

Court of Appeal - APPELLANT - Application for Leave to Appeal and/or Notice of Appeal

MBCAR = Manitoba Criminal Appeal Rules

CPD = Consolidated Practice Directions

COAR= Court of Appeal Rules(Civil)

| Form & Deadline | Requirements | Other Information | Rules |
|--|--|--|--|
| <p>Form 1 – Application for Leave to Appeal or Notice of Appeal</p> <p>Within 30 days after sentencing decision</p> <p>Unless:</p> <ul style="list-style-type: none">- 2nd level appeal where leave has been granted. See: 2nd level appeals quick info sheet- Application for an extension of time to file the Notice of Appeal has been granted. Deadline will have been ordered by the Court | <p>Documents needed to draft:</p> <ul style="list-style-type: none">- Information/Indictment- Disposition Sheet and Warrant of Committal on Conviction <p>Content Requirements of Form 1:</p> <ul style="list-style-type: none">- Appellant’s full name and list of charges written in full as was listed on Information or Indictment;- Appellant’s date of birth;- date, place and judge of conviction or guilty plea;- date, place and judge of sentence;- sentence imposed;- name of institution accused is incarcerated at or last known address if not in custody;- what the Appellant is seeking leave to appeal and/or appealing;- the grounds of appeal and remedy sought;- how the Appellant would like to present their argument;- whether oral evidence was tendered;- whether a transcript has been ordered;- whether the Appellant wished to be present at the hearing of the appeal- whether there is a publication ban and the details of the ban- whether access to the court file is restricted by court order of legislation and details of the restriction- address for service- signature of Appellant or their counsel or agent <p>Copies: 5 (4 for court, 1 for your records)</p> <p>To be filed with:</p> <ul style="list-style-type: none">- language rights form- the transcript order form [see transcript quick information sheet] or letter if pending LA <p>Service: The Court of Appeal will serve the Crown. If a ground of appeal has to do with a constitutional law issue, the Constitutional Law Branch and both the Provincial and Federal Crown also need to be served.</p> | <p>30 days after sentencing decision applies for all appeals, even if against conviction only</p> <p>Leave to appeal may be included in Notice of Appeal except where the appeal is from the decision of a summary conviction appeal (2nd level appeal)</p> <p>*If NOT a 2nd level appeal, always check the disposition sheet(s) to ensure at least one of the charges being appealed proceeded by way of Indictment. If all charges proceeded summarily, that would indicate a summary conviction appeal which would need to be filed in King’s Bench, not the Court of Appeal.</p> <p>Whether a publication ban was imposed can be harder to determine. These are most common in sexual offences or when minors are involved. Places that might have this information: CCAIN, the written decision, the transcript.</p> <p>If the deadline falls on a weekend or holiday, it is due the next business day.</p> | <p>Deadline: MBCAR 5(1)</p> <p>Form and Content Requirements: MBCAR 3(1), Form 1, MBCAR 2</p> <p>Copies: MBCAR 5(1)</p> <p>To be filed with: COAR 112; CPD 13; MBCAR 11</p> <p>Service: MBCAR 5(2)</p> <p>Leave to appeal: MBCAR 4</p> |
| See: Court of Appeal - Transcripts - New Appeal & Style of Cause | | | |

