



Supreme Court of Victoria

Revised¹ Instruction to the Profession and Litigants

Court of Appeal: Proposed New Regime for Civil Appeals and Applications

The purpose of this instruction is to advise the profession and litigants of impending changes to the civil appeals and civil applications regime in the Court of Appeal.

The changes will come into operation on 10 November 2014 and will apply to civil appeals and applications filed from that date. Appeals and applications commenced before that date will be conducted under the existing civil appeals regime.

The legislative changes necessary for the new regime are incorporated in the *Courts Legislation (Miscellaneous Amendments) Act 2014* which was assented to on 9 September 2014. Rules will be adopted in line with the new legislation to provide the details of the new regime together with a Practice Direction and accompanying Registrar's Notes.

Since 2011, criminal appeals in the Court of Appeal have been conducted under reforms known as the Ashley-Venne reforms. These reforms have enabled the Court of Appeal to expedite dramatically the hearing of criminal appeals. The fundamental aspects of the criminal appeal reforms include the filing of substantive grounds of appeal and supporting arguments early in the process of applying for leave, more detailed and uniform paperwork as well as greater Registry management of applications and appeals.

The Court is also conscious of the significant improvements in the timeliness of hearing of civil trials over recent years, particularly of commercial trials through the establishment of the Commercial and Equity Division (from 1 September 2014 the Commercial Court) of the Trial Division. The Court is planning for similar improvement in the timeliness of hearing of civil appeals and applications and has resolved that significant further improvement in timeliness is only possible with changes to the civil appeal regime.

In the lead up to the implementation of the new civil appeals regime the Court of Appeal Registry will be conducting information sessions.

¹ Forms revised as at 28 October 2014.

Overview of New Regime

The essential features of the new civil appeals regime are:

- With few exceptions (appeals against refusal to grant habeas corpus and appeals under the *Serious Sex Offenders (Detention and Supervision) Act 2009*) leave to appeal will be required for all appeals. Leave to appeal will be granted only if the Court is satisfied there is a real prospect of success on the appeal.
- Appeals and applications for leave to appeal will be commenced by filing rather than service. Service is to take place after the appeal or application, and other required documents, are accepted for filing by the Registrar and a sealed copy of the application for leave to appeal, or appeal, has been returned by the Court.
- The time for initiating applications for leave and appeals will be standardised to 28 days.
- An applicant for leave, or appellant, will be required to file a written case (10 pages maximum unless otherwise permitted in advance) with the application for leave, or appeal, setting out the detailed contentions in support of the grounds. An applicant for leave must address the merits of the application and the appeal.
- A respondent will have 28 days to file and serve a written case in response, or file a notice of intention not to respond or contest.
- A respondent will also have 28 days in which to file a cross-application for leave to appeal, or cross-appeal, and accompanying written case and/or a notice of contention and accompanying written case. Service of a cross-application for leave to appeal, or a cross-appeal, is to take place after the application or appeal, and other required documents, are accepted for filing by the Registrar and a sealed copy of the cross-application for leave to appeal, or cross-appeal, has been returned by the Court.
- Applications, other than for leave to appeal, will continue to be commenced by filing an application supported by affidavit and submissions.
- Greater capacity for a single judge to determine applications, including for leave to appeal, and on the papers without an oral hearing. There will be no entitlement to an oral hearing and whether there will be an oral hearing will be the decision of the Court.
- Where an application for leave to appeal is determined without an oral hearing the applicant can apply to two or more judges to set aside or vary a dismissal of the application, unless the single judge has also determined that the application is totally without merit in which case the determination on the papers is final. Such

applications to set aside or vary a dismissal of an application will be by way of oral hearing and be determined on the basis of the materials filed prior to the decision to dismiss the application and any additional documents ordered by the Court or the Registrar. To rely on further material the Court's leave will be required.

