



**Guidelines to Practice and Procedure
for
Accident Compensation Appeals
in the
District Court
("ACA Practice Guidelines")**

Guidelines issued by the Chief District Court Judge

1 April 2017

Introduction

Pursuant to section 149 of the Accident Compensation Act 2001 (“the Act”) the District Court has jurisdiction to determine appeals in respect of review decisions made under the Act, as well as determining applications for leave to appeal from the District Court to the High Court.

Since 2014 the practices and procedures applied by the Court have been extensively revised in order to assist all those using the Court to have their issues dealt with in a thorough and timely way.

The purpose of the ACA Practice Guidelines is to assist all those coming before the Court by:

- setting out clear, comprehensive and coherent guidelines for practice in this jurisdiction including capturing the changes made since 2014;
- providing practical assistance to those who have not previously appeared before the Court (whether litigants personally or their representatives) by, for the first time, providing a comprehensive and practical explanation of how the accident compensation appeal process works; and
- setting out the Court’s expectations of those appearing before it.

The ACA Practice Guidelines will remain under review and will be updated as required in order to ensure the guidelines remain relevant and useful to those involved with accident compensation appeals in the District Court.

The ACA Practice Guidelines apply to all new appeals filed on or after 1 April 2017 and, with any necessary modifications, to existing appeals after that date. The ACA Practice Guidelines replace all previous practice notes.

Contents

1	Filing the appeal	1
1.1	<i>Notice of Appeal</i>	1
1.2	<i>Form of Appeal</i>	1
1.3	<i>Contact Details of Appellant</i>	1
1.4	<i>Filing of Appeal</i>	1
1.5	<i>Late Filing</i>	2
2	Filing of Other Documents	2
3	Representation	3
3.1	<i>Authority to Act</i>	3
3.2	<i>Withdrawal from Acting</i>	3
4	Notification of Other Parties	4
5	Getting the Appeal Ready for a Hearing	4
5.1	<i>Initial Minute</i>	4
5.2	<i>Initial Case Management Conference</i>	5
5.3	<i>Further Directions and/or Directions Conferences</i>	7
5.4	<i>Evidence at Appeal</i>	8
5.5	<i>Submissions</i>	9
5.6	<i>Reinstatement of an Appeal</i>	10
5.7	<i>Setting appeal down for a hearing</i>	10
5.8	<i>Alternative to a Hearing</i>	12
5.9	<i>Suppression of a party's name and details</i>	12
6	Hearings	13
6.1	<i>Procedure at the hearing</i>	13
6.2	<i>Conclusion of hearing</i>	13
6.3	<i>Settlement</i>	13
7	Judgment	14
7.1	<i>Decision on the appeal</i>	14
7.2	<i>Costs and/or Disbursements</i>	14
7.3	<i>Publishing of judgments</i>	14
8	Challenging a Judgment	14
8.1	<i>Leave to appeal</i>	14
8.2	<i>Recall of Decision</i>	16
	Appendices	18
	Appendix A: Notice of Appeal	18
	Appendix B: Authority to Act	18
	Appendix C: Notice of Application for Leave to Appeal	18

1 Filing the appeal

1.1 Notice of Appeal

An appellant brings an appeal by filing a **Notice of Appeal**¹ in the Registry.

1.2 Form of Appeal

The Notice of Appeal must be in the approved form.² The form is attached to these Guidelines as **Appendix A** and is available for download on the Accident Compensation Appeals District Court Registry (“the Registry”) website.³

A copy of any review decision being appealed must be attached to the Notice of Appeal, and the decision identified in the Notice of Appeal by entering the date and review number. The Notice of Appeal must be signed by the appellant or the representative of the appellant (See **Section 3**).

1.3 Contact Details of Appellant

The Notice of Appeal will include the contact details of the appellant. It is for the appellant to keep the Registry notified of any changes to those contact details for the duration of the appeal. Any failure to notify the Registry of changes to contact details could lead to the appellant being unaware of directions issued on the appeal and may result in the appeal being struck out for non compliance with those directions (see **Section 5.3**).