Court of Appeal - Transcripts - New Appeal

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| New Appeal | | | | | | | | | | | | | | | | | | | | |
|--|---|---|---|--|--|-------------|----------------|----------------------------------|-----------------|--|---|-----------------------------------|--|---|-----------------------------|--|---|-------------------------|--|-----------------------------|
| General Information | Transcripts to Order | | | | | | | | | | | | | | | | | | | |
| <p><u>Estimated completion dates:</u></p> <p>Please note that when Veritext provides you with an estimated completion date, it does <i>not</i> include any time for the judge to review their reasons. They only count the time for the transcriber to type the transcript.</p> <p><u>MBCAR 11(1)(a) & CPD 13</u></p> <p>Unless an Appellant is awaiting the determination of a Legal Aid application, a transcript order form ordering all required dates needs to be submitted to the Court of Appeal at the time the Notice of Appeal is filed. The Court of Appeal will submit the order for you and provide the Crown with a copy so they can order their own copy.</p> <p><u>MBCAR 11(1)(b), 26 & CPD 13</u></p> <p>If the Appellant has a pending Legal Aid application, in place of the transcript order form, a letter to the Registrar explaining why the transcript order has not been submitted needs to be filed.</p> <p>Once counsel has been appointed, they will need to submit to the Court of Appeal a Notification of Appointment of Counsel and a transcript order form ordering all required dates.</p> <p>If too much time has passed without the transcript being ordered, the Registrar may issue a notice that that appeal will be deemed abandoned if not perfected within 30 days.</p> | <table><thead><tr><th colspan="3">See: CPD 13 and https://www.manitobacourts.mb.ca/transcripts/</th></tr><tr><th>Appeal Type</th><th>Required Dates</th><th>May be helpful, but not required</th></tr></thead><tbody><tr><td>Conviction only</td><td>all trial evidence and proceedings reasons for judgment</td><td>Reasons for sentence - the judge may say something about the facts that may be relevant to the appeal</td></tr><tr><td>Sentence only (after guilty plea)</td><td>Sentencing submissions reasons for sentence</td><td>Transcript of guilty plea - facts may be put on the record and the plea inquiry may be relevant to the appeal</td></tr><tr><td>Sentence only (after trial)</td><td>reasons for conviction sentencing submissions reasons for sentence</td><td>All trial evidence and proceedings after a full trial to be able to provide a fulsome review of the facts and findings.</td></tr><tr><td>Conviction and sentence</td><td>all trial evidence and proceedings reasons for judgment sentencing submissions reasons for sentence</td><td>NA - all dates are required</td></tr></tbody></table> <p>Copies required: 1 paper and 1 pdf for the Court of Appeal and 1 copy for your office</p> | | See: CPD 13 and https://www.manitobacourts.mb.ca/transcripts/ | | | Appeal Type | Required Dates | May be helpful, but not required | Conviction only | all trial evidence and proceedings reasons for judgment | Reasons for sentence - the judge may say something about the facts that may be relevant to the appeal | Sentence only (after guilty plea) | Sentencing submissions reasons for sentence | Transcript of guilty plea - facts may be put on the record and the plea inquiry may be relevant to the appeal | Sentence only (after trial) | reasons for conviction sentencing submissions reasons for sentence | All trial evidence and proceedings after a full trial to be able to provide a fulsome review of the facts and findings. | Conviction and sentence | all trial evidence and proceedings reasons for judgment sentencing submissions reasons for sentence | NA - all dates are required |
| See: CPD 13 and https://www.manitobacourts.mb.ca/transcripts/ | | | | | | | | | | | | | | | | | | | | |
| Appeal Type | Required Dates | May be helpful, but not required | | | | | | | | | | | | | | | | | | |
| Conviction only | all trial evidence and proceedings reasons for judgment | Reasons for sentence - the judge may say something about the facts that may be relevant to the appeal | | | | | | | | | | | | | | | | | | |
| Sentence only (after guilty plea) | Sentencing submissions reasons for sentence | Transcript of guilty plea - facts may be put on the record and the plea inquiry may be relevant to the appeal | | | | | | | | | | | | | | | | | | |
| Sentence only (after trial) | reasons for conviction sentencing submissions reasons for sentence | All trial evidence and proceedings after a full trial to be able to provide a fulsome review of the facts and findings. | | | | | | | | | | | | | | | | | | |
| Conviction and sentence | all trial evidence and proceedings reasons for judgment sentencing submissions reasons for sentence | NA - all dates are required | | | | | | | | | | | | | | | | | | |

