

PROCEDURAL CHARTS

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The following charts set out the steps to be taken in the principal proceedings under the *Federal Courts Rules*.

A — Procedural Steps in a Typical Action

[Note: The chart below does not include the special provisions for class actions (rules 334.1-334.4), simplified actions (rules 292-299) or admiralty actions (rules 475-500). To avoid repetition, the chart below omits mention of the requirement of rule 206 that a party serve a copy of every document that is referred to in its pleading at the same time the pleading is served or within 10 days thereafter.]

Who	Does What	When
Plaintiff	Files a statement of claim in Form 171A and serves it on the defendant: rules 63(1)(a) and 171(a)(i).	Within 60 days of the issuance of the statement of claim: rule 203(1). Proof of service must be filed within a further 30 days if service was effected in Canada; 40 days if in the U.S.A.; and 60 days if elsewhere: rules 203(2) and 204.
		The statement of defence, including any counterclaim against a person already a party to the action, must be served within 30 days of service of the statement of claim if the defendant was served in Canada; 40 days if served in the U.S.A.; and 60 days if served elsewhere: rules 204 and 207.

Who	Does What	When
Defendant	Serves and files a statement of defence in Form 171B; rule 171(a)(ii). Includes any counterclaim (in Form 171D, if made against persons who are already parties to the action, or Form 171E if, pursuant to rule 191, a person who is not already a party is joined as a defendant to the counterclaim) in the same document as the statement of defence; rules 171(b)(i) and 189(2).	Where a non-party is joined as a defendant to a counterclaim, the statement of defence and counterclaim must be issued within the time set out in rule 204 and served within 30 days of issuance: rule 191(2).

Makes any third party claim against a co-defendant in Form 171H, or against a non-party in Form 171I: rules 171(c)(i) and 193. Serves any non-party with a copy of all pleadings in the action: rule 196(2).

Plaintiff

Serves and files a reply in Form 171C: rules 171(a)(iii) and 205. Where there is a counterclaim, the plaintiff's reply and defence to counterclaim must be in Form 171G and be included in the same document as the reply: rules 171(b)(iii) and 192(2).

Defendant by Counterclaim

Serves and files a defence to counterclaim in Form 171F: rules 171(b)(ii) and 192(1).

Plaintiff by Counterclaim

Serves and files reply to defence to counterclaim in Form 171G: rules 171(b)(iii) and 192(2).

Who	Does What	When
Third Party	Serves and files a third party defence in Form 171J: rules 171(c)(ii) and 197(1).	Within 30 days of service of the third party claim if the third party was served in Canada; 40 days if served in the U.S.A.; and 60 days if served elsewhere: rules 197(1) and 204.
Defendant	Serves and files reply to third party defence in Form 171K: rule 171(c)(iii).	Within 10 days after service of the third party defence: rule 205.
Administrator	If no statement of defence has been filed and no motion for default judgment is pending, issues a notice of status review in Form 380: rule 380	After 180 days have elapsed since the issuance of the statement of claim: rule 380(1)(a)(i).
All Parties	Serve an affidavit of documents in Form 223 on every other party: rule 223.	Within 30 days after the close of pleadings (as determined under rule 202): rule 223(1).
Any Party	May serve a request to admit facts or documents in Form 255 on an adverse party: rule 255.	Within 30 days of the close of pleading (as determined by rule 202): rule 255.
Party on Whom a Request to Admit is Served	Serves a response to the request in Form 256 where it wishes to deny a fact or the authenticity of a document set out in the request to admit: rule 256.	Within 20 days after service of the request to admit: rule 256.
Any Party	Conducts an examination for discovery of an adverse party: rule 236.	After pleadings have closed and the examining party has served its affidavit of documents or the adverse party consents to examination prior to the affidavit being served: rule 236.
All Parties	Conduct settlement discussions: rule 257.	Within 60 days after the close of pleadings: rule 257.

