **Part 7.B.IV** for the test applied.

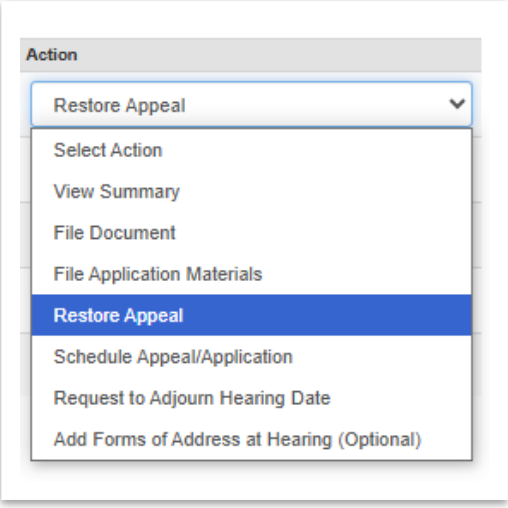
- In your letter, include:
  - The respondent's consent,
  - An explanation why the original deadline was missed,

- A suggested deadline for the applicant to file outstanding materials,
- Confirmation the applicant paid the restoration fee, and
- A note that the respondent received a copy of the letter (commonly shown by including a "cc" in the letter and listing the parties).

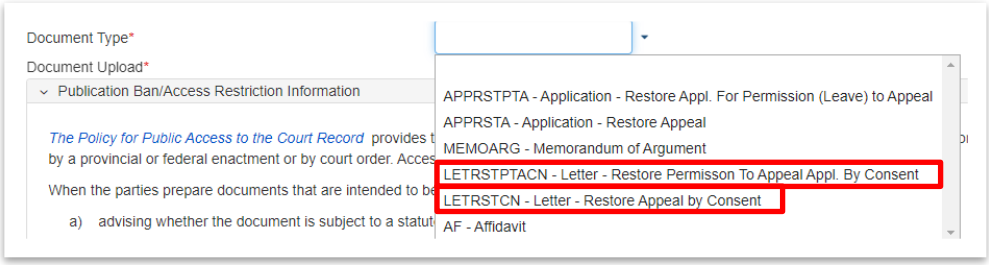
- Pay the fee
  - Go to https://eservices.alberta.ca/courtofappeal-filing-fees-civil.html
  - Click **Begin Form** to get started. You will need to enter your name, the appeal number, and the style of cause.
  - The style of cause is the title of your appeal—made up of the names of the parties. Follow the spelling from the lower court or tribunal.
  - Select the correct application type and fee shown below. The fee to restore an appeal depends on how many times the appeal has been restored.



- Once the filing fee is paid, email a copy of your receipt to Calgary.Registry@albertacourts.ca or Edmonton.Registry@albertacourts.ca or upload the receipt to CAMS so your application can proceed. The Registry cannot file your application until you provide proof of payment.
- Uploading the letter in CAMS:
  - Log in to your CAMS account, locate the appeal under the My Appeals tab and **Select Action** > **Restore Appeal**.



- On the next page, beside Document Type, select the option that applies: Either restore appeal by consent or restore permission to appeal by consent, for example, **LETRSTCN** below.
- Select **Choose File** to upload the letter.



- Answer the questions and click Proceed.
- If you correctly upload a document in CAMS, you will receive an email. This automatic email includes a generic link for online payment. Ignore the request for payment, as you have already paid.
- These emails come from CAMSInquiries@albertacourts.ca. Ensure your spam filters do not block this email address. If you do not receive an email, the document did not upload correctly.

- CMO decision:
  - The CMO will review the application and make a decision. That decision may be issued in a separate document or endorsed with a stamp on your letter. Parties will receive an email notification once the decision is added to the file in CAMS. These emails come from CAMSInquiries@albertacourts.ca. Log in to your CAMS account to access the decision.

- For more information, see **Part 2.B** on requests for administrative decisions from a CMO.

IV. RESTORING AN APPEAL WITHOUT CONSENT

If the respondent does not consent to restoring the appeal, then it must be heard as an application to a single appeal judge.

Follow **Part 3** for an overview on making an application to a single judge. This section provides additional information specific to restoring an appeal without consent.