Court of Appeal – APPELLANT - Factum and Book of Authorities - Quick Information

MBCAR = Manitoba Criminal Appeal Rules

CPD = Consolidated Practice Directions

COAR= Court of Appeal Rules(Civil)

| Factum | | | |
|--|--|--|---|
| Deadline | Requirements | Other Information | Rules |
| 45 straight days after transcripts are filed with the Registrar, unless an extension of time to file the factum has been granted or the deadline is set by a judge | Copies: 5* paper, 1 digital (includes 3 paper and 1 digital copy for the Court of Appeal, 1 for the Crown, 1 for your lawyer) Service: Same as deadline | If transcripts are missed in original order, the 45-day deadline still starts after the initial transcripts are noted as filed. If the deadline falls on a weekend or holiday, it is due the next business day. An extension of time to file the factum may be granted before the deadline with the consent of the Crown followed by a request to the Court. If it is past the deadline or the Crown does not consent, a motion is required to obtain the extension of time to file the factum. If the factum has not been filed and a motion for an extension of time to file the factum has not been brought, the Registrar will notify the Appellant that the appeal will be deemed abandoned within 30 days. | Deadline: MBCAR 19(a), 20(1)(a) Copies: CPD 12 Service: MBCAR 19(a), 20(1)(a) Extension of time: MBCAR 21 Deemed abandoned: MBCAR 25(4) |
| See: Document Requirements (Motion Brief/Factum) & Digital Copy Requirements & Style of Cause *More copies may be required if other parties are involved such as Constitutional Law or there is an Intervener. | | | |

| Book of Authorities/Casebook | | | |
|---|--|---|---|
| Deadline | Requirements | Other Information | Rules |
| 14 straight days after the Appellant’s factum is filed [CPD increases deadline to 2 weeks before the appeal hearing date] | Copies: 5* paper, 1 digital (includes 3 paper and 1 digital copy for the Court of Appeal, 1 for the Crown, 1 for your lawyer) Service: counsel should serve the case book as soon as possible after filing. | If the deadline falls on a weekend or holiday, it is due the next business day. | Deadline: MBCAR 23(2)(a), CPD 2(c)(xii) Copies: MBCAR 23(1) Service: CPD Appendix “B” |
| See: Document Requirements (Book of Authorities/Casebook) & Digital Copy Requirements & Style of Cause *More copies may be required if other parties are involved such as Constitutional Law or there is an Intervener. | | | |

Court of Appeal – RESPONDENT - Factum and Book of Authorities - Quick Information

MBCAR = Manitoba Criminal Appeal Rules CPD = Consolidated Practice Directions COAR= Court of Appeal Rules(Civil)

| Factum | | | |
|--|---|---|--|
| Deadline | Requirements | Other Information | Rules |
| 30 straight days after transcripts are filed, unless an extension of time to file the factum has been granted or the deadline is set by a judge | Copies: 5* paper, 1 digital (includes 3 paper and 1 digital copy for the Court of Appeal, 1for the Crown, 1 for your lawyer) Service: Same as deadline | An extension of time to file the factum may be granted before the deadline with the consent of the Crown followed by a request to the Court. If it is past the deadline or the Crown does not consent, a motion is required to obtain the extension of time to file the factum. If the deadline falls on a weekend or holiday, it is due the next business day. | Deadline: MBCAR 19(b), 20(1)(b) Copies: CPD 12 Service: MBCAR 19(a), 20(1)(a) Extension of time: MBCAR 21 |
| See: Document Requirements (Motion Brief/Factum) & Digital Copy Requirements & Style of Cause *More copies may be required if other parties are involved such as Constitutional Law or there is an Intervener. | | | |

| Book of Authorities/Casebook | | | |
|---|--|---|---|
| Deadline | Requirements | Other Information | Rules |
| 14 straight days after the Appellant’s factum is filed [CPD increases deadline to 2 weeks before the appeal hearing date] | Copies: 5* paper, 1 digital (includes 3 paper and 1 digital copy for the Court of Appeal, 1 for the Crown, 1 for your lawyer) Service: counsel should serve the case book as soon as possible after filing. | If the deadline falls on a weekend or holiday, it is due the next business day. | Deadline: MBCAR 23(2)(b), CPD 2(c)(xii) Copies: MBCAR 23(1) CPD 12 Service: CPD Appendix “B” Deadline: MBCAR 23(2)(b), CPD 2(c)(xii) |
| See: Document Requirements (Book of Authorities/Casebook) & Digital Copy Requirements & Style of Cause *More copies may be required if other parties are involved such as Constitutional Law or there is an Intervener. | | | |