B — Procedural Steps in a Typical Simplified Action			
[Note: To avoid repetition, the chart below omits mention of the requirement of rule 294 that every pleading in a simplified action be headed "Simplified Action", and of rule 206 that a party serve a copy of every document that is referred to in its pleading at the same time the pleading is served or within 10 days thereafter.]			
Who	Does What	When	When
Any Party Ready for Trial	If not in default under the Rules or an order of the Court, serves and files a requisition for a pre-trial conference in Form 258 accompanied by a pre-trial conference memorandum and all reports of expert witnesses: rules 258 and 279.	After the close of pleadings: rule 258(1).	
Court	Fixes time and place for pre-trial conference: rule 259.	Not more than 60 days after the filing of the requisition: rule 259.	Plaintiff Service must be effected within 60 days of the issuance of the statement of claim: rule 203(1). Proof of service must be filed within a further 30 days if service was effected in Canada; 40 days if in the U.S.A.; and 60 days if elsewhere: rules 203(2) and 204.
Parties Other Than Requisitioning Party	Serve and file pre-trial conference memoranda, including reports of expert witnesses: rules 258(3), 258(4), 262 and 279.	Within 30 days after service of the requisition: rule 262.	
Court	Fixes date and place of trial: rule 264.	At the pre-trial conference: rule 264.	Defendant Serves and files a statement of defence in Form 171B: rule 171(a)(ii).
Plaintiff	Serves and files trial record: rule 268.	Not later than 40 days before trial: rule 268.	
Any Party	Makes any demonstrative evidence to be adduced at trial available for inspection by other parties: rule 287.	At least 30 days before trial: rule 287.	Plaintiff Serves and files a reply in Form 171C: rules 171(a)(iii) and 205.
Court	If no party has filed a requisition for a pre-trial conference, fixes time and date for a status review: rule 380.	After 360 days have elapsed since the issuance of the statement of claim: rule 380(1)(b).	Administrator If no statement of defence has been filed and no motion for default judgment is pending, issues a notice of status review in Form 380: rule 380.
			Any Party Brings an interlocutory motion.
			All Parties Serve either an affidavit of documents in Form 223 or a list of documents on every other party: rules 223 and 295.
			Unless it falls within the exceptions in rule 298(2) and (3), only at the pre-trial conference: rule 298(1).
			Within 30 days after the close of pleadings (as determined under rule 202): rule 223(1).

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Who	Does What	When
Any Party	May serve a request to admit facts or documents in Form 255 on an adverse party: rule 255.	Within 30 days of the close of pleadings: rule 255.
Party on Whom a Request to Admit is Served	Serves a response to the request in Form 256 where it wishes to deny a fact or the authenticity of a document set out in the request to admit: rule 256.	Within 20 days after service of the request to admit: rule 256.
Any Party	Conducts an examination for discovery of an adverse party in writing only, limited to 50 questions: rules 236 and 296.	After pleadings have closed and the examining party has served its affidavit of documents, or where the adverse party consents to examination prior to the affidavit or list being served: rule 236.
All Parties	Conduct settlement discussions: rule 257.	Within 60 days after the close of pleadings: rule 257.
Any Party Ready for Trial	If not in default under the Rules or an order of the Court, serves and files a requisition for a pre-trial conference in Form 258 accompanied by a pre-trial conference memorandum: rule 258.	After the close of pleadings: rule 258(1).
Court	Fixes time and place for pre-trial conference: rule 259.	Not more than 60 days after the filing of the requisition: rule 259.
Parties Other Than Requisitioning Party	Serve and file pre-trial conference memoranda: rules 258(3), 258(4) and 262.	Within 30 days after service of the requisition: rule 262.
Court	Fixes date and place of trial: rule 264.	At the pre-trial conference: rule 264.
All Parties	Serve all reports of expert witnesses: rule 299(1.1).	At least 60 days before trial: rule 299(1.1)(b).

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Who	Does What	When
Plaintiff	Serves and files trial record: rule 268.	Not later than 40 days before trial: rule 268.
All Parties	Serve all rebuttal reports of expert witnesses: rule 299(1.2).	At least 30 days before trial: rule 299(1.2).
Plaintiff	Serves and files all affidavits of evidence to be adduced at trial: rule 299(1).	At least 20 days before trial: rule 299(1)(a).
Defendant	Serves and files all affidavits of evidence to be adduced at trial: rule 299(1).	At least 10 days before trial: rule 299(1)(b).
Court	If no party has filed a requisition for a pre-trial conference, fixes time and date for a status review: rule 380.	After 360 days have elapsed since the issuance of the statement of claim: rule 380(1)(a)(ii).

C — Procedural Steps in a Typical Motion

[Note: On a motion for summary judgment or summary trial, for an interlocutory injunction, for the determination of a question of law, or for the certification of a proceeding as a class proceeding the motion record referred to in the chart below must contain a rule 70 memorandum of fact and law instead of the written representations required by rules 364(2) and 365(2): rule 366. Similarly, rules 353(2) and 354 require the parties to file memoranda of fact and law on a motion for leave to appeal.]