(a) The test to restore an appeal

To decide the application, the judge will consider the following factors:

- The reason given for failure to comply with a deadline or direction.
- Whether the appellant applied promptly to restore the appeal and, if not, the reason for delay.
- Whether the appellant has shown a lack of intention to proceed with the appeal.
- Whether the delay will unduly prejudice the respondent.
- The merits of the appeal.
- See this **information sheet** for more.

(b) Required documents

The required documents are:

- **Application** (Form AP-3).
- **Memorandum of argument:** The memorandum of argument should address the factors outlined above including the reasons for delay.

- Use an **affidavit** to provide evidence to the Court to support the application.
- For formatting information, see Appendix 2.

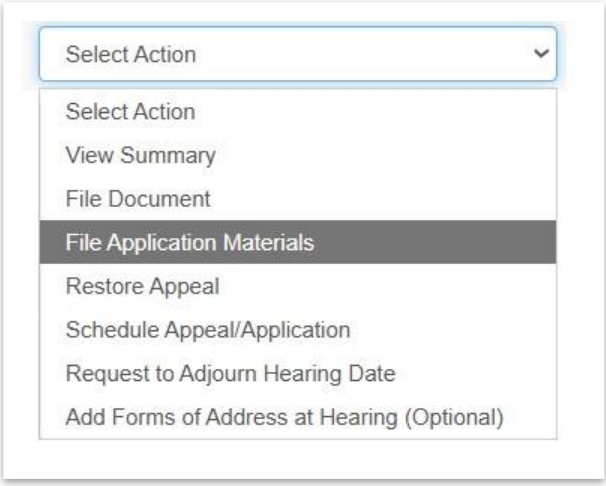
(c) Filing an application to restore an appeal without consent

Once application materials are filed, request a hearing date.

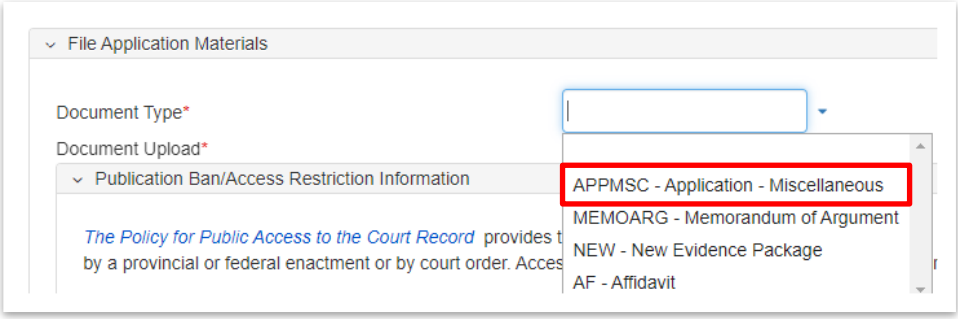
- This is done via eScheduling in CAMS:
  - To start the application, view hearing dates in CAMS by following the steps outlined in **Part 5.C**.
  - Consult the other party and request a hearing date.
- Upload application materials in CAMS:

- Before uploading your documents in CAMS, review:
  - Checklist: Application—mandatory requirements and check/return form
  - Checklist: Memorandum of argument—mandatory requirements and check/return form
  - Checklist: Affidavit—mandatory requirements and check/return form, and
  - Information sheet: Applications to restore an appeal

- The Registry only files documents that comply with the *Rules*.
  - To upload your documents, log in to your CAMS account, locate the appeal under the My Appeals tab and **Select Action** > **File Application Materials**.



- On the next page, beside Document Type, select **APPMSC – Application – Miscellaneous**.
- Select **Choose File** to upload the completed Form AP-3. The form must not exceed 100MB.



- Answer the questions and click Proceed.
- If you correctly upload a document in CAMS, you will receive an email. This automatic email includes a generic link for online payment. These emails come from