Court of Appeal - Application/Motion Deadlines - Judicial Interim Release (Bail) Pending Appeal

MBCAR = Manitoba Criminal Appeal Rules CPD = Consolidated Practice Directions COAR= Court of Appeal Rules(Civil)

| General Information | Notice & Requirements | Rules |
|---|---|---|
| <p><u>Important!</u></p> <p>**If an appeal is against ONLY sentence (does not apply in an appeal against conviction & sentence), <u>leave to appeal</u> will need to be argued and should be addressed in brief. If leave to appeal is denied, the appeal will end. Transcript of sentencing proceeding should be filed.**</p> <p><u>Variations:</u></p> <p>If a variation is sought, an application for must be made to a judge in chambers</p> | <p><u>Notice:</u></p> <p>No less than 1 clear day notice to Crown. If leave to be argued: 10 days</p> <p><u>Requirements:</u></p> <p>Must be supported by an affidavit, applicable reasons for decisions (conviction and sentence) and brief.</p> <p>The reasons for decision should be filed or provided with the material in a timely matter.</p> <p>Brief page limit: 15 If leave is being argued (see ‘Important!’) can request up to 30 pages</p> <p>Response deadline: 4 straight days after service of application and supporting material</p> <p>Copies: 3* paper, 1 digital (includes 1 paper and 1 digital copy for the Court of Appeal, 1 for the Crown, 1 for your lawyer)</p> <p><u>If Bail is Granted:</u></p> <p>The Court will require:</p> <ul style="list-style-type: none">- that factum deadlines be set (if not already set/filed)- a hearing date is set- the appeal shall proceed in strict compliance with the Rules of the Court, failing which the Crown may apply to revoke the order. | <p>Important!: CPD 2(k)(ii), 2(k)(iii)</p> <p>Variations: CPD 2(I)(ii)</p> <p>Notice: MBCAR 32</p> <p>Requirements:</p> <ul style="list-style-type: none">- supported by: COAR 43.1(1)- Reasons timely: CPD 2(I)(iii)- Brief page limit: CPD 2(d)(i), 2(d)(ii), COAR 43.1(5)- Response deadline: COAR 43.1(3), CPD 7- Copies: CPD 12, COAR 43.1(4) <p>If granted: CPD 2(I)(i)</p> |
| <p>See: Document Requirements (Motion Brief/Factum) & Digital Copy Requirements & Court of Appeal - Transcripts - Motion/Applications & Style of Cause</p> <p>*More copies may be required if other parties are involved such as Constitutional Law or there is an Intervener.</p> | | |

Court of Appeal - Application/Motion Deadlines - Leave to Appeal from King’s Bench Appeal Decision (2nd Level Appeal)

MBCAR = Manitoba Criminal Appeal Rules CPD = Consolidated Practice Directions COAR= Court of Appeal Rules(Civil)

| General Information | Requirements & Deadlines | Rules |
|---|--|--|
| <p><u>Overview:</u></p> <p>This is a two-stage process. First the leave stage with the application for leave to appeal, written arguments and oral arguments in motions court.</p> <p>If leave is denied, this ends the appeal process in the Court of Appeal.</p> <p>If leave is granted on all or partial grounds, you’ll need to draft an order for the judge to sign. Within 7 days after the decision, you need to file the Notice of Appeal. If all transcripts are already filed (ex: some were needed for the application) then the Appellant’s factum is due 45 days after the Notice of Appeal is filed. If the transcripts are not all filed, it’s the usual 45 days after the transcripts complete memo is added to the Registry. The rest of the appeal proceeds in the normal course.</p> <p>If the deadline falls on a weekend or holiday, it is due the next business day.</p> | <p><u>Deadline:</u></p> <p>30 days after King’s Bench appeal decision</p> <p><u>Requirements:</u></p> <p>Not later than 10 days prior to the scheduled motion. Must be supported by an affidavit, applicable reasons for decisions and brief.</p> <p>Brief page limit: 15. Can request up to 30 pages</p> <p>Response deadline: 4 straight days after service of application and supporting material</p> <p>Copies: 3* paper, 1 digital (includes 1 paper and 1 digital copy for the Court of Appeal, 1 for the Crown, 1 for your lawyer)</p> <p><u>Extensions:</u></p> <p>The Registrar can extend time periods referred to in COAR 43.1(2) and 43.1(3) unless the deadline was set by a judge</p> | <p>Overview: MBCAR 4(2), 4.1(2)</p> <p>Deadline: MBCAR 4.1(2)</p> <p>Requirements:</p> <ul style="list-style-type: none">- Not later than 10 days COAR 43.1(2), CPD 7- supported by: COAR 43.1(1)- Brief page limit: CPD 2(d)(i), 2(d)(ii), COAR 43.1(5)- Response deadline: COAR 43.1(3), CPD 7- Copies: CPD 12, COAR 43.1(4) <p>Extensions: COAR 43.1(6), 43.1(2), 43.1(3)</p> |
| <p>See: Formatting Requirements (Motion Brief/Factum) & Digital Copy Requirements & Court of Appeal - Transcripts - Motion/Applications & Style of Cause</p> <p>*More copies may be required if other parties are involved such as Constitutional Law or there is an Intervener.</p> | | |

