

CIVIL PRACTICE DIRECTIVE NO. 1

Effective July 1, 2016

Civil Practice Directive No. 1 (November 1, 2009) is cancelled and the following substituted therefore:

1. The Law Society of Saskatchewan's *Code of Professional Conduct* prohibits a lawyer from appearing as advocate in a proceeding in which the lawyer has submitted his or her own affidavit, except in the following three situations:
 - (a) if the law, the tribunal, the rules of court, or the rules of procedure of the tribunal expressly permit a lawyer's appearance despite his or her submission of an affidavit;
 - (b) if the matter deposed to in the affidavit is purely a formal one;
 - (c) if the matter deposed to in the affidavit, although not a mere formality, is uncontroverted, that is, not in issue.
2. What is and what is not a formal matter is usually readily ascertainable but will nevertheless have to be determined by the circumstances of each case.
3. What is uncontroverted may be determined readily by inquiry of the opposing party. If there is no opposing party, the matter in all likelihood is not controverted.
4. The lawyer who submits an affidavit and who intends to appear as advocate in the proceeding should state in the affidavit which of the three exceptions he or she relies on to permit his or her appearance.
5. If the lawyer fails to so state in the affidavit, he or she should state the exception at the beginning of the argument in Chambers.
6. The same principles apply, with any necessary modification, to a lawyer appearing as advocate if he or she does not submit an affidavit but testifies in open court.
7. If the Court considers it to be in the interests of justice, the Court may, on application, grant leave to a lawyer to appear as advocate notwithstanding the rule of conduct in question.

NOTE: This Practice Directive is issued by the Court under the authority of *The Court of Appeal Act, 2000* and Rule 74 of *The Court of Appeal Rules*.

Melanie Baldwin, Registrar
Court of Appeal for Saskatchewan