

LEGAL NOTICE NO. 159

REPUBLIC OF TRINIDAD AND TOBAGO

THE SUPREME COURT OF JUDICATURE ACT, CHAP. 4:01

RULES

MADE BY THE RULES COMMITTEE UNDER SECTION 78 OF THE SUPREME COURT OF JUDICATURE ACT AND SUBJECT TO NEGATIVE RESOLUTION OF PARLIAMENT

THE CIVIL PROCEEDINGS (AMENDMENT) RULES, 2018

1. These Rules may be cited as the Civil Proceedings (Amendment) Citation Rules, 2018.
2. In these Rules, “the Rules” means the Civil Proceedings Rules, Interpretation 1998.
3. Part 64 of the Rules is amended—Part 64
amended
 - (a) in Rule 64.1(2)—
 - (i) by deleting the chapeau of the definition of—
“procedural appeal” and substituting the following:
““procedural appeal” means an appeal from a decision of a registrar, master or judge which does not directly decide the substantive issues in a claim but excludes”;
 - (ii) by inserting after paragraph (a) the following paragraph:
“(aa) any decision with respect to the admissibility of evidence in the trial or hearing;”;
 - (iii) by deleting the word “and” at the end of paragraph (c);
 - (iv) by inserting after paragraph (d) the following paragraph:
“(e) an order as to costs only; and”;
 - (b) in Rule 64.2(1) by inserting before the word “judge” the words registrar, master or,”;

- (c) by revoking Rule 64.3 and substituting the following Rule:

“How to appeal

64.3 (1) An appeal is made by filing a notice of appeal at a court office and is deemed to have been made on the day that it is received at the court office.

(2) The notice of appeal may be filed electronically.

(3) The notice of appeal, if filed electronically, shall be—

(a) in the format as permitted by these Rules;
and

(b) converted to PDF and be text searchable.

(4) In cases of electronic filing, the Registrar shall issue an electronic receipt to the filing Attorney-at-law.

(5) The Registrar may refuse to accept for filing any document not presented in the form required by these Rules.

(6) At least four (4) paper copies of the notice of appeal must be filed in the appropriate court office within seven (7) days of the electronic filing.”;

- (d) in Rule 64.4.(4)(b) by deleting the words “Port of Spain or Tobago as the case may be” and substituting the words “which the notice of appeal was filed”;

- (e) in Rule 64.6 by inserting after paragraph (2) the following paragraphs:

“(3) A notice of appeal filed electronically, may in so far as is practical, be served electronically by email on the parties to the proceedings or any other affected party. The Registrar must be copied in any email by which the Appellant effects service of the document.

(4) Where a document is served electronically on an Attorney-at-law for a party to the appeal to his Court registered email address, the Attorney-at-law must indicate upon receipt whether they still act for the said party and if not, make the necessary application to be removed from the record in compliance with rule 65.7.

(5) An affidavit of service must be filed within 7 days of the service of the notice of appeal, stating how service was effected whether electronically or by any other means.”;

(f) in Rule 64.9—

- (i) in sub-rule (2) by deleting the word “heard” after the words “procedural appeal is to be” and substituting the word “determined”;
- (ii) in sub-rule (3) by deleting the words “is to” and substituting the word “may”;
- (iii) in sub-rule (4) by deleting the word “28” and substituting the word “56”;
- (iv) by revoking sub-rules (5) to (8) and substituting the following sub-rules:

“(5) The written submissions in support of the appeal shall be filed within 21 days of the filing of the notice of appeal failing which the appeal shall be dismissed unless the court extends the time for the filing of the submissions.

(6) The written submissions may be filed electronically in accordance with these Rules.

(7) The written submissions in response are to be filed within 14 days of the receipt of the written submissions of the Appellant.

(8) The written submissions filed in a procedural appeal are to be formatted as follows:

- (a) bound;
- (b) paginated;
- (c) tabulated;
- (d) produced in accordance with Rule 2.11;
- (e) typed in font Courier size 12.

(9) The written submissions filed by either party in a procedural appeal are to be limited to five thousand (5000) words.

(10) Each party shall lodge with his submissions three bundles containing photocopies of the authorities upon which he will rely at the hearing which bundles are to be bounded, indexed and labelled.

(11) Each party shall mark on the photocopies of his authorities the relevant passages by a vertical line in the margin.

