

## **RULE 14 – APPEARANCE**

### **Filing of appearance**

- (1) (a) Where a party wishes to enter an appearance to an originating process, the party shall file an Appearance in Form 9 and shall deliver a copy of the appearance promptly to the plaintiff, petitioner or applicant for judicial review.
- (b) Where a party wishes to enter an appearance to an appeal, the party shall file an Appearance in Form 9 and shall deliver a copy of the appearance promptly to the appellant.
- (c) An appearance may be filed at the registry by fax.
- (d) An appearance that is received by fax after 4 p.m. shall be deemed to be filed on the following business day.
- (e) Where an appearance is filed by a lawyer acting for a party, it may name more than one lawyer if those lawyers are acting as co-counsel.

### **Time for appearance**

- (2) Unless the court otherwise orders or these rules otherwise provide, an appearance must be filed within 7 days from the service of the originating process, not including the day of service. If a person is served with a document outside Yukon, the time for appearance by that person, after service, is:
  - (a) 21 days, in the case of a person residing anywhere within Canada;
  - (b) 28 days, in the case of a person residing in the United States of America; or
  - (c) 42 days, in the case of a person residing elsewhere.

### **Appearance after time for appearance**

- (3) A party may enter an appearance after the time for appearance has expired.

### **Disputed jurisdiction**

- (4) A party who has been served with an originating process in a proceeding, whether served in or outside of Yukon, may, after entering an appearance:
  - (a) apply to strike out a pleading or to dismiss or stay the proceeding on the ground that the originating process or other pleading does not allege facts that, if true, would establish that the court has jurisdiction over that party in respect of the claim made against that party in the proceeding;

- (b) apply to dismiss or stay the proceeding on the ground that the court does not have jurisdiction over that party in respect of the claim made against that party in the proceeding; or
- (c) allege in a pleading that the court does not have jurisdiction over that party in respect of the claim made against that party in the proceeding.

### **Application for stay**

- (5) Whether or not a party referred to in subrule (4) makes an application or allegation under that subrule, the party may apply to court for a stay of the proceeding on the ground that the court ought to decline to exercise jurisdiction over that party in respect of the claim made against that party in the proceeding.

### **Disputed process or service**

- (6) If a party who has been served with an originating process in a proceeding, whether served in or outside of Yukon, alleges that the originating process in the proceeding is invalid or has expired or that the purported service of the process was invalid, the party may, after entering an appearance, apply for one or both of the following:
  - (a) an order setting aside the process;
  - (b) an order setting aside service of the process.

### **Powers of court pending resolution**

- (7) If an application is brought under subrule (4)(a), (4)(b) or (6) or an issue is raised by an allegation in a pleading referred to in subrule (4)(c), the court may, on its own motion or on the application of a party of record, before deciding the first-mentioned application or issue:
  - (a) stay the proceeding;
  - (b) give directions for the conduct of the first-mentioned application;
  - (c) give directions for the conduct of the proceeding; or
  - (d) set aside any order previously made in the proceeding.

### **Party does not submit to jurisdiction**

- (8) If, within 30 days after entering an appearance in a proceeding, a party of record applies under subrule (4)(a), (4)(b) or (6) or files a pleading referred to in subrule (4)(c):
  - (a) the party does not submit to the jurisdiction of the court in relation to the proceeding merely by filing or delivering any or all of the following:

- (i) the appearance;
  - (ii) a pleading under subrule (4)(c);
  - (iii) an application and supporting affidavits under subrule (4)(a) or (4)(b), and
- (b) until the court has decided the application or the issue raised by the pleading, the party may, without submitting to the jurisdiction of the court:
- (i) apply for, enforce or obey an order of the court; and
  - (ii) defend the action on its merits.