



Overview of Judgments and Orders and Costs

Civil Rules 9.1 to 9.8, 14.23 – 14.26 and 14.88
Criminal Rules 16.3 and 16.36

Electronic Filing

On March 1, 2021, e-filing became mandatory. All documents must be formatted in accordance with the [Practice Direction on Electronic Filing](#) and filed via the Court of Appeal Management System ([CAMS](#)). Unless an exemption from e-filing is granted, paper documents at the counter and documents via email will not be accepted.

For more information about CAMS, including how to register for an account and how to format and file documents, view the [CAMS Manual](#) and [FAQs](#). To visit the CAMS e-filing website, click [here](#).

Preparation

In accordance with rule 9.2, unless the Court otherwise orders, the successful party in an application or appeal is responsible for preparing a draft of the Order or Judgment and serving it on every party who attended the application or appeal within 10 days after it is pronounced.

In criminal matters, a formal judgment is not required unless an appeal to the Supreme Court of Canada is filed, applied for or contemplated.

Format

Use the precedents posted on the Court's [website](#) under Court of Appeal > Registry > Filing Information > Filing, Fees and Forms. Ensure that you are using the correct precedent. There are three:

- Order (Single Judge Chambers)
- Order (Three Judges - Panel Applications)
- Judgment (for three judges sitting on the hearing of the appeal)

The forms for civil matters and criminal matters are grouped separately on the website. Ensure that you use the correct one.

Refer to the Judgment/Order Mandatory Requirements & Check/Return form for a list of the minimum requirements that Registry staff will watch for when an Order or Judgment is filed. This form is located on the Court's CAMS e-filing [website](#) under Manual/Tip Sheets > Mandatory Requirements & Check Return Forms.



Order for Judicial Interim Release

Unless otherwise ordered, an order granting judicial interim release must be in form CRA-G. This form, is available on the Court's [website](#) under Court of Appeal > Registry > Filing Information > Filing, Fees and Forms.

Criminal Judgments

If there is a dissent in a criminal matter, the Judgment must include the name of the dissenting judge and the grounds of law upon which that judge dissents.

Required Approvals

Unless otherwise ordered, all parties (other than a self-represented litigant in a criminal matter) who attended the application or appeal hearing must approve of the form of Order or Judgment before it can be filed.

Unless otherwise directed, where the Attorney General prepares a formal order or judgment resulting from an application or appeal, and the other party is self-represented, the approval of the other party is not required.

Filing Without Approvals

In accordance with rule 9.2, within 10 days of service of a draft Order or Judgment, each party may approve the draft or object to the draft, providing particulars of the objection. If they do neither, but all other requirements are met and service is proved, the Order or Judgment may be signed and entered without the necessary approvals. The Case Management Officer considers these types of applications.

If an application is made to a Case Management Officer to have an Order or Judgment signed and entered without the necessary approvals, the following steps must be taken:

- An Affidavit of Service indicating the date and method of service and exhibiting a copy of the proposed Order or Judgment must be filed.
- The filing party must confirm (preferably in the Affidavit of Service) that 10 days have elapsed since service of the Order or Judgment and neither an approval nor an objection to it has been received. It is not sufficient to simply say a party has refused to sign it.
- If the above requirements are met, and if the proposed Order or Judgment accurately reflects the Court's decision, the Case Management Officer may direct that the Order or Judgment be filed without the required approvals. If necessary, the Case Management Officer will consult with the Court.

Dispute as to Contents

If objections are raised and the parties cannot agree on the contents of an Order or Judgment, the parties may apply to the Court to resolve the dispute in accordance with rule 9.3. Those



applications are heard on the basis of written materials only and are also considered by the Case Management Officer. If necessary, the Case Management Officer will consult with the Court.

Time Limit to File

Orders or Judgments must be entered within 3 months after their pronouncement. Otherwise, a fiat is required. The Case Management Officer may grant a fiat provided a satisfactory explanation is given for the delay and all parties consent to the late filing.