- Applications determined on the papers will be final, other than applications for leave to appeal, and it will not be possible to apply to set aside or vary a dismissal of such an application, whether determined on the papers or by way of oral hearing. There will be an exception for ex parte orders.
- More intense Registry management of applications and appeals, including early assessment of applications and appeals, and communication with the parties to establish a timetable and making of orders and directions to prepare applications for hearing, or determination by the Court on the papers, and to prepare appeals for hearing.
- As appeals will require the leave of the Court, applications for leave will be streamed so that applications for leave to appeal will be listed either with the hearing of the appeal or listed separately, with an appeal being listed at a later date, if leave is granted.
- An emphasis on electronic filing wherever possible.
- Greater compliance with Court orders. In particular, subject to the Court's order, if applicant or appellant fails to comply with a direction or order for a month or longer the application or appeal will be taken to be abandoned.
- The ability of the Court, on its own motion, or for a party, to apply for dismissal of an application or appeal.

Making an Application for Leave to Appeal or Initiating an Appeal

An applicant or appellant will be responsible for the following steps.

Under the new regime an application for leave to appeal, or appeal, must be made within 28 days of the decision below (unless extended by the Court or Registrar) by filing documents 1 – 4 below as a package and paying the applicable fee (5).

1. An application for leave to appeal (or notice of appeal). An example is attached at pages 8 to 11. This will be a prescribed form under the rules.
2. A written case, which is a set of concise submissions not exceeding 10 pages in total, unless the prior permission of the Registrar has been obtained, in support of each

ground or proposed ground of appeal. A list of authorities relied on is to accompany the written case. An example of a written case and list of authorities is attached at pages 12 to 15.

3. A draft leave application book index, or draft appeal book index. An example is attached at pages 16 to 17.
4. A draft summary for the Court of Appeal. An example is attached at pages 18 to 21.
5. Pay the applicable initiation fee or submit a fee waiver application.

Other steps which the applicant must attend to:

6. File a list of persons served within 7 days of service. Service of the application for leave or notice of appeal and related documents take place after they have been accepted by the Registrar for filing. An example of a list of persons served is attached at page 22 to 23. This will be a prescribed form under the rules.
7. File the agreed summary for the Court of Appeal. Within 10 days of receiving the respondent's proposed changes (see below) the agreed summary must be filed but if the summary cannot be agreed the applicant or appellant is to advise the Registrar and forward the most recent draft setting out each party's position on each disputed paragraph for settling by the Registrar in chambers. However, every attempt should be made to agree on a summary in light of the overarching obligations of the *Civil Procedure Act 2010* and the possible costs consequences.
8. Leave Application Book or Appeal book — to be prepared and filed in accordance with orders after the contents have been settled by the Registrar.
9. Combined folder of authorities — prepare and file the combined folder of authorities.
10. Agreed list of transcript references relied on — in conjunction with the respondent prepare and file an agreed list of transcript references relied on by each party. An example is attached at page 24.
11. Pay the applicable setting down and hearing fees or submit a fee waiver application.

Responding to an Application for Leave to Appeal or an Appeal

A respondent will be responsible for the following steps.

Within 28 days after service of an application for leave to appeal or a notice of appeal (unless extended by the Court or Registrar) a respondent must file and serve (after they have been accepted for filing by the Registrar) the documents 1 – 4 below as a package and pay any applicable fee where there is a cross-application for leave to appeal or cross-appeal (3):

1. A written case in response or a notice that the respondent does not intend to respond or contest. An example of a notice of intention not to respond or contest is attached at page 25. This notice will be a prescribed form under the rules.
2. Any cross-application for leave to appeal or cross-appeal, with an accompanying written case. Any notice of contention and accompanying written case (5 page limit here) must also be filed at this time. An example of a notice of contention is attached at pages 26 to 27. The notice of contention will be a prescribed form under the rules.
3. Pay the initiation fee for a cross-application for leave to appeal (or cross-appeal) or submit a fee waiver application
4. A document that sets out the respondent's position on the draft application book index, or draft appeal book index, is to be attached to the written case in response.
5. Draft summary- at the time of filing the written case in response and other required documents the respondent must notify the applicant or appellant, but not the Court unless directed to do so at that time, of any proposed changes to the draft summary for the Court of Appeal.
6. Combined folder of authorities — contribute to the combined folder of authorities.
7. Agreed list of transcript references relied on - in conjunction with the applicant or appellant contribute to the agreed list of transcript references relied on by each party.