Court of Appeal - Application/Motion Deadlines - Fresh/Further Evidence

MBCAR = Manitoba Criminal Appeal Rules CPD = Consolidated Practice Directions COAR= Court of Appeal Rules(Civil)

| General Information | Requirements & Deadlines | Rules |
|--|---|--|
| <p>Generally expected in appeals containing a ground alleging ineffective assistance of counsel.</p> <p>Watch for interveners. If present, you will need to serve them with documents as you would any other party.</p> <p>If the deadline falls on a weekend or holiday, it is due the next business day.</p> <p><u>Evidence in response</u></p> <p>If a party wishes to file an affidavit in response to the motion, must be in sealed envelope and filed by the factum deadline unless they are the Appellant – in which case the deadline is 30 days after being served with the motion to adduce fresh evidence.</p> <p><u>Extensions:</u></p> <p>The timelines may be extended or abridged by the Registrar with the consent of all parties or by a motion made before a judge or the court.</p> | <p><u>Notice of Motion and Affidavits:</u></p> <p>Deadline: on or before your factum deadline</p> <p>Notice needs to be filed with:</p> <ul style="list-style-type: none">- an affidavit that includes the general nature of the further evidence, the way in which the further evidence is likely to be determinative of the appeal and why the further evidence was not introduced at trial.- a second affidavit which must be placed in a sealed envelope with the further evidence.- written argument to be included in factum (see ‘written argument’ section below) <p>Copies: 6+ Copies (4 paper, 1 digital Court, 1 all other parties)</p> <p><u>Cross-examinations:</u></p> <ul style="list-style-type: none">- A party may examine or cross-examine the deponent of an affidavit filed in relation to the motion- Unless a judge ordered otherwise, the examination or cross-examination must take place before an examiner in advance of the hearing date for the appeal. Note: In the past, the cross-examinations have been conducted at the Crown’s office (405 Broadway) or remotely. The court reporter the Crown utilizes is Four Seasons Reporting. The party who wishes to examine or cross-examine is responsible to pay for their portion of the court reporter fee and the transcripts (1 original + 3 copies for the Court and 1 for each party) resulting from their examination or cross-examination.- The party examining or cross-examining a deponent must file the original and three copies of the transcript of the evidence in a sealed envelope. Note: The court reporter should either deliver the transcripts to the court and the other parties or will provide you with the copies to distribute. Ensure you follow up to ensure the Court and other parties have the transcripts. <p><u>Written Argument:</u></p> <ul style="list-style-type: none">- Each party must set out their arguments on the motion to introduce further evidence in their factum.- If the Respondent on appeal is the party who is seeking to introduce further evidence, the Appellant may file a supplementary factum that sets out their position on the introduction of further evidence. It must be filed within 30 days after service of the Respondent's factum and must not exceed 5 pages. <p><u>Hearing:</u></p> <p>Motion to be heard at the appeal hearing.</p> | <p>Evidence in response: COAR 21(4), 21(5)</p> <p>Extensions: COAR 21(19)</p> <p>Notice: COAR 21(1)</p> <p>Deadline: COAR 21(3)</p> <p>Notice filed with: COAR 21(2)</p> <p>Copies COAR 21(6)</p> <p>Digital copy: CPD 12</p> <p>Cross-exams: COAR 21(7), 21(8), 21(9)</p> <p>Written argument: COAR 21(10), 21(11)</p> <p>Hearing: COAR 21(1)</p> |

