



The Provincial Court of Saskatchewan

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**PRACTICE DIRECTIVE I**

***Preliminary Hearings***

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**BACKGROUND**

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Amendments to the *Criminal Code of Canada* regarding Preliminary Inquiries came into force on June 1, 2004.

Statutory Provisions

Criminal Code - Part XVIII

1. No Preliminary Inquiry unless requested (s. 535, S. 536(2), s. 536.2, s. 536(4), s. 536(4.3) and s. 536(4.1)(a), (b).
  2. Mandatory Statement of Issues and Witnesses (s. 536.3)
  3. Conference or Hearing prior to Preliminary Inquiry (s. 536.4)
  4. Scope of Preliminary Inquiry may be limited (s. 536.3, s. 536.4, s. 536.4(2), s. 536.5)
  5. Evidentiary amendments (s. 540(7), (8) and (9).
  6. Conduct of Preliminary Inquiry (s. 537(1)(l), s. 537(1.1)
  7. Absence of accused (s. 537(1)(j)
  8. Committal upon limited evidence (s. 549(1.1), s. 536.5)
- 
- If the accused elects to be tried in the Court of Queen's Bench and either the accused or the Crown wants a preliminary inquiry, they must request a preliminary inquiry within a time period fixed by the presiding docket court judge.
  - The Information (and, if applicable, the warrant of remand) must be endorsed with the election and must also note whether the accused or the Crown has requested an inquiry.
  - The election may be made in writing without the appearance of the accused by the accused or Counsel on record filing notice with the Clerk of the Court.
  - The docket court judge will set the date of the preliminary inquiry if any.

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### PI-1 - STATEMENT IDENTIFYING ISSUES AND WITNESSES

- If the Crown or counsel for the accused requests a preliminary inquiry, that party shall file a statement of issues and witnesses, PI-1. That statement is to be filed with the trial coordinator or the Clerk of the Court prior to the appearance in docket court to fix the date for the preliminary inquiry.
- Self-represented accused are not required to complete PI-1

### REQUEST FOR PRE-HEARING CONFERENCE

- The Crown or the accused can apply for a hearing (hereinafter referred to as a “pre-hearing conference”) to assist the parties in identifying the issues, witnesses or any other matter that would promote a fair and expeditious inquiry.
- The judge scheduled to preside at the preliminary inquiry may order a pre-hearing conference on his or her own motion
- In the event that a pre-hearing conference is ordered, the trial coordinator or Clerk of the Court will set a date for the conference, in consultation with the parties.
- It should be noted that although the order for a pre-hearing conference must be made by the judge who will preside at the preliminary inquiry, the actual conference itself can be presided over by any judge of the court. The trial coordinator or Clerk of the Court shall make every effort to schedule the pre-hearing conference before the judge who will preside at the preliminary inquiry.

### PI-2 - AGREEMENT AND ADMISSIONS AT PRE-HEARING CONFERENCE

- The pre-hearing conference will take place in open court on the record. Counsel may appear by teleconference or telephone with leave of the judge presiding at the pre-hearing conference, but self-represented accused must appear in person.
- All admissions of fact or agreement made by the parties at a pre-hearing conference shall be endorsed on PI-2, which will be signed by the parties as well as the presiding judge. PI-2 will be formally filed with the court.

PI - 1  
STATEMENT IDENTIFYING ISSUES AND WITNESSES

Section 536.3 Criminal Code

Date:

R. v. \_\_\_\_\_

Information # \_\_\_\_\_

Charges: \_\_\_\_\_

Next court appearance: \_\_\_\_\_

Is disclosure by the Crown complete:

Yes \_\_\_\_\_ No \_\_\_\_\_

Has a pre-plea discussion taken place between Defence and Crown Counsel to attempt resolution or admissions?