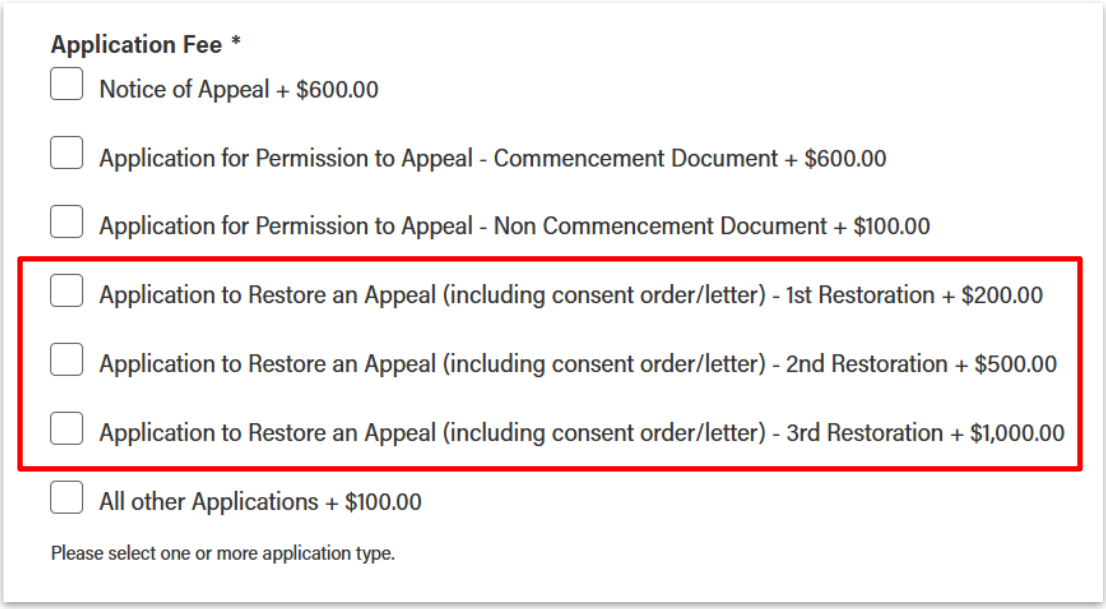
CAMSInquiries@albertacourts.ca. Ensure your spam filters do not block this email address. If you do not receive an email, the document did not upload correctly.

- Repeat this process to upload a memorandum of argument and any affidavit or supporting materials. Select the correct document type each time from the drop-down list. Upload each document individually.

(d) Pay the filing fee

After you receive the email link, make payment at https://eservices.alberta.ca/courtofappeal-filing-fees-civil.html. The fee is paid once per application.

- Click **Begin Form** to get started. Enter your name, the appeal number, and the style of cause.
- The style of cause is the title of your appeal—made up of the names of the parties, as spelled in the court or tribunal being appealed from.
- Select the correct application type and fee shown below. This will depend on the number of times the appeal has been restored.



- Once the filing fee is paid, email a copy of your receipt to Calgary.Registry@albertacourts.ca or Edmonton.Registry@albertacourts.ca or upload the receipt to CAMS so your application can proceed. The Registry cannot file your application until you provide proof of payment.

(e) Serve the documents

The applicant must serve a filed copy of the application, memorandum of argument and other materials on all parties at least **10 days before** the application is scheduled to be heard (rule 14.40(2)).

- Review the Deadlines for Applications and Responses chart.
- See Appendix 8 of the *Civil Appellant Guide* or *Civil Respondent Guide* for information on service.

V. RESPONDING TO AN APPLICATION TO RESTORE AN APPEAL

(a) By consent

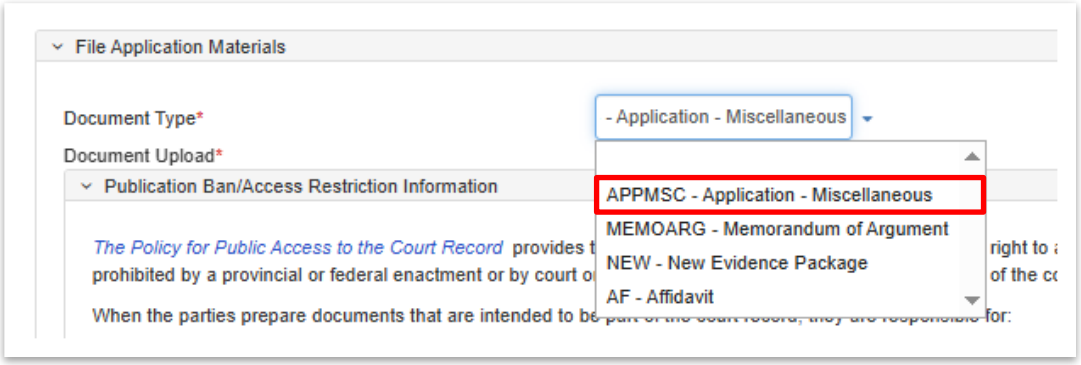
If you consent to the appeal being restored, the applicant will not file an application to a judge. Instead, they will apply to the CMO by uploading a letter in CAMS, noting your consent. The applicant must copy you on the letter.