1.4 Filing of Appeal

The Notice of Appeal can be hand delivered, posted, couriered or emailed to the Registry as long as it is actually received by the Registry within the time specified:

- (a) In the case of review decisions - within 28 days after the date on which the reviewer gives a copy of the review decision to the appellant;⁴ or

¹ Section 151(1) of the Accident Compensation Act 2001 (“2001 Act”)

² Injury Prevention, Rehabilitation and Compensation (Review Costs and Appeals) Regulations 2002, Regulation 6 - 7 and Schedule 2

³ www.justice.govt.nz/tribunals/accident-compensation/appeals-district-court-registry/how-to-apply/

(b) In the case of deemed review decisions - within 28 days of the expiry of three months after a review has been applied for and the review has not been set down for hearing.

It is not sufficient for the Notice of Appeal to have only been posted or couriered by the specified date.

The address details for the Registry are:

Postal: Accident Compensation Appeals District Court Registry
Private Bag 32-001
Featherston Street
Wellington 6146

Physical Accident Compensation Appeals District Court Registry
Level 1
86 Customhouse Quay
Wellington 6011

Email: tribunals@justice.govt.nz

1.5 Late Filing

If, for any reason, an appeal is filed late leave must be sought from the Court to file the appeal.⁵ This means providing an explanation to the Court at the time the appeal is filed. If an explanation is not provided then one will be requested by the Court when the **Initial Minute** is issued (see **Section 5.1**). The Court will then seek comment on the explanation from the other party or parties and advise when and how the issue will be considered.

2 Filing of Other Documents

Any other document required to be filed by a party from time to time until the appeal has been determined can be hand delivered, posted, couriered or emailed to the Registry as long as it is actually received by the Registry within the time specified in

⁴ 2001 Act Section 151(3)(a)

⁵ 2001 Act Section 151(3)(c)

the Act, or in the event that there is no timetable provided in the Act, as otherwise specified in any direction issued by a judge.

3 Representation

3.1 Authority to Act

A party may represent themselves in the appeal or be represented by an advocate or lawyer acting on their behalf. If a representative is engaged by a party other than the Corporation, the party must complete and file an **Authority to Act** form, attached as **Appendix B**, available to be downloaded from the Registry website.⁶

Once the Authority to Act has been filed the representative can:

- (a) Access personal information relating to the party's case;
- (b) Receive correspondence relating to the case; and
- (c) Act on behalf of an appellant in all matters relating to the case.

Personal information about a party can only be provided by the Registry and/or Corporation to the representative if the Authority to Act has been completed.

An Authority to Act can be terminated at any time if the party advises the Registry in writing that the authority is at an end.

3.2 Withdrawal from Acting

In the event that a representative seeks to withdraw from acting for a party the representative is to file a memorandum seeking leave to withdraw. The memorandum is to set out:

- (a) The reason that leave to withdraw as a representative is sought;
- (b) Confirming the current timetable directions in place and whether the party has been made aware of those directions; and

⁶ www.justice.govt.nz/accident-compensation/appeals-district-court-registry/how-to-apply/

(c) The current address details for the party.

The application will be referred to a judge and directions issued. In the event a representative subsequently receives instructions to recommence acting for the party a new Authority to Act will have to be completed and filed with the Registry (see **section 3.1**).

4 Notification of Other Parties

All parties who participated in the review hearing will be notified of the appeal and the requirements for participation in the appeal through service of the **Initial Minute** (see **Section 5.1**).

In the event that a party participated in the review hearing is served with an Initial Minute and does not wish to participate in the hearing of the appeal, that party is to advise the Registry as soon as possible and a minute will be issued confirming that the party is no longer participating in the appeal.

In the event that a party had a right to be present and heard at the hearing of the review but did not do so or contact details were unavailable to the Registry as at the date of the Initial Minute, that party will be notified of the appeal through a **Supplementary Minute** when the relevant information on their status has been provided by the Corporation as required by the Initial Minute. That party will then have the option of participating in the appeal if they comply with the directions for filing submissions set out in the Supplementary Minute or any other relevant directions issued by a judge in relation to the appeal.

5 Getting the Appeal Ready for a Hearing

5.1 Initial Minute

Once an appeal has been filed an **Initial Minute** will be issued by a judge setting out directions to enable the appeal to be heard. The Initial Minute:

(a) Formally registers the appeal;

- (b) Notifies the respondent of the filing of the appeal and directs that the Registry provide a copy of the Notice of Appeal to the respondent; and
- (c) Provides an Appeal Court Registry (ACR) number by which the appeal can formally be identified.