Yes \_\_\_\_\_ No \_\_\_\_\_

The requesting party requires evidence to be given only on the following issues:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The requesting party wishes to hear only the following witnesses at the inquiry:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Crown and Defence counsel estimate that the time for the preliminary hearing is:

\_\_\_\_\_

Name, address and phone number of requesting party:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of requesting party

PI-2  
AGREEMENT AND ADMISSIONS AT PRE-HEARING CONFERENCE

Section 536.4(2) Criminal Code

Date:

R. v. \_\_\_\_\_

Information # \_\_\_\_\_

Charges: \_\_\_\_\_

Next court appearance: \_\_\_\_\_

The prosecutor and the accused agree to limit the scope of the preliminary inquiry to the following specific issues:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The prosecutor and the accused agree to the following admissions for the purpose of the preliminary inquiry only:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of prosecutor

\_\_\_\_\_  
Signature of counsel for the accused

Pursuant to s. 536.4(2) of the *Criminal Code* I recorded the above agreement to limit the scope of the preliminary inquiry and admissions of fact by the terms herein recorded.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Judge of the Provincial Court of Saskatchewan



The Provincial Court of Saskatchewan

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**PRACTICE DIRECTIVE II**

**Briefs**

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**BACKGROUND**

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Briefs of Law may provide assistance to the Court in determining the issues being litigated in proceedings before the Court.

Crown counsel or Defence counsel may file a Brief of Law if they believe it will assist the court proceedings. It should not approach the extent of a Factum, but rather should notify the Court and opposing party, in a concise manner, of the issues to be raised and the applicable law.

Counsel may file briefs electronically, with leave of the Court. Briefs of Law filed electronically may also include electronic links to the cases and authorities relied upon in the brief. Counsel filing a Brief of Law electronically must also file a paper copy of the Brief of Law with the Court.

Regardless of the manner of filing, counsel must provide a copy of any Brief of Law filed with the Court to opposing counsel.

The Brief of Law should contain the following:

1. Cover page with the style of cause of the proceeding.
2. Concise statement of the issues and the law related.
3. List of authorities to be cited.
4. Copies of pertinent portions of cases to be referenced. The filing of copies of landmark decisions such as *R. v. Grant*, or of lengthy decisions, is discouraged. In particular, counsel should not file the entire case being referred to, and should instead include only as much of the text as is necessary to provide a full understanding of the passage or passages relied upon. Cases included should contain a copy of the head note, if relevant.
5. The passages in the authorities which are relied upon by counsel should be marked either by coloured highlighting, underlining, marginal bars or similar technique.



The Provincial Court of Saskatchewan

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**PRACTICE DIRECTIVE III**

***Appearance of Counsel by Telephone***

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1. Where it is impractical for counsel to appear before the Court in person counsel may appear via telephone with prior leave of the Court.
2. Where counsel wishes to appear via telephone, leave shall be obtained from the assigned Judge (if possible) by applying in writing to the Clerk of the Court within a reasonable period of time prior to the requested appearance date. Ordinarily, a reasonable period of time will be not later than 12:00 noon of the business day preceding the proposed appearance.
3. The written application shall specify the steps or actions proposed to be taken in the telephone appearance.
4. Counsel must provide a direct land line telephone number or mobile telephone number with acceptable sound quality at which they can be reached for the appearance.
5. Where counsel has obtained leave to appear by telephone, counsel shall forthwith notify the opposing party.
6. Counsel may apply for leave to appear in Provincial Court via telephone for any court appearance other than a preliminary hearing, trial or other matter where *viva voce* evidence will be called.
7. The Court may cancel the leave to appear by telephone and direct the personal attendance of counsel.

September 20, 2011



The Provincial Court of Saskatchewan

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**PRACTICE DIRECTIVE IV**

***Appearance of Witnesses via Telephone or Video***

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1. Counsel or a self-represented accused may apply pursuant to ss.7 14.1,7 14.2,714.3 or 714.4 of the *Criminal Code* to tender a witness' evidence by means of technology that permits the witness to testify in the virtual presence of the parties and the Court or by means of a telephone or other technology that permits the parties and the Court to hear and examine the witness.
2. This application shall be made in writing 14 days before the proceeding in question. A copy of the written application shall be provided to the trial judge and to all parties to the proceeding.
3. The application shall include an explanation of:
  - why it is necessary to receive a witness' evidence in this fashion;
  - whether it is a consent or contested application;
  - the cost to the witness of personally attending the court proceeding;
  - the distance the witness must travel; and
  - the nature of the anticipated evidence;
4. The Court shall set a date for oral submission on the application.
5. The party requesting to tender evidence by means of video or audio link shall ensure that:
  - the witness is on a clear land line (no mobile phones);
  - the witness' location is conducive to both binding their conscience and providing evidence, including being quiet and free from distraction; and
  - the witness is available at the specified time for testifying.