(12) Each bundle shall not contain more than five authorities unless the issues in the appeal justify more extensive citation.

(13) Procedural appeals may be determined without an oral hearing.

(14) At any oral hearing of a procedural appeal each party is limited to a speaking time of not more than 20 minutes inclusive of rejoinder, unless the judges decide otherwise.

(15) The judges may exercise any power of the court whether or not any party other than the appellant has filed or served a counter notice.

(16) The decision and the reasons for it may be given orally but in any event, shall be given promptly.

(17) The judges, may, however direct that the appeal be heard by the court.

(18) Such an order may only be made where the judges consider that the decision may be of general importance and affect persons, other than the parties to the particular appeal.”;

(g) in 64.11—

(a) in sub-rule (2)(b) by deleting the words “skeleton arguments” and substituting the words “written submissions”;

(b) by inserting after sub-rule (2)(b) the following sub-rules:

“(c) the written submissions filed in a substantive appeal are to be formatted as follows:

(i) bound;

(ii) paginated;

(iii) tabulated;

(iv) produced in accordance with Rule 2.11;

(v) typed in font Courier size 12;

- (d) the written submissions filed by either party in a substantive appeal are to be limited to ten thousand (10000) words unless the court directs otherwise;
 - (e) each party shall lodge with his submissions three bundles containing photocopies of the authorities upon which he will rely at the hearing;
 - (f) each party shall mark on the photocopies of his authorities the relevant passages by a vertical line in the margin.”;
- (h) in Rule 64.12 by revoking sub-rule (3) and substituting the following sub-rule:
- “(3) Where the bundle under paragraph (2) consists of 300 pages or more the appellant shall in addition to that bundle—
- (a) file three (or two as the case may be) core bundles;
 - (b) the core bundles shall comprise only such documents which the court will need to pre-read or to which it will be necessary to refer repeatedly at the appeal; and
 - (c) the core bundles must be properly bound, indexed and paginated.”;
- (i) in Rule 64.13(1) by revoking paragraph (c) and substituting the following paragraph:
- “(c) any party to the appeal fails to file or serve his written submissions, within the time limits specified by or under the relevant rule or any extension permitted by the court or any order of the court—
- (i) then any other party to the appeal may apply for the notice of appeal or counter-notice, as the case may be, to be struck out; or
 - (ii) the court may with or without an application by any party to the appeal direct that notice be served on the appellant and on any respondent who has served a counter-notice to show cause why the notice of appeal or counter-notice should not be struck out.”;

(j) in Rule 64.17 by inserting after sub-rule (2) the following sub-rule:

“(3) At the hearing of the substantive appeal the court, in addition to any other powers, shall have the power to limit—

(a) the speaking times of the respective parties inclusive of initial oral submissions and rejoinder; and

(b) the number of authorities cited that may be relevant to any issue of fact or law to be determined at the hearing of the appeal.”;

(k) in Rule 64.18(1) by inserting after the words “may hear and determine any” the words “other interlocutory or”; and

(l) in Rule 64.20(2) by inserting after the word “proceed” the words “to hear and determine the matter”.

Part 67
amended

4. Rule 67.14 of the Rules is revoked and the following rule is substituted:

“Amendment to Rule 67.14 of the CPR

67.14 Where the Court of Appeal decides to order a party to pay costs of any proceedings in the Court of Appeal, the following shall apply:

(a) where the Court of Appeal orders a party to pay the costs of any application made in the course of an appeal these costs shall be assessed by the Court of Appeal or by the Registrar if the Court so directs;

(b) where the Court of Appeal has not made an order for budgeted costs pursuant to rules 67.8 and 67.9, the costs of an appeal, where prescribed costs were applicable to the claim in the court below, shall be determined in accordance with rules 67.5, 67.6 and 67.7 and Appendix ‘B’ but the costs must be determined at two-thirds of the amount that would otherwise be allowed under Appendix ‘B’;

(c) in any other case the costs shall be assessed by the Court of Appeal or by the Registrar if the Court so directs.”.

Dated this 9th day of November, 2018.

I. ARCHIE
Chief Justice

P. JAMADAR
Justice of Appeal

C. PEMBERTON
Justice of Appeal

F. AL-RAWI
Attorney General

A. FITZPATRICK s.c.
Attorney-at-law

Attorney-at-law

N. BANSEE-SOOKHAI
Registrar