Making an Application Other than for Leave to Appeal

An applicant, other than for leave to appeal or to set aside or vary a dismissal of an application for leave determined on the papers, will be responsible for the following steps.

An applicant, other than for leave to appeal or to set aside or vary a dismissal of an application for leave determined on the papers, must file the following documents 1 – 3 below as a package and pay the applicable fee (4):

1. The application. An example is attached at pages 28 to 29. This application will be a prescribed form under the rules.
2. An affidavit in support.
3. Submissions in support that do not exceed 6 pages.
4. Pay the applicable fee or submit a fee waiver application.

Service is to take place after documents 1-3 have been accepted for filing by the Registrar.

Please note that an application to set aside or vary a dismissal of an application for leave determined on the papers will have different requirements. Such an application (see the example at pages 30 to 31) will be by way of oral hearing and be determined on the basis of

the materials filed prior to the decision to dismiss the application for leave to appeal, unless any additional documents are ordered by the Court or the Registrar. The leave of the Court will be required to rely on further material.

Responding to an Application other than for Leave to Appeal

Within 14 days of service of an application, unless extended by the Court or Registrar, the respondent must file the following documents as a package:

1. A notice of opposition (see the example at pages 32 to 33) together with any affidavit in support and submissions not exceeding 6 pages or a notice of intention not to respond or contest, if the application is not contested.

As noted above an application to set aside or vary a dismissal of an application for leave determined on the papers will be determined on the basis of the materials filed prior to the decision to dismiss the application for leave to appeal, unless additional documents are ordered by the Court or the Registrar. The leave of the Court will be required to rely on further material.

Mark Pedley

*Judicial Registrar
Court of Appeal*

October 2014

Rules 64.02, 64.03, 64.30, 64.31

FORM 64A

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
IN THE COURT OF APPEAL

File No.

BETWEEN

Applicant/Appellant

and

Respondent

***APPLICATION FOR LEAVE TO APPEAL/*NOTICE OF APPEAL/*CROSS-
APPLICATION FOR LEAVE TO APPEAL/*NOTICE OF CROSS-APPEAL**

Date of Document:

Filed on behalf of:

*Applicant/*Appellant's or lawyer's name and address:

Solicitor Code:

Tel:

Fax:

Ref:

Email:

Respondent's or lawyer's name and address:

Solicitor Code:

Tel:

Fax:

Ref:

Email:

Details of additional parties (if any) are attached:

*YES/*NO

1. Decision from which the *application for leave/*appeal is made:

Judicial Officer:

*Court/*Tribunal:

Date of decision made:

*Court/*Tribunal file number:

Is the whole of the decision sought to be appealed or appealed?

*YES/*NO

[If no, state which part of the decision is sought to be appealed or appealed against].

2. Is leave to appeal required?

*YES/*NO

3. If leave to appeal is not required, state why:

4. Is an oral hearing of *leave application/*cross-application for leave requested?

*YES/*NO

5. Reasons for granting leave to appeal:

[If leave is required, set out specifically and concisely the reasons why leave should be granted]

- 1.
- 2.

6. Grounds or proposed grounds of appeal:

[Set out specifically and concisely the grounds or proposed grounds of appeal]

- 1.
- 2.

7. Orders sought:

8. Other applications:

[Identify any other applications you are filing with this application for leave or appeal: see Rule 64.03(3) for the requirements.]

9. Extension of time requested:

*YES/*NO

[If yes, an extension application, supporting affidavit and any additional documents required to be filed by any applicable practice direction or by Rule 64.08 should be filed with this form].

10. Stay applied for:

*YES/*NO

[If yes, an application for stay, supporting affidavit and any additional documents required to be filed by any applicable practice direction should be filed with this notice: see Rule 64.03(3). Note also that an application for stay may be made to the lower court judge in the first instance].

11. Is the application for leave or appeal urgent?:

*YES/*NO

[If yes, state why.]

12. Persons to be served with notice:

[Identify all parties on whom it is proposed to serve this form and related documents. Note that a list of all parties served must be filed within 7 days after service: see Rule 64.06(5).]