The Provincial Court of Saskatchewan

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**PRACTICE DIRECTIVE V**

***Application for Court Appointed Counsel***

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**BACKGROUND**

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Section 10(b) of the *Canadian Charter of Rights and Freedoms* states that everyone arrested or charged with a criminal offence has the right to retain and instruct a lawyer. This right allows everyone the opportunity to be advised of their rights and obligations under Canadian law. In Saskatchewan an individual may be represented by a lawyer who they paid for legal services or by a Legal Aid lawyer or a lawyer appointed by the Court.

**APPLICATION PROCESS**

1. Apply to the local Legal Aid office.
2. If denied legal representation by the local office, keep the denial letter and appeal to the Legal Aid Commission. (Form A)
3. If the appeal is denied by the Legal Aid Commission, keep the denial letter and complete the application for a court appointed lawyer. (Form B)
4. Send the application to the Crown Prosecutor, to the Attorney General of Canada and to the Constitutional Law Branch, Saskatchewan Justice.
5. Complete the Financial Information sheet (Form C) and send it to the Crown Prosecutor, Attorney General of Canada and to the Constitutional Law Branch, Saskatchewan Justice. Take the Financial Information Sheet to your hearing before a judge.
6. If a lawyer is helping you with your application for a court appointed lawyer, complete the Waiver form (Form D) and give it to the lawyer.

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7. If a lawyer is not helping you with your application for a court appointed lawyer, complete the Waiver form (Form D) and rather than using a lawyer's name put in "Presiding Judge, *city name*, Provincial Court" and deliver it to the Provincial Court point where you are appearing.
8. Whether you have a lawyer assisting you or not the Waiver (Form D) must be sent to the Chief Executive Officer, The Saskatchewan Legal Aid Commission, 502 - 21<sup>st</sup> Street East, Saskatoon, Saskatchewan S7K 0B8

**FORM A**

Name:

Address:

**APPEAL**

I, \_\_\_\_\_, wish to appeal my denial of legal services because:

Print your name

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\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant (signature)

Lawyer in Charge of File:

***The Legal Aid Act*** provides that if you wish to **appeal** this decision to the Chief Executive Officer of the Legal Aid Commission, such appeal should be registered within **20 days** from date of Notice of Denial.

**YOU MAY LEAVE THIS FORM WITH THE LEGAL AID OFFICE OR**

**DROP IT OFF AT/OR MAIL TO:**

**Chief Executive Officer  
Central Office  
#502 - 201 - 21<sup>st</sup> Street East  
SASKATOON SK S7K 2H6  
Fax: (306) 933-6764**

IN THE PROVINCIAL COURT OF SASKATCHEWAN  
FORM B

Between:

\_\_\_\_\_  
(Print your name.)

Applicant

And

Her Majesty the Queen, as represented by  
The Attorney General for Saskatchewan

Respondent

Notice of Application for a Court Appointed Lawyer

Take notice that I make application to obtain a remedy pursuant to section 24(1) of the *Canadian Charter of Rights and Freedoms* and ask that this application be heard on my next appearance before this Court, which is:

\_\_\_\_\_ at \_\_\_\_\_ AM/PM at \_\_\_\_\_,  
Saskatchewan.  
(month/day/year) (time)

This notice is pursuant to section 8(2) of the *Constitutional Questions Act* and is directed to: **(A copy of this notice must be sent to each of the following 3 places. Notices may be sent by fax at the numbers provided.)**

(1) The Attorney General of Canada  
10<sup>th</sup> Floor 123- 2<sup>nd</sup> Ave S  
Saskatoon, SK  
S7K 7E6  
**Fax: (306) 975-4507**

(2) The Attorney General for Saskatchewan  
C/O Crown Prosecutors' Office  
address \_\_\_\_\_ [obtain from court clerk or RCMP]  
city \_\_\_\_\_  
Saskatchewan, *postal code* \_\_\_\_\_

(3) Constitutional Law Branch Saskatchewan Justice  
8<sup>th</sup> Floor- 1874 Scarth St  
Regina, SK  
S4P 3V7  
**Fax: (306) 787-9111**

I seek appointment of a lawyer pursuant to sections 7 and 11(d) of the *Charter* for the following charge(s): (List below all **charges** for which you seek a lawyer.)