In addition, the Initial Minute will:

- (a) Advise the parties of the initial case manager for the appeal;
- (b) Require the Corporation to provide the names and contact details of any person who had a right to be present and heard at the hearing of the review (other than the appellant);
- (c) Require the Corporation to provide the Registry with the information set out in s 154(1) of the Act (“ the Review File ”) within 20 working days of the initial minute being provided to the Corporation;
- (d) Direct that an **Initial Case Management Conference** (see **Section 5.2**) is to be convened not less than two months after the filing of the appeal.
- (e) Confirm that the transcript of the review hearing will be placed on the Court file as soon as it is received from the Corporation, and in the event it is unavailable for any reason the parties will be advised.

If the appeal has been filed late (see **Section 1.5**), the Initial Minute will also require an explanation to be provided for the late filing of the appeal.

If parties other than the claimant and the Corporation are already involved in the appeal, the Initial Minute will also set out directions that rely on parties to follow if they wish to participate in the hearing of the appeal.

5.2 Initial Case Management Conference

Following the Issue of the Initial Minute parties will be advised by the Registry of the date and time of the Initial Case Management Conference and whether attendance is required by telephone or in person.

The purpose of the Initial Case Management Conference is to enable the judge:

- (a) to identify, define, and refine the issues requiring determination at the hearing of the appeal
- (b) to determine what steps need to be taken in order to prepare the appeal for hearing; and
- (c) to decide how best to facilitate the hearing of the appeal.

To achieve these objects the parties will be expected to be able to discuss the following **Case Management issues** at the conference:

- (a) the issues requiring to be determined in the appeal;
- (b) whether **New Evidence** (see **Section 5.4**) is required to be produced before the appeal can be set down for hearing and if so a timetable for the production and filing of that evidence; and/or
- (c) the timetabling of **Submissions** (see **Section 5.5**).

Once the Initial Minute has been issued the parties are to attempt to discuss the Case Management Issues prior to the conference. If agreement is reached the answers to the Case Management Issues are to be recorded in a joint memorandum on behalf of the parties, filed no less than five working days prior to the Initial Case Management Conference. If the judge before whom the Initial Case Management Conference has been convened is satisfied that no further information is then required, directions will be issued to the parties and the Initial Case Management Conference will not need to proceed.

If no agreement is reached each party is to set out its view of the Case Management Issues in writing and file that no less than three working days prior to the Initial Case Management Conference. The conference will then proceed and, following discussion with the parties, the judge will issue directions at the conference, which in addition to setting out a timetable for the filing of further evidence and submissions to enable the appeal to be set down for hearing, may set a date for a **Directions Conference** (see **Section 5.3**) to enable the timetable to be monitored.

5.3 Further Directions and/or Directions Conferences

In the event that a party has not complied with the directions issued in the Initial Minute, Initial Case Management Conference, or any other direction made by a judge at any point, or there are outstanding applications by a party or the parties, or the appeal otherwise raises complex issues, the appeal is to be referred to a judge for directions.

The judge will issue **Further Directions** addressing the particular issue or issues arising and/or will convene a **Directions Conference** to enable the parties and the judge to discuss the outstanding issues before the judge issues Further Directions. The Further Directions will be recorded in a minute issued by the judge and provided to the parties. Examples of the types of issues that can be addressed include:

- (a) Granting an adjournment;
- (b) Enlarging or extending an existing timetable;
- (c) Granting leave for a party to obtain further evidence;
- (d) Specifying dates for filing of further evidence and/or submissions;
- (e) Granting leave for evidence to be presented at appeal or to cross-examine a witness;
- (f) Facilitating discussions between expert witnesses prior to the hearing of the appeal (Hot Tubbing);
- (g) Directing where and/or when an appeal is to be heard and how much time should be set aside for the hearing;
- (h) Determining if counsel should be appointed to assist the Court (amicus curiae);
- (i) Determining if an assessor should be appointed pursuant to section 157 of the Act;

- (j) Directing that an appeal is to be dismissed if by a certain date a Court direction is not complied with by the appellant;
- (k) Directing that an appeal is struck-out for failure of the appellant to comply with a direction; and/or
- (l) Ordering costs if a party fails to comply with a direction.

The Further Directions may determine the issue or require either or both parties to take specified steps by a certain date, including filing submissions on the particular issue under consideration.