Consent Judgments

Consent Judgments must be signed by three justices. However, a personal attendance may not be necessary. Instead, follow these steps:

- File an explanatory letter with a proposed form of Consent Judgment, signed by all parties, as soon as possible. This is especially important if the appeal is scheduled to be heard on a date that is less than 5 weeks away.
- While not required, a draft of a proposed Consent Judgment may be provided to the Case Management Officer before circulating it for signatures of the other parties and the Case Management Officer may review and make some suggestions for improvement.
- The explanatory letter does not have to be lengthy; it just needs to explain what is happening and why. The letter should indicate that it is a joint submission or is being sent with the consent of all parties.
- The Registry will distribute the Consent Judgment and letter of explanation to a duty judge who will consider the matter, and if deemed appropriate, will obtain the signatures of two other judges.
- Once three judges sign the Consent Judgment, it will be filed by the Registry and copies provided to the filing party.

Consent Orders

Consent orders must be signed by a judge in Chambers. Therefore, unless the matter is urgent or unless the Court is conducting single judge chambers matters electronically (by video or telephone conference), a personal attendance is necessary. Court of Appeal Chambers is scheduled for every Wednesday and Thursday at 9:30 a.m. However, because there may not be any applications scheduled on every Chambers day, it is always a good idea to call the Registry the day before, or the morning of, the day you plan to attend to ensure that there will be a courtroom open and a duty judge available, or to inquire as to whether a proposed consent order may be filed through CAMS with an explanatory letter and considered by a duty judge in writing only.

Costs

Parties should familiarize themselves with rule 14.88 and the Information Note that follows it, which is the Default Rule on costs – see further information on that below. A Bill of Costs cannot be filed before the Order or Judgment is filed.



Default Rule vs Specific Direction from the Court

Unless otherwise ordered, the successful party in an appeal or an application is entitled to a costs award against the unsuccessful party. Reasons for Judgment of the Court will not make any specific direction about costs unless an exception is to be made to that presumption. Therefore, the losing party should not withhold their approval of an Order or Judgment that includes an award of costs against them in accordance with rule 14.88 for the sole reason that the Court was silent on that issue.

No formal application or request for direction from a judge or panel is required to confirm the impact of the Default Rule. It is only if a party wants to argue that the Default Rule should not apply in a given case, such as due to there being mixed success, claims that parties should bear their own costs or if a party wants to ask for enhanced or a lower amount of costs, should a party seek a specific direction from a judge or panel.

To seek a specific direction on costs, written submissions must be filed through CAMS and the judge or panel will consider the matter in writing only.

The deadline for submissions on costs is within 2 months after the decision was issued; although, that deadline may be relaxed if sufficient reason is provided.

While there is no rule about the length of costs submissions, judges and panels of the Court most often impose a 5-page limit. No formal application is required for such requests and there is no amount of costs set out in Schedule C for such matters.

Otherwise, the parties should settle the amount of costs between themselves. If the parties cannot agree on the amount of costs that flows from application of Rule 14.88, including the column of Schedule C that should apply, then they must seek an appointment with an assessment officer at the Court of Queen's Bench pursuant to Part 10 of the Rules of Court – see below.

Appointment for Assessment of Costs

If a successful party on an application or appeal seeks an award of costs in accordance with the presumption in rule 14.88 but is unable to obtain the unsuccessful party's approval on a Bill of Costs, an Appointment for Assessment of Costs in Form 45 should be filed in the Court of Queen's Bench. (There is a precedent for this form on the Court's [website](#) under Court of Appeal > Registry > Filing Information > Filing, Fees and Forms.) Applications of this nature are heard by an assessment officer in the lower court. Part 10 of the Rules of Court govern such matters and provide for a right of appeal from the decision of an assessment officer to a judge of the Court of Queen's Bench.