Please note that all of the following are to be filed with this form and that all must comply with the requirements of any applicable Practice Direction. An application for leave to appeal or appeal will not be able to be filed if any of the following are not included or do not comply:

- A written case.
- A list of authorities.
- A copy of the order sought to be appealed or appealed.
- A copy of the written reasons of the court or tribunal in respect of which the application for leave or appeal is made.
- A draft leave application book index or appeal book index.
- A draft summary for the Court of Appeal.

In addition, the applicable filing fee must be paid at the time of filing.

Date:

Signed

*[Name of lawyer/
self-represented party]*

*delete if inapplicable.

DRAFT

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
IN THE COURT OF APPEAL

File No.

BETWEEN

[APPLICANT/ APPELLANT'S NAME]

and

[RESPONDENT'S NAME]

[APPLICATION FOR LEAVE TO APPEAL AGAINST (IDENTIFY DECISION)]
[CROSS-APPLICATION FOR LEAVE TO APPEAL]

[APPEAL AGAINST (IDENTIFY DECISION)]
[CROSS-APPEAL AGAINST (IDENTIFY DECISION)]
[NOTICE OF CONTENTION]

WRITTEN CASE FOR THE [APPLICANT/APPELLANT/RESPONDENT]²

- 1) Please note the Written Case must attach a List of Authorities (as below) and a draft appeal or leave application book index for the Court of Appeal. The List of Authorities and the draft appeal or leave application book index are not part of the Written Case but must be filed with the Written Case.
- 2) A Written Case may not exceed 10 pages unless leave is obtained from the Registrar in advance of submission. All text in the body of the document should be in 12 point type, with 1.5 spacing, as used throughout this document, and footnotes should be in not less than 10 point type.
- 3) Any clear and readable font may be used in the Written Case. Without intending to express a preference and merely for purposes of illustration, it is noted that some of the most common fonts (in 12 point type) are:

² *The headings in square brackets above need to be adjusted depending on the matter filed/party filing: pick the option that suits your case and delete the others.*

- Times New Roman;
- Book Antiqua;
- Garamond;
- Arial; and
- Calibri.

GROUNDS

Ground 1 – Your Written Case will not comply, and so may not be accepted, unless it states and numbers each ground of appeal or proposed ground of appeal, in respect of a leave application, consecutively.

- 4.1) Each argument to be advanced in support of a ground must then be concisely outlined under that ground.
- 4.2) The grounds must be prepared with sufficient precision for the Registrar and Court to clearly identify the issues and matters relied upon. A ground must be particularised and must not be expressed in general terms. It is not sufficient to state: “the judgment is against the evidence and the weight of the evidence”. The ground must instead specifically identify the evidence and other matters relied upon.
- 4.3) For example, where a party intends to challenge an evidential finding, the written case must identify the error (including any failure to make a finding of fact); identify the finding that the party contends ought to have been made; state concisely why, in the party’s submission, the finding, or failure to make a finding, is erroneous; and refer to the evidence to be relied upon in support of the argument. This may be best addressed by including a schedule to the written case. Such a schedule is to be included in the 10 page limit of a written case.
- 4.4) The Written Case will not be compliant unless the ground contains reference to each authority relied upon or sought to be distinguished.

Ground 2 – Your Written Case will not comply, and so may not be accepted, unless:

- 5.1) Any claimed errors or errors of law in the decision below are identified precisely.

- 5.2) Precise transcript references are provided in relation to each ground.

- 5.3) A clear description is provided of any document that is referred to in the ground which allows it to be identified. Imprecise descriptions such as “the accountant’s report” or “the note” are insufficient as the author’s name and date of the document (or its exhibit number) should also be included.

Date:

Signed

*[Signature of lawyer
/self-represented party]*

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
IN THE COURT OF APPEAL

File No.

BETWEEN

Applicant/Appellant

and

Respondent

LIST OF AUTHORITIES

Date of Document:

Filed on behalf of:

Party's or lawyer's name and address:

Solicitor Code:

Tel:

Fax:

Ref:

Email:

Part A

1. The authorities (authorised version if exists) from which counsel intends to read should be listed in this part.

Part B

1. Case citations (authorised version if exists) and legislation to which counsel intends to refer to but not read should be listed in this part.