- The CMO will review the applicant's letter and make a decision. That decision may be endorsed with a stamp on the letter. Parties will receive an email notification once the decision is added to the file in CAMS. These emails come from CAMSInquiries@albertacourts.ca. Log in to your CAMS account to access the decision.

(b) Without consent

If you do not consent to the appeal being restored, the applicant will file an application to restore the appeal. The applicant must serve you with a copy. Respond to the application at least **five days** before it is scheduled to be heard (rule 14.41).

- Review the Deadlines for Applications and Responses chart.
- You may respond by uploading either:
    - A memorandum of argument and any affidavit and supporting materials, or
    - A letter of intention not to respond, indicating that no materials will be filed.
- Follow the instructions for uploading application materials in **Part 7.B.IV.** The respondent and applicant take the same steps to upload their application materials. Use **Application – Miscellaneous** to upload a letter of intention, if applicable.



- Documents must be served. See **Part 7.B.IV**.
    - If you do not file a memorandum of argument, you may not present oral argument at the hearing unless the single judge allows it (rule 14.49).

VI. APPLICATION HEARING, ORDERS AND COSTS

For information on the hearing, see **Part 3.G**. For orders and costs, see **Part 6.C**.

VII. RESOURCES

- Checklist: Application—mandatory requirements and check/return form
- Checklist: Memorandum of argument—mandatory requirements and check/return form
- Checklist: Affidavit—mandatory requirements and check/return form
- FAQs: Application to restore an appeal
- Manual: PDF skills explained (CAMS Manual pp. 79-129)

Appendices

Appendix 1 | Who will hear my matter?

Case Management Officer (CMO)

The types of matters that may be determined by a CMO include, but are not limited to:

- Recategorizing an appeal as a fast-track or standard appeal
- Stipulating when permission to appeal or an extension of time to appeal is required
- Enforcing, staying, shortening or extending times and deadlines
- Setting, approving and modifying filing timetables
- Granting fiats to permit the filing of deficient documents, to amend documents and to vary the contents or format of documents to be filed
- Restoring appeals by consent
- Setting, adjourning and re-scheduling matters
- Settling the terms of orders or judgments or approving an order/judgment to be filed without all signatures

Single Appeal Judge

A single appeal judge may hear any application that is incidental to an appeal including applications:

- For permission to appeal
- To declare an appeal struck, dismissed or abandoned for failure to comply with a mandatory rule, prior order or direction
- To strike an appeal or application for permission to appeal that is not filed in time
- To extend the time to appeal or to seek permission to appeal
- To dismiss an appeal if it has not been significantly advanced in over **six months** and significant prejudice has resulted to a party
- For permission to intervene
- To stay proceedings or enforcement of a decision pending appeal
- For security for costs

Court of Appeal Panel

Applications that must be heard by a panel (rule 14.38) include:

- To allow or dismiss an appeal on the merits
- For new evidence (heard by the same panel that hears the appeal)
- To reargue or reopen an appeal (consult the CMO before filing the application)
- For directions required to give effect to any decision of the Court of Appeal (consult the CMO before filing the application)
- To reconsider a prior precedential decision of the Court (rule 14.46)
- To dismiss an appeal for want of prosecution
- Any application referred by a single appeal judge (rule 14.37(2)(f))

Appendix 2 | Preparing memorandums and affidavits for applications

Memorandums are required to support applications at the Court of Appeal. An affidavit is strongly encouraged for certain applications. An affidavit is required if you want to rely on evidence to support your application. The same information is in the *Civil Appellant Guide* and *Civil Respondent Guide*.

A. Memorandum of argument

A memorandum of argument is the written argument for an application. Parties must file and serve a memorandum of argument.

- If an applicant does not file a memorandum of argument, their application cannot proceed.
- If a respondent does not file a memorandum of argument, they cannot make oral argument at the hearing of an application (unless they obtain permission from an appeal judge or panel of judges).
- Do not include evidence in a memorandum. Use an affidavit instead.

I. MEMORANDUM OF ARGUMENT CONTENT

The memorandum of argument must include an overview, a description of the relevant facts, the points at issue, the parties' submissions (including addressing any applicable legal tests), the order you are asking the court to make, and a list of authorities relied on.