The reasons for this application are:  
**(Place an X before the reason(s) that apply to you.)**

- \_\_\_\_\_ 1. I have been denied Legal Aid and am appealing that decision.
- \_\_\_\_\_ 2. I have no money to hire a lawyer.
- \_\_\_\_\_ 3. I do not feel capable of representing myself.
- \_\_\_\_\_ 4. The Crown has said that it may seek a jail sentence.
- \_\_\_\_\_ 5. I believe this is a complex matter.
- \_\_\_\_\_ 6. Other, Please explain

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Date \_\_\_\_\_  
(month/day/year)

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**Sign above the line.**  
**Print your name below the line.**

## FINANCIAL INFORMATION

### FORM C

If you were financially eligible for Legal Aid, please tell the judge. It may reduce the amount of information that you need to provide on this form. If you have been denied for financial reasons please complete this entire form.

If possible please send this form to the three offices listed on the Constitutional Notice a few days before your trial date. Sharing this information will help speed up the process.

#### Number and Ages of dependants:

#### Income:

REMEMBER TO BRING PAY STUBS TO PROVE THESE AMOUNTS

Do you receive social assistance? Yes \_\_\_\_\_ No \_\_\_\_\_

Salary after deductions

Other Sources of Income (please Specify)

#### Amounts

\_\_\_\_\_

Total Income:

#### Expenses:

Rent/ mortgage

Utilities

Child Care

Food

Clothing

Transportation

Debt Payments

Child/Spousal Support you pay

Other: (Specify)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Total Expenses:

#### Assets:

Cash/Savings

Stocks/Shares/ Bonds/ RRSP/ etc

Accounts Receivable (Money owed to you)

Property/Real Estate

Vehicles (Specify make and model)

Farm Assets

Business Assets

Other: (Specify)

**Total Assets**

#### Value

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**WAIVER**

**FORM D**

I \_\_\_\_\_ (your name, printed) of \_\_\_\_\_ (your town),  
Saskatchewan hereby authorize and direct the Saskatchewan Legal Aid Commission to  
release to: **(This blank is for the name of a lawyer who is helping you with the  
application or the name of the Judge who is hearing your case. If you do not  
know which judge will be hearing your case you can address the form to Judges'  
Chambers. If possible, please include the date, time and court room where your  
case will be heard.)**

The following information for the purpose of my application for court appointed counsel,  
namely:

1. all financial information,
2. if I was declined Legal Aid Services, the reason(s) why I was declined Legal  
Aid Services; and/or
3. the status of my application for Legal Aid

Signed: \_\_\_\_\_

Sign your name on the line and print your name below it.

**Deliver it to:**

**Judges' Chambers  
At the Provincial Court where you are  
to appear**



The Provincial Court of Saskatchewan

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**PRACTICE DIRECTIVE VI**

***Withdrawal of Counsel***

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**BACKGROUND**

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Chapter 12 of the Canadian Bar Association Code of Professional Conduct states that:

**RULE**

**The lawyer owes a duty to the client not to withdraw services except for good cause and upon notice appropriate in the circumstances.**

A court has the authority to require counsel to continue to represent an accused when the reason for withdrawal is non-payment of fees, but the authority must be exercised sparingly and only when necessary to prevent serious harm to the administration of justice.

**Rationale**

To prevent last minute withdrawals by counsel for non-payment of fees, or other reasons, such that the Court is unable to re-book or use the court time for other matters. By adopting this policy, counsel will be in a position to advance the date of payment of fees with their clients, and/or to assist the Court in reducing the number of criminal trials that must be adjourned and to permit the cancellation of witnesses in a timely manner.

***Commentary*** (from the CBA Code, supplemented by references to *R. v. Cunningham*)

**Guiding Principles**

Although the client has a right to terminate the lawyer client relationship at will, the lawyer does not enjoy the same freedom of action. Having once accepted professional employment the lawyer should complete the task as ably as possible unless there is justifiable cause for terminating the relationship.

