



## **NOTICE TO THE PROFESSION: Summary Order Appeals – New Rule 17 of the Rules of Practice and Procedure – Appeal Division (October 30, 2014)**

### **Introduction**

Rule 17 of the Rules of Practice and Procedure – Appeal Division governs appeals from summary orders under the *Law Society Act*. These include summary orders made pursuant to sections 46 (suspension for failure to pay a fee or levy), 47 (failure to complete or file required documents, reports or certificates with the Society or with an insurer), 47.1 (failure to comply with requirements of by-laws regarding indemnity for professional liability), 48 (revocation of licence if orders under 46, 47(1)(a) or 47.1 are still in effect more than 12 months after made) and 49 (suspension for failure to comply with continuing professional development requirements).

Appeals from summary orders were dealt with in the pre-2009 Rules of Practice and Procedure that governed both the Hearing and Appeal Panels but were inadvertently omitted from both earlier versions of the Appeal Rules.

### **New Rule 17**

Rule 17 sets out a unique appeal procedure:

- The appellant starts the appeal by serving the notice of summary order appeal (Form 17A) on the Law Society and filing it with the Tribunal within 30 days of the date of the summary order is deemed to have been received.
- The Society then files an affidavit(s) that sets out the factual basis for making the summary order no later than 30 days after the filing of the notice of summary order appeal.
- The appellant files an affidavit(s) setting out the factual basis for the appeal no later than 45 days after the filing of the notice of summary order appeal.
- Cross-examinations on the affidavits and any reply evidence will be heard orally at the appeal hearing, unless otherwise ordered.
- No facts are required, unless otherwise ordered.
- A pre-hearing conference will be scheduled in every summary order appeal after filing of the affidavits.
- If the summary order appeal is on consent, the appeal may be heard in writing. The written consent of the parties and a draft order shall be filed with the Tribunal when the notice of summary order appeal is filed or as soon thereafter as possible.