- A list of authorities must be included in a table of authorities at the end of the memorandum of argument with hyperlinks. If an authority is not available online, provide a copy attached to the memorandum.
- A memorandum of argument for a permission to appeal application must (rule 14.54):
    - Include a copy of the reasons for the decision being appealed, and
    - State the exact questions of law that form the basis for the application.
- For other applications, include a copy of the reasons for the decision appealed, if possible.

II. MEMORANDUM OF ARGUMENT FORMAT

A memorandum of argument must be formatted in the same way as a factum (rules 14.54 and 14.26(1)):

- Submit as a PDF with optical character recognition (OCR), which makes the PDF searchable.
- Use the sample memorandum of argument **form.**
- Use an 8.5" x 11" document size with 1-inch margins.
- Use at least 12-point font with at least 1.5 line spacing, except for quotations. Quotations may use single line spacing.
- Number pages continuously starting at the first page.
- Include paragraphs numbered continuously in a single series from beginning to end. Do not restart numbering for each section.
- If the memorandum exceeds five pages, include electronic bookmarks for:
    - The cover page.
    - Each heading and subheading.
    - The first page of each document that is attached to the memorandum of argument, along with a description of that document.
        - The file must not be larger than 100MB.
- The page limits for a memorandum of argument apply to the argument portion of the document only, not to the cover page, the table of contents, etc. The page limits are:
    - For an application for permission to appeal: 10 pages.
    - For all other applications: Five pages.

III. MEMORANDUM OF ARGUMENT RESOURCES

- **Form**: Memorandum of argument
- **Checklist**: Memorandum of argument—mandatory requirements and check/return form
- **Manual**: PDF skills detailed (CAMS Manual pp. 79-129)

B. Affidavit

An affidavit is a written statement of facts that you voluntarily swear or affirm to be true.

- The facts must be based on:
    - personal knowledge and you must explain how you have this personal knowledge, or
    - information and belief, where the source of the information is given.

- An affidavit is evidence in court that can be used by the judges or CMO to decide the issues.
- Do not include argument in an affidavit.
- If you are providing evidence to the Court—for example, a document or material object—attach it to the affidavit as an exhibit.
- Sign the affidavit and any exhibits attached before a Commissioner for Oaths or Notary Public.
- Write in first person, for example, use "I," "me," "my."

I. AFFIDAVIT CONTENT

An affidavit includes statements about the facts in the case. It can also include exhibits to support your case.

- Exhibits are records that can be personally identified by the person swearing the affidavit and are attached to it. For example, exhibits can be documents, photos or emails. If an appellant chooses to attach exhibits, those exhibits must be labelled consecutively as either letters or numbers, for example, "Exhibit A," "Exhibit B," and so on.
- Describe how the exhibits support the statements contained in the affidavit.
- Each exhibit must be sworn correctly and signed before a Commissioner for Oaths or Notary Public.

II. ITEMS NOT TO INCLUDE IN AN AFFIDAVIT

Do not include the following in an affidavit:

- Opinions or assumptions
- Accusations
- Inflammatory or offensive language
- Irrelevant information
- Legal argument (belongs in the memorandum)

III. AFFIDAVIT FORMAT

There are three affidavit templates on the Court of Appeal website:

- An affidavit in support of an application, Form 49, which includes a statement: "I make this affidavit in support of an application for…",
- A generic affidavit, also Form 49, and
- An affidavit of service.

- If you are filing an affidavit for an application, use Form 49—affidavit in support of an application.
- An affidavit must be formatted in the same way as other documents:
    - Submit as a PDF with optical character recognition (OCR), which makes the PDF searchable.
    - Use an 8.5" x 11" document size with 1-inch margins.
    - Use at least 12-point font with at least 1.5 line spacing.
    - Include paragraphs numbered continously in a single series from beginning to end. (If the affidavit is divided into sections, do not restart numbering at the start of each section.)
    - Number pages continuously starting from the first page.
    - If the affidavit exceeds five pages, include electronic bookmarks to the first page of each exhibit, along with a description of that exhibit rather than naming them "Exhibit A," etc.
    - The file must not be larger than 100MB.

IV. AFFIDAVIT RESOURCES

- Sample formatted affidavit (to come)
- Form: Affidavit in support of an application, Form 49
- Checklist: Affidavit—mandatory requirements and check/return form
- Manual: PDF skills detailed (CAMS Manual pp. 79-129)