The lawyer who withdraws from employment should act so as to minimize expense and avoid prejudice to the client, doing everything reasonably possible to facilitate the expeditious and orderly transfer of the matter to the successor lawyer.

November 16, 2010

Where withdrawal is required or permitted by this Rule *the lawyer must comply with all applicable rules of court as well as local rules and practice.* (Emphasis added)

In *R. v. Cunningham*, [2010] 1 S.C.R. 331, the Supreme Court of Canada stated that the court's exercise of discretion to allow counsel's application for withdrawal shall be guided by the following principles:

- (a) If counsel seeks to withdraw far enough in advance of any scheduled proceedings and an adjournment will not be necessary, the court shall allow the withdrawal.
- (b) If timing is an issue, the court is entitled to inquire into counsel's reasons. [In either the case of ethical reasons or non-payment of fees, the court must accept counsel's answer at face value and not enquire further so as to avoid trenching on potential issues of solicitor-client privilege. If withdrawal is sought for an ethical reason, the court must grant the withdrawal; if it is sought because of non-payment of legal fees, the court may exercise its discretion to refuse counsel's request if it determines, after weighing all the relevant factors, that allowing withdrawal would cause serious harm to the administration of justice.

[paragraphs 47 – 50]

### Obligatory Withdrawal

In some circumstances the lawyer will be under a duty to withdraw. The obvious example is following discharge by the client, Other examples are:

- a) if the lawyer is instructed by the client to do something inconsistent with the lawyer's duty to the court or tribunal and, following explanation, the client persists in such instructions;
- b) if the client is guilty of dishonourable conduct in the proceedings or is taking a position solely to harass or maliciously injure another;
- c) if it becomes clear that the lawyer's continued employment will lead to a breach of these Rules such as, for example, a breach of the Rules relating to conflict of interest; or
- d) if it develops that the lawyer is not competent to handle the matter. In all these situations there is a duty to inform the client that the lawyer must withdraw.



### Optional Withdrawal

Situations where a lawyer would be entitled to withdraw, although not under a positive duty to do so, will as a rule arise only where there has been a serious loss of confidence between lawyer and client. Such a loss of confidence goes to the very basis of the relationship. Thus, the lawyer who is deceived by the client will have justifiable cause for withdrawal. Again, the refusal of the client to accept and act upon the lawyer's advice on a significant point might indicate such a loss of confidence. At the same time, the lawyer should not use the threat of withdrawal as a device to force the client into making a hasty decision on a difficult question. The lawyer may withdraw if unable to obtain instructions from the client.

### Non-Payment of Fees

Failure on the part of the client after reasonable notice to provide funds on account of disbursements or fees will justify withdrawal by the lawyer unless serious prejudice to the client would result.

In determining whether withdrawal should be permitted because of non-payment of fees, the court should consider the following non-exhaustive list of factors:

- Whether it is feasible for the accused to represent himself or herself;
- Other means of obtaining representation;
- Impact on the accused from delay in proceedings, particularly if the accused is in custody;
- Conduct of counsel, e.g. if counsel sought leave of the court to withdraw at the earliest possible time;
- Impact on the Crown and any co-accused;
- Impact on complainants, witnesses and jurors;
- Fairness to defence counsel, including consideration of the expected length and complexity of the proceeding and the history of proceedings, e.g. if the accused has changed lawyers repeatedly. [*R. v. Cunningham*, paragraph 50]

### Notice to Client

No hard and fast rules can be laid down as to what will constitute reasonable notice prior to withdrawal. Where the matter is covered by statutory provisions or rules of court, these will govern. In other situations the governing principle is that the lawyer should protect the client's interests so far as possible and should not desert the client at a critical stage of a matter or at a time when withdrawal would put the client in a position of disadvantage or peril.