Court of Appeal - Application/Motion Deadlines – Other Common Motions

MBCAR = Manitoba Criminal Appeal Rules CPD = Consolidated Practice Directions COAR= Court of Appeal Rules(Civil)

| Motion/Application Type | Filing Requirements | Other Information | Rules |
|---|---|--|---|
| Motion/applications such as: <ul style="list-style-type: none">- Extension of time to file Notice of Appeal- Extension of time to file factum- Amend Notice of Appeal- Application to suspend an order (ex/ conditional sentence, driving prohibition, etc.) | <p><u>Requirements:</u></p> <p>Not later than 10 days before the scheduled motion. Must be supported by an affidavit, applicable reasons for decisions and brief.</p> <p>Brief page limit: 15</p> <p>Response deadline: 4 straight days after service of application and supporting material</p> <p>Copies: 3* paper, 1 digital (includes 1 paper and 1 digital copy for the Court of Appeal, 1 for the Crown, 1 for your lawyer)</p> <p><u>Extensions:</u></p> <p>The Registrar can extend time periods referred to in COAR 43.1(2) and 43.1(3) unless the deadline was set by a judge</p> | <p>If the deadline falls on a weekend or holiday, it is due the next business day.</p> <p>After a decision on a motion or application has been made, an Order needs to be drafted and submitted to the Court of Appeal</p> | <p>Requirements:</p> <ul style="list-style-type: none">- Not later than 10 days COAR 43.1(2), CPD 7- supported by: COAR 43.1(1)- Brief page limit: CPD 2(d)(i), COAR 43.1(5)(b)- Response deadline: COAR 43.1(3), CPD 7- Copies: CPD 12, COAR 43.1(4) <p>Extensions: COAR 43.1(6), 43.1(2), 43.1(3)</p> |
| <p>See: Formatting Requirements (Motion Brief/Factum) & Digital Copy Requirements & Court of Appeal - Transcripts - Motion/Applications & Style of Cause</p> <p>*More copies may be required if other parties are involved such as Constitutional Law or there is an Intervener.</p> | | | |

Court of Appeal - Transcripts - Motions/Applications

MBCAR = Manitoba Criminal Appeal Rules

CPD = Consolidated Practice Directions

COAR= Court of Appeal Rules(Civil)

| Motion/Applications | | |
|--|---|---|
| General Information | Transcripts to Order | |
| <p><u>Estimated completion dates:</u></p> <p>Please note that when Veritext provides you with an estimated completion date, it does <i>not</i> include any time for the judge to review their reasons.</p> <p>When choosing a motion/application date, ensure there is enough time for the transcripts to be typed, reviewed by the judge, printed and filed with the court with enough time for the chambers judge to review them.</p> | See: COAR 43.1(1), CPD 13 and https://www.manitobacourts.mb.ca/transcripts/ | |
| | Motion Type | Required Dates |
| | May be helpful, but not required | |
| | Judicial interim release (bail) pending sentence appeal | reasons for sentence |
| | Judicial interim release (bail) pending conviction and sentence appeal | reasons for judgment reasons for sentence |
| | Leave to appeal – 2 nd level appeal | reasons (Provincial Court) reasons (King’s Bench appeal) |
| All transcript dates in Provincial Court and King’s Bench. An application brief is required and writing the facts can be difficult without having the transcripts. Also, if leave is granted – you will likely need to order them all anyways. | | |
| Copies required: 1 paper and 1 pdf for the Court of Appeal and 1 copy for your office | | |
| COAR 43.1(1) | | |
| Motion Type | | Required Dates |
| Other | | Applicable reasons for decision |
| Copies required: 1 paper and 1 pdf for the Court of Appeal and 1 copy for your office | | |