If a Directions Conference is necessary the parties will be advised by the Registry of the date and time of the conference and whether attendance is required by telephone or in person.

5.4 Evidence at Appeal

As the appeal in the District Court proceeds by way of rehearing there is normally a significant amount of evidence already available at the time the appeal is filed. Although a copy of the Review File is provided by the Corporation to the Registry (see **Section 5.1**), because the issues at appeal are often different or have developed further since the review, the entire review file is not placed on the Court file as a matter of course, although the review transcript is.

New Evidence (including medical reports or statements of evidence of any sort created subsequent to the review) requires the leave of the Court before it can be filed in Court and relied upon at the hearing of the appeal. In practice, leave is generally given so that the judge has the benefit of all relevant material at the hearing of the appeal, subject to the following procedure:

- (a) Any party seeking to call additional evidence must advise the Registry and the other party of its intention to do so;
- (b) When the additional evidence becomes available it must be filed with the Registry and provided to the other party;

- (c) If the other party objects to the additional evidence the question of whether leave should be given to rely upon the additional evidence is to be referred to a judge for directions.

All evidence relevant to the appeal intended to be relied on by any party, whether available at review or created subsequently, is to be provided to the Court by way of an indexed **Bundle of Documents** to be filed 5 working days before the hearing of the appeal. The Bundle of Documents is to contain an index and be paginated. Responsibility for preparing the Bundle of Documents rests with the appellant's representative or the Corporation when the appellant is self-represented. The party responsible for preparing the Bundle of Documents must, insofar as practical, include copies of all documents requested by the other party, with such requests being made 10 working days prior to the hearing of the appeal. In the event that the party responsible for preparing the Bundle of Documents refuses to include any particular documents requested by the other party, the other party may file those documents with the Court 5 working days before the hearing of the appeal.

Evidence (whether medical or other specialist reports or evidence of a party) is normally taken as read by the Court when the appeal is heard. If a party wishes to have a witness present evidence in person at the Court hearing or to cross-examine a witness who has prepared a report before the Court, an application must be made prior to hearing and the application will be referred to a judge for directions.

5.5 Submissions

The purpose of the submissions required before the appeal is set down for hearing is to ensure the judge hearing the appeal and/or other parties are fully informed of each party's case. Although there is no particular format that must be followed, it is important as much as possible the submissions:

- (a) Identify the points in support of the case and identify where in the evidence those points are supported;
- (b) Identify any statutory provisions which the party relies on;
- (c) Identify any previous Court decisions which are relied upon; and

(d) Otherwise identify matters the party considers to be important to its case.

As the appeal in the District Court proceeds by way of rehearing, the Judge is able to consider the substance of the issues raised by a party and it is not necessary to look in detail whether the review decision is correct. For the same reason, issues regarding the procedure followed at review will generally not be relevant.

5.6 Reinstatement of an Appeal

If an appeal is struck out or dismissed for failure to comply with a direction of a judge made before the hearing of the appeal it will remain dismissed unless the appellant successfully applies for reinstatement of the appeal. An application for reinstatement should be made as soon as possible after an appeal has been struck out or dismissed. An application for reinstatement should address the following points:

- (a) Confirming the appellant wishes the appeal to be reinstated;
- (b) Setting out why the appellant was unable to comply with the order that led to the appeal being struck out or dismissed;
- (c) Confirming whether the order has now been complied with or when the order will be complied with;
- (d) Stating whether there is any prejudice to any other party if the appeal is reinstated; and
- (e) Any other relevant matters.

The application will then be referred to the other party for a response before being placed before a judge to decide if the appeal should be reinstated. In the event the application is successful the judge may direct that the reinstatement is made on conditions, which may include a costs order in favour of the other party.

5.7 Setting appeal down for a hearing

Once any new evidence and all submissions have been filed, and unless otherwise agreed by the parties, the appeal will be set down for hearing in the next available

hearing week located closest to the claimant's place of residence, whether or not the claimant is the appellant or a respondent.

The hearing programme for each year is published on the Registry website.⁷ This is subject to change as further hearing weeks may be scheduled in the course of the year.

If there is no suitable hearing week available, the Registry will liaise with the parties as to what other hearing weeks in other centres are available which may be suitable to enable the appeal to be heard without delay.