## Practice Directive

1. Counsel who appear with or on behalf of a party to a proceeding or file a designation of counsel with the Court, will thereafter continue as counsel of record for that party unless that counsel is removed by Order of the Court or is granted leave to withdraw in accordance with this Practice Directive.
2. This Practice Directive does not apply to counsel appearing as either counsel for the Crown or Legal Aid duty counsel, and who have identified themselves as such to the Court.
3. This Practice Directive applies to application made by counsel of record for an accused who are seeking to withdraw as counsel of record and to applications to remove counsel of record.
4. Any application made by counsel of record to withdraw for any ethical reason shall be granted by the Court where the request is confirmed to the Court, in writing.
5. Any application made by counsel of record to withdraw for any financial reason shall be granted by the Court where the request is confirmed to the Court, in writing, more than 45 days prior to the scheduled trial or preliminary hearing date.
6. Hearings to consider an application to withdraw as counsel of record, on the basis of non-payment of fees, will be required where the request of counsel to withdraw is made within the period that is less than **45 days** prior to the scheduled trial or preliminary hearing date, and a determination will be made at the discretion of the Court. Notice of an application must be sent by counsel of record to his or her client by ordinary mail to the last known address of the client maintained by counsel of record.
7. Counsel applying to withdraw as counsel of record shall inform Crown counsel of the application, in writing, concurrent with notification to the Court of the application.



The Provincial Court of Saskatchewan

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**PRACTICE DIRECTIVE VII**

***Forfeiture Orders***

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1. When counsel representing the Crown is seeking forfeiture of any item in a criminal proceeding, they may, where they feel it is required, or where the Court directs, file a draft forfeiture order in Form A. Where necessary, Form A may be modified to suit the case as required. Items listed must have sufficient detail to be clearly identifiable. Crown counsel must be careful that property of third parties are not included in the draft Forfeiture Order.
2. Where counsel elects, or the Court directs that Form A be filed, the Crown shall do so no later than 10 days after the direction from the Court, or 10 days after the making of the oral forfeiture order by the Court.
3. Where applicable the draft order should be signed by defence counsel consenting to the form and content of the order.
4. Nothing in paragraph 3 will prevent counsel from filing the draft forfeiture in Form A prior to any sentencing proceeding.

November 16, 2010

**FORM A**

Canada  
Province of Saskatchewan

INFORMATION:  
OCCURRENCE NUMBERS:

**IN THE PROVINCIAL COURT FOR SASKATCHEWAN**  
SITTING AT \_\_\_\_\_, SASKATCHEWAN

IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION \_\_\_\_\_ OF  
THE \_\_\_\_\_ (*CITE ACT*) FOR AN ORDER FOR FORFEITURE  
WITH RESPECT TO CERTAIN SEIZED PROPERTY

**BETWEEN:**

**HER MAJESTY THE QUEEN**  
as represented by the Office of the  
Director of Public Prosecutions or an agent thereof  
(or Attorney General of Saskatchewan)

**APPLICANT**

**-and-**

**RESPONDENT**

BEFORE THE HONOURABLE ) ON \_\_\_\_\_, THE \_\_\_ DAY  
JUDGE ) OF \_\_\_\_\_, A.D. 20\_\_

**FORFEITURE ORDER**

**WHEREAS** \_\_\_\_\_ (herein called "the Accused") was convicted and sentenced  
by the Provincial Court, sitting at \_\_\_\_\_ on the \_\_\_ day of \_\_\_\_\_, A.D., 20\_\_ of the  
following offences:

1.

**AND WHEREAS** the Crown, as represented by an agent of the Director of Public Prosecutions [or Attorney General of Saskatchewan], seeks an order for forfeiture of all the items listed in Appendix "A", pursuant to:

1. Section 462.37 of the *Criminal Code* (proceeds of crime); or
2. Section 16 of the *Controlled Drugs and Substances Act* (offence-related property);  
**or**
3. Section 490 of the *Criminal Code* (offence-related property); or

**AND WHEREAS** the Accused is not opposed to the application by the Crown of the forfeiture of the property listed in Appendix "A". **(if by consent)**

**THE COURT HEREBY DECLARES** that the property listed in Appendix "A" is proceeds of crime pursuant to Section 462.37 of the *Criminal Code* [or offence-related property pursuant to Section 16 of the *Controlled Drugs and Substances Act* or offence-related property pursuant to Section 490 of the *Criminal Code* **or as the case may be**].

**THEREFORE IT IS HEREBY ORDERED** that the property listed in Appendix "A" be forfeited to Her Majesty the Queen in Right of Canada [or Her Majesty in Right of Saskatchewan].