Who	Does What	When
Moving Party	Serves (unless the motion is <i>ex parte</i> : rule 361) and files a notice of motion in Form 359 together with an affidavit establishing any facts relied on that do not appear on the Court file: rules 359 and 363. The notice of motion may include a request that the motion be decided on the basis of written representations: rule 369(1). The notice of motion and affidavit may be included in a motion record, 3 copies of which must be filed: rules 364 and 367.	At least 2 days before the hearing unless the motion is to be dealt with in writing: rule 362(1). Summary judgment or summary trial motions must be served 20 days before the hearing: rule 213(3). Certification motions must be served 14 days before the hearing or, in immigration cases, at the time fixed by the case management judge: rule 334.15(1). Certification motions must also be returnable within the time limits set in rule 334.15(2) and (3).

Who	Does What	When
Responding Party	Serves and files affidavit establishing any facts relied on that do not appear in the Court file: rule 363.	Prior to cross-examining an adverse party: rule 84(1). On certification motions, at least 5 days before the hearing: rule 334.15(4).
Any Party	Cross-examines an adverse party's deponent by serving a direction to attend in Form 91 on the person to be examined and a copy on every other party: rules 83 and 91(1).	After the cross-examining party has served on all other parties every affidavit on which the cross-examining party intends to rely: rule 84(1).
Cross-Examining Party	Files transcript of cross-examination: rule 368.	Any time before the hearing of the motion: rule 368.
Moving Party	If the notice of motion and affidavit were not included in a motion record, serves (unless the motion is <i>ex parte</i> : rule 361) a motion record and files 3 copies: rule 364.	At least 2 days before the hearing: rule 364(3). On a summary judgment or summary trial motion, 20 days before the hearing: rule 213(3).
Respondent	Serves and files 3 copies of the respondent's motion record: rule 365. On a motion in writing, the written representations or memorandum of fact and law may contain respondent's objections to disposition of the motion in writing: rule 369(2).	Not later than 2:00 p.m. on the last business day before the hearing: rule 365(1). On a summary judgment or summary trial motion, 10 days before the hearing: rule 213(4). On a motion in writing, within 10 days of service of the moving party's motion record: rule 369(2).
Moving Party on a Motion in Writing	Serves and files written representations in reply: rule 369(3).	Within 4 days of service of the respondent's motion record: rule 369(3).
Court on a Motion in Writing	Disposes of motion or fixes a time and place for oral hearing: rule 369(4).	On the filing of moving party's reply or the period allowed for it: rule 369(4).

D — Procedural Steps in a Typical Application

[Note: These procedural steps apply to applications originating in both the Federal Court of Appeal and the Federal Court. Applications under the *Patented Medicine (Notice of Compliance) Regulations* have certain special procedural provisions which are found at section 6 of the Regulations. Applications for judicial review in immigration matters are governed by the *Federal Courts Immigration and Refugee Protection Rules*.]

Who	Does What	When
Applicant	Files a notice of application in Form 301 and serves it on the respondent and other persons required to be served by the Rules: rules 63(1)(d), 301 and 304(1). Serves and files proof of service: rule 304(3).	Service to be effected within 10 days of the issuance of the notice of application: rule 304(1). Proof of service must be filed within a further 10 days: rule 304(3).
Respondent	If it intends to oppose the application, serves and files a notice of appearance in Form 305: rule 305. If it intends to support the application, applies to be joined as an applicant (rule 104) or seeks intervener status (rule 109).	Within 10 days of service of the notice of application: rule 305.
Any Party	Serves and files written request for material in the possession of the tribunal on the tribunal and other parties: rules 317(1) and 317(3).	Applicant may include request in its notice of application: rule 317(2).
Tribunal	Transmits certified copy of requested material to the Federal Court Registry and the requesting party: rule 318(1). Where tribunal objects to request, informs all parties and Administrator in writing: rule 318(2).	Within 20 days of service of the request: rule 318(1).
Party other than requesting party	Informs other parties, tribunal and Administrator in writing of objection to request for material in possession of tribunal: rule 318(2).	Before transmittal of material by tribunal.
Applicant	Serves its supporting affidavits and documentary exhibits and files its proof of service: rule 306.	Within 30 days of issuance of notice of application: rule 306.