Likewise, even if a hearing week is set down but there is no confirmed hearing slot immediately available, the appeal may be listed by the Registry as a **Back-up Hearing** in that hearing week. If an appeal is listed as a Back-up Hearing it will only proceed if another appeal already set-down in the same hearing week does not proceed. Back-up Hearings will not proceed without 48 hours notice to the parties.

If a party is not available for a particular hearing week, whether for a confirmed hearing or a Back-up Hearing, they are to advise the Registry immediately and request an adjournment of the hearing, setting out in detail the reasons that they are unable to attend the hearing. The request for adjournment will then be referred to a judge for directions.

In addition, if any party has any special requirements for the hearing of the appeal the Registry is to be advised as soon as possible so these matters can be resolved prior to hearing and, if necessary, referred to a judge for determination. Examples of special requirements include:

- (a) Requirements for interpreters;
- (b) Any medical issues that may affect a party's participation in the appeal;
- (c) Any need for specific equipment (e.g. requirements for a DVD player or other data projection equipment);

⁷ www.justice.govt.nz/tribunals/accident-compensation/appeals-district-court-registry/

- (d) Any special arrangements required for the presentation of evidence including collaborative presentation of evidence by competing expert witnesses; and/or
- (e) Any need for a party or a witness to attend by audiovisual or telephone link.

5.8 Alternative to a Hearing

An appeal that is otherwise ready for hearing may be determined on the papers if both parties consent to the appeal being determined without the need for a hearing.

If a party wishes to have the appeal determined without the need for a hearing they should advise the Registry once all submissions have been filed. The Registry will then ascertain the position of the other party, and in the event both parties agree a hearing is not necessary, the appeal will be referred to a judge who will make a final determination as to whether or not it is necessary for a hearing to take place.

5.9 Suppression of a party's name and details

If a judge considers it is necessary and appropriate to protect the privacy of a party to the appeal (other than the Corporation), a person entitled to appear and be heard, or a witness, then pursuant to section 160 of the 2001 Act, a judge can make an order forbidding the publication of:

- (a) Specific evidence presented in an appeal;
- (b) Submissions made at the hearing;
- (c) The name, address or occupation, or particulars likely to lead to the identification of the party, person entitled to appear, or witness.

Given the nature of accident compensation appeals the need for details to be suppressed may arise at any time. In the event a party or their representative considers that a suppression order is necessary they should advise the Registry, or if in hearing, the judge, immediately, setting out the reasons for the request.

The judge hearing the appeal retains a discretion to suppress details at any time as the judge considers necessary and appropriate, even if no party has made an application for suppression.

6 Hearings

6.1 Procedure at the hearing

When the appeal is called, the hearing begins with both parties introducing themselves to the judge hearing the appeal.

If it has previously been determined that evidence is to be presented or cross examination is to occur, such evidence will be presented and witnesses made available for cross examination at the beginning of the hearing.

If there is no evidence to be produced or any witness has completed giving evidence, submissions on behalf of the appellant will be presented to the judge followed by submissions on behalf of the respondent, with the appellant having a final right of reply at the conclusion of the hearing.

6.2 Conclusion of hearing

In the event issues arise at hearing that require further matters for the parties to address, directions will be issued by the Judge at the end of the hearing. In such situations the hearing will not conclude until those additional directions have been complied with.

Otherwise, the Judge will confirm that the hearing has concluded and advise that judgment on the appeal is formally reserved. In most cases, the judge will aim to issue a judgment within 3 months of the conclusion of the hearing.

6.3 Settlement

In the event that an appeal settles after the conclusion of the hearing and before judgment is issued, the parties are to advise the Registry in writing as soon as possible.

7 Judgment

7.1 Decision on the appeal

When completed the judge's decision on the appeal, the **Judgment**, will be in writing and will be forwarded to the parties as soon as it is issued, both electronically and by mail.

In most cases, the judgment will determine all issues in the appeal but in some cases the judge will specify that it is an interim judgment and further steps are required by the parties before a final judgment can be issued.

7.2 Costs and/or Disbursements

The judgment will also specify whether any costs are payable by any party to the appeal. The judge has a discretion to award costs and/or disbursements and in some cases will specify an amount to be paid but more usually the judge will indicate whether costs are payable and by which party, and provide an opportunity for the parties to reach agreement. If agreement cannot be reached on the amount of costs and/or disbursements the judge will make a determination following receipt of further submissions from the parties.