**AND IT IS HEREBY FURTHER ORDERED** that none of the property listed in Appendix "A" be disposed of until after the expiration of 30 days from the date of this Order, or until the disposition of any appeal that may be taken with respect thereto.

**AND IT IS HEREBY FURTHER ORDERED** that upon the expiration of 30 days from the date of this Order, or until the disposition of any appeal that may be taken with respect thereto, the following items of property shall be returned to \_\_\_\_\_:

- 1.

**(if any property is to be returned)**

**Signed** at the \_\_\_\_\_ of \_\_\_\_\_, in the Province of Saskatchewan, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
A Judge of the Provincial Court of Saskatchewan

**(If by Consent)**

**CONSENTED TO** at the \_\_\_\_ of \_\_\_\_\_, in the Province of Saskatchewan, this  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Agent of the Director of Public Prosecutions (or  
Attorney General of Saskatchewan)

**CONSENTED TO** at the \_\_\_\_ of \_\_\_\_\_, in the Province of Saskatchewan, this  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Counsel for the Respondent

**APPENDIX A**

This is Appendix "A" to the order of the Honourable Judge \_\_\_\_\_ at the \_\_\_\_ of  
\_\_\_\_\_, in the Province of Saskatchewan, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Property Forfeited

- 1.
- 2.
- 3.
- 4.



The Provincial Court of Saskatchewan

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**PRACTICE DIRECTIVE VIII**

***Charter Applications and Related Matters***

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**BACKGROUND**

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1. Where Counsel is aware that a *Charter* application or an application under s. 52 of *The Constitution Act* will be made at trial, Notice of that application in the attached form shall be given to each interested party at least 14 days prior to hearing. For greater certainty, such Notice shall be given to the Court, the Crown, and to Co-accused/s. In the event that relief other than exclusion of evidence is being sought (i.e.: seeking *Charter*, s. 24(1) relief or relief under s.52 of *The Constitution Act*) Notice must also be given to the Constitutional Branch of the Ministry of Justice of Saskatchewan and to the Department of Justice (Canada) in order to comply with *The Constitutional Questions Act*.
2. The Court encourages the filing of a brief in support of the application, which should be consistent with Practice Directive II (Briefs).
3. Should a *Charter* or other constitutional issues arise during the trial in respect of which no notice has been given, the Judge may adjourn the trial so that proper notice can be given.
4. Notice and written argument can be given by any common means, including, but not limited to facsimile transmission.

September 20, 2011

IN THE PROVINCIAL COURT OF SASKATCHEWAN

NOTICE OF *CHARTER* APPLICATION

R. v. \_\_\_\_\_  
(*name of accused*)

Information Number(s) \_\_\_\_\_

To: The Presiding Judge of the Provincial Court of Saskatchewan, sitting at \_\_\_\_\_, Saskatchewan.

To: \_\_\_\_\_,  
(*the Prosecuting body or office designated to prosecute the matter*)

To: \_\_\_\_\_, Co-accused/s,

To: The Constitutional Branch of the Department of Justice of Saskatchewan (*if relief other than the exclusion of evidence is requested*),

To: The Department of Justice of Canada (*if relief other than the exclusion of evidence is requested*).

Charges:

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(*Here set out charge(s), including, without limitation, the date(s) and place(s) of the alleged offence(s). In the case of lengthy charges, a summary will be sufficient.*)

The Applicant, \_\_\_\_\_, hereby gives notice that at \_\_\_\_\_ a.m./p.m. on \_\_\_\_\_ day, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at Courtroom #\_\_\_\_ at \_\_\_\_\_, in the Province of Saskatchewan, he/she will apply to this Honourable Court under subsection \_\_\_\_ of Section 24 of *The Charter of Rights and Freedoms* or under Section 52 of *The Constitution Act* for the following relief:

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*(Here set out the specific order requested, such as, exclusion of the Certificate of Analyses from the evidence, a stay of proceedings, etc.)*

on the grounds that the Accused's rights guaranteed under Section(s) \_\_\_\_\_ of *The Charter of Rights and Freedoms* have been infringed or denied, or on the grounds of other inconsistency with the Constitution, the particulars of which are as follows:

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*(Here set out the grounds to be argued, including a brief statement of the relevant facts, a concise statement of the constitutional issue to be raised, a statement of the constitutional principles to be argued and a reference to any statutory provision or rule upon which reliance will be placed.)*

The Applicant submits that the appropriate procedure for the hearing of this Application is: *(check one)*:

\_\_\_\_\_ *Voir Dire* before the commencement of evidence in the trial with decision before commencement of the evidence in the trial proper.