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Who	Does What	When
Respondent	Serves any supporting affidavits and documentary exhibits and file its proof of service: rule 307.	Within 30 days after service of applicant's affidavits: rule 306.
Any Party	Cross-examines on affidavits: rule 308.	Within 20 days after filing of respondent's affidavits or the expiration of the time for doing so: rule 308.
Applicant	Serves and files applicant's record: rule 309(1).	Within 20 days after completion of all parties' cross-examinations or the expiration of the time for doing so: rule 309(1).
Respondent	Serves and files respondent's record: rule 310(1).	Within 20 days after service of applicant's record: rule 310(1).
Any party	Applies for order requiring Registry to prepare its record: rule 311(1).	
Any party	Applies for leave to file additional affidavits, conduct additional cross-examinations or file supplementary record: rule 312.	After original steps have been taken.
Court	Orders additional material to be filed: rule 313.	After filing of applicant's and respondent's records.
Applicant	Serves and files a requisition for hearing in Form 314: rule 314(1).	Within 10 days of service of respondent's record or the expiration of the time for doing so: rule 314(1).
Court	Orders pre-hearing conference: rule 315.	
Any party	Applies for leave to have witness testify in court on application: rule 316.	

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Who	Does What	When
Federal Court	Issues notice of status review in Form 380 or orders that application proceed as specially managed proceeding: rule 380(2).	After 180 days have elapsed since the issuance of the notice of application and no requisition for hearing has been filed: rule 380(2).
Federal Court of Appeal	Issues notice of status review in Form 382.2 rule 382.2.	After 180 days have elapsed since the issuance of the notice of application and no requisition for hearing has been filed: rule 382.2.
Administrator	Returns original material received from tribunal: rule 319.	After application has been heard: rule 319.
All parties	Retain original affidavits not filed as part of record.	For one year after expiry of all appeal periods: rules 309(3), 310(3).

E — Procedural Steps in a Typical Appeal

[Note: The steps in the chart below are required in appeals to both the Federal Court and Federal Court of Appeal. To avoid repetition, the chart omits mention of the requirement of rules 345 and 346(5) that 3 copies of a memorandum of fact and law are to be filed on an appeal to the Federal Court, and 5 copies on an appeal to the Federal Court of Appeal.]

Who	Does What	When
Appellant	Issues a notice of appeal in Form 337 (or, in an appeal from the Tax Court, Form 337.1), naming as respondent the persons identified in rule 338(1), and serves it on the respondent and any other person specified in rule 339(1): rules 337, 337.1 and 338(1).	Service must be effected within 10 days of issuance of the notice of appeal, unless the statute authorizing the appeal provides otherwise. Proof of service must be filed within 10 days of service: rule 339.
Respondent	Serves and files either a notice of appearance in Form 341A or a notice of cross-appeal in Form 341B: rule 341(1) and (2).	Within 10 days after service of the notice of appeal: rule 341(1).
Parties	Agree in writing as to the contents of the appeal book and file the agreement: rule 343(1).	Within 30 days after the filing of the notice of appeal: rule 343(1).

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Who
Appellant

Does What
If there is no agreement on the contents of the appeal book, serves and files a motion in writing under rule 369 for a determination of the contents: rule 343(3).

When
Within 10 days of the expiration of the 30 day period for agreement as to the contents: rule 343(3).

Who
Parties

Does What
Prepare a joint book of authorities and file 3 copies (on an appeal to the Federal Court) or 5 copies (on an appeal to the Federal Court of Appeal): rule 348(1).

When
At least 30 days before the hearing: rule 348(1).

Appellant

If a transcript or reproduction of exhibits is required, orders them and files proof of the order: rule 343(4).

Within 10 days of filing an agreement or obtaining an order as to contents: rule 343(4).

Appellant

Serves the appeal book and files 3 copies (on an appeal to the Federal Court) or 5 copies (on an appeal to the Federal Court of Appeal): rule 345.

Within 30 days of filing an agreement or obtaining an order as to contents: rule 345.

Appellant

Serves and files a memorandum of fact and law: rule 346(1).

Within 30 days of filing the appeal book: rule 346(1).

Respondent

Serves and files a memorandum of fact and law and, where there is a cross-appeal, includes in it the memorandum of fact and law as appellant by cross-appeal: rules 346(2) and (3)(a).

Within 30 days of service of the appellant's memorandum: rule 346(2).

Appellant

If there is a cross-appeal, serves and files a memorandum of fact and law as respondent to cross-appeal: rule 346(3)(b).

Within 30 days after service of the respondent's memorandum: rule 346(3)(b).

Appellant

Serves and files a requisition in Form 347 requesting that a date be set for hearing the appeal: rule 347(1).

Within 20 days of service of the respondent's memorandum of fact and law or the expiration of the time for its filing: rule 347(1).

Court of Appeal

If no requisition for a hearing date has been filed on an appeal to the Court of Appeal, issues a notice of status review in Form 382.2: rule 382.2.

After 180 days have elapsed from the issuance of the notice of appeal: rule 382.2.