7.3 Publishing of judgments

All judgments will be published in the New Zealand Accident Compensation Appeals Section of the New Zealand Legal Information Institute website which is publicly available.⁸

8 Challenging a Judgment

8.1 Leave to appeal

A party to an appeal who is dissatisfied with the decision of the District Court can seek to appeal to the High Court. In order to appeal to the High Court a party must apply to the District Court for leave to appeal. There is no general right to appeal

⁸ <http://www.nzlii.org/cgi-bin/sinodisp/nz/cases/NZACC/>

merely because a party disagrees with the District Court decision. Leave will only be granted where there is an issue of law capable of bona fide and serious argument.⁹

Leave must be sought within 21 days of the decision.¹⁰ There is no set form for seeking leave only that the party applying must advise the Registry in writing that they wish to appeal the District Court judgment. However, the party seeking leave to appeal can use the **Notice of Application for Leave to Appeal** form set out in **Appendix C**.

If an application for leave to appeal is not filed within the 21 days, it can only be accepted if the other party agrees to the late filing of the application.¹¹

When an application for leave to appeal is filed, a **Leave to Appeal Initial Minute** will issue from a judge advising:

- (a) Confirm the filing of the application for leave to appeal;
- (b) Notify the respondent of the filing of the application;
- (c) Set a date for filing of submissions on the application. The Minute will specify that:
 - (i) The applicant will have six weeks (42 days) to file submissions after the application is filed;
 - (ii) The respondent will have six weeks (42 days) to file submissions after the applicant's submissions are filed; and
 - (iii) The applicant will have two weeks (14 days) to file reply submissions after the respondent's submissions are filed.
- (d) Confirm that once submissions are filed the application for leave to appeal will be determined by a judge on the papers; and

⁹ 2001 Act Section 162(1) and *Impact Manufacturing v ARCIC* (unreported, High Court, Wellington, per Doogue J, AP266/00, 6 July 2001).

¹⁰ 2001 Act Section 162(2)

¹¹ Section 3 of the Inferior Courts Procedure Act 1909

- (e) Note that if submissions are not filed as directed the application will be referred to a judge for further directions, including setting the application down for directions conference or striking out the application for want of prosecution.

The practice is that the judge determining the leave to appeal application will not generally be the same judge who issued the judgment from which leave is sought to appeal unless there are good reasons in the opinion of the judge who issued the judgment to deal with the application for leave to appeal.¹²

When a judge determines the application on the papers a judgment on the leave application will be issued, setting out the reasons for either granting leave to appeal or declining leave to appeal. In the event that leave is granted to appeal, the judge will identify a question or questions of law for the High Court to consider when the appeal is heard.

If the District Court refuses to grant leave to appeal, an application may be made to the High Court for special leave to appeal.¹³

If leave to appeal or special leave to appeal is granted in either the District Court or the High Court, a notice of appeal will then need to be filed in the High Court.

8.2 *Recall of Decision*

When a judgment has been issued and before the time limit for seeking leave to appeal has expired, in limited circumstances a party can apply to have the judgment recalled.

The three categories of cases where a judgment can be recalled are:

- (a) Where, since the judgment, there has been an amendment to a relevant statute, regulation, or new judicial decision of higher authority;

¹² See for an example *Vehicle Testing New Zealand v Accident Compensation Corporation* [2015] NZACC 154

¹³ 2001 Act Section 162(3)

- (b) Where counsel have neglected to direct the Court's attention to a statute, regulation or judicial decision of plain relevance; and
- (c) Where for some other special reason justice requires the judgment be recalled.¹⁴

Any application to recall will specify the category of recall applicable to the application and the reason the judgment should be recalled. Once an application for recall is made, it will be referred to the judge who heard the appeal for consideration. The judge has the option of issuing further directions for filing submissions or can determine the application on the papers.

A decision on a recall application is separate from any decision whether leave to appeal against the judgment should be granted.

Judge Jan-Marie Doogue
Chief District Court Judge
1 April 2017

¹⁴ *Horowhenua County v Nash (No 2)* [1968] NZLR 632

Appendices

Appendix A: **Notice of Appeal**

Appendix B: **Authority to Act**

Appendix C: **Notice of Application for Leave to Appeal**