\_\_\_\_\_ *Voir Dire* during trial with decision to be given prior to defence case.

\_\_\_\_\_ *Voir Dire* during trial with decision to be given at the conclusion of the trial.

\_\_\_\_\_ No *Voir Dire* is necessary, the whole of the evidence to be applied to the application, with decision at conclusion of the trial.

\_\_\_\_\_ Other *(specify)* \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Counsel for the Applicant:  
Whose address for service is:

Tel:

Fax:



The Provincial Court of Saskatchewan

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**PRACTICE DIRECTIVE IX**

***Change in Optional Conditions  
of Probation Orders***

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**BACKGROUND**

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Section 732.3 of the *Criminal Code* provides that upon application by an offender, a probation officer or a prosecutor the Court may order changes to the optional conditions contained in a Probation Order.

**Application Process**

1. The Applicant will contact the Court Clerk to obtain a hearing date.
2. An application pursuant to section 732.2(3) of the *Criminal Code* shall be made in Form PO-1.
3. The Applicant shall file a copy of the existing Probation Order sought to be changed.
4. The Applicant shall set out the requested change and the reason supporting the change(s).
5. The application with any supporting material will be filed with the Clerk of the Court.
6. A copy of the application shall be provided by the Applicant to the offender, the offender's Probation Officer and the Crown Prosecutor.

March 1, 2011



**IN THE PROVINCIAL COURT OF SASKATCHEWAN**

Date: [Date]  
Location: [Location]

Between:

Her Majesty the Queen

- and -

[Name of the Accused]

Appearing:

[Crown Counsel]  
[Defence Counsel]

For the Crown  
For the Accused

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**Notice of Application for Change of Optional  
Conditions of Probation Order**

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**TAKE NOTICE** that an application will be brought on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_ a.m./p.m. or as soon thereafter as the application can be heard at (address of Courthouse and courtroom #) \_\_\_\_\_, for an order to change the Probation Order made the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

The optional conditions sought to be changed are:

Clause \_\_: (Name condition)

Clause \_\_: (Name condition)

The above-noted changes are sought for the following reasons: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**IN SUPPORT OF THIS APPLICATION** the applicant relies upon the following:

1. Copies of the existing Probation Order sought to be changed.
2. (Set out documents such as affidavits or other documents upon which the Applicant relies).

**DATED** at \_\_\_\_\_ this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Signature of Applicant or counsel)  
\_\_\_\_\_  
Name  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
Telephone and Fax Nos.



The Provincial Court of Saskatchewan

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**PRACTICE DIRECTIVE X**

***Safe Handling of Trial and/or Hearing Exhibits***

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**BACKGROUND**

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1. In order to promote the safe handling of exhibits and efficiency of court proceedings, Counsel are encouraged to reach agreement on the filing of exhibits prior to trial or hearing.
2. Whenever possible, bulky exhibits such as large quantities of stolen property or controlled substances should be tendered by way of photos rather than actual filing.
3. Firearm exhibits should be trigger locked and/or otherwise rendered inoperable and whenever possible, such exhibit should be tendered into evidence through a witness trained in the handling of firearms. In the case of dangerous exhibits, consideration should be given to tendering these exhibits by way of photos and/or expert reports.
4. Counsel are reminded of the applicability of the following provisions of the *Criminal Code*:

Section 603(a) of the *Criminal Code* permits the accused, after he has been ordered to stand trial or at his trial, to inspect the evidence and the exhibits.

With respect to proceedings pursuant to Sections 334, 344, 348, 354, 362 or 380 of the *Criminal Code*, Section 491.2(2) permits the use of photographs. Notice is required pursuant to section 491.2(5).

March 18, 2011

*jlowe@sfprovcourt.ca*