Part C

1. Textbooks and articles that a party considers will be of substantial assistance to the Court should be listed in this part.

Date:

Signed

*[Signature of lawyer
/self-represented party]*

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
IN THE COURT OF APPEAL

File No.

BETWEEN

Applicant/Appellant

and

Respondent

[APPLICATION/APPEAL] BOOK INDEX

Date of Document:

Filed on behalf of:

Party's or lawyer's name and address:

Solicitor Code:

Tel:

Fax:

Ref:

Email:

List documents to be included in the relevant categories as set out below (re-letter the category if required). Note that categories A, F, G & H are essential.

A. Application for leave to appeal (or appeal)

Application for leave to appeal/ notice of appeal [page]

Applicant's written case

Respondent's written case

Agreed summary

B. Process and Pleadings

Statement of claim [page]

Defence

Reply

C. Affidavit Evidence (if any)

Affidavits

Affidavit of [*Deponent's full name*] sworn
with exhibits/annexures:

[*list exhibits/annexures*]

D. Transcript

Witnesses

[*Witness' full name*]

Examination in chief

Cross-Examination

Re-Examination

[*Witness' full name*]

Examination in chief

Cross-Examination

Re-Examination

E. Relevant Portions of Court Book

F. Other Relevant Exhibits

Exhibits

Exhibit 1: [*description*]

(tendered at AB...)

G. Reasons for Judgment

Reasons for judgment of [*Judicial Officer's name*]

H. Authenticated Order (from which application for leave to appeal or appeal is brought)

Order

I. Interlocutory Orders made on application for leave to appeal/appeal

Date

Signed:

[*Signature of lawyer/self-represented party*]

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
IN THE COURT OF APPEAL

File No.

BETWEEN

Applicant/Appellant

and

Respondent

SUMMARY FOR COURT OF APPEAL

Date of Document:

Filed on behalf of:

Party's or lawyer's name and address:

Solicitor Code:

Tel:

Fax:

Ref:

Email:

A. Summary of Facts

1. On 13 April 2007, the appellant, Ms X was struck by a motor vehicle whilst crossing the road at a pedestrian crossing. She landed on the bonnet of the car and then fell to the pavement.
2. She was taken by ambulance to the Monash Medical Centre where she was admitted for one night and underwent a series of tests. The Ambulance notes recorded: "thoracic region pain dull, denies radiation." The Monash Medical Centre notes recorded: "struck on right side by motor vehicle. Fell onto bonnet of car then onto road, striking left side. Pain middle and upper back. No neurological symptoms."
3. Ms X was given intravenous morphine but no other analgesics. She was discharged the following day to the care of her General Practitioner and on his referral she also

consulted a general physician, Mr Z, who ordered an MRI of her thoracic and cervical spine.

4. The MRI scan dated 16 May 2007 noted:

There is mild compression fracture through the superior aspects of the vertebral body of T2 and T3 with less than ten per cent loss of vertebral height. No traumatic disc protrusion is present. The other vertebral bodies are normal. Facet joints are congruent. Ligaments are intact. There is no epidural haematoma and the cervical cord is normal. Flow void in both vertebral arteries are present.

5. Mr Z concluded that Ms X's pain and restriction resulted from an aggravation of pre-existing degenerative changes in the cervical region and upper thoracic crush fractures.
6. The respondent, the Transport Accident Commission ('TAC') arranged for Ms X to be assessed by an orthopaedic surgeon, Ms B, who commented:

[T]he patient presents describing constant neck and upper back pain accompanied by minor signs of mild restriction of cervical movement. The extensive distribution of pain and tenderness would be in keeping with residual soft tissue injury, which has now apparently progressed to an extensive area of chronic pain. There is some suggestion the problem is influenced by psychosocial factors.

B. Summary of Proceedings and Issues

7. By an originating motion filed in the County Court on 12 April 2010, Ms X sought leave pursuant to s 93(4)(d) of the *Transport Accident Act 1986* to bring proceedings at common law against the TAC for a serious injury sustained in the motor vehicle accident on 13 April 2007.
8. The application was heard by Judge Y on 15 and 16 March 2011. The principal issue before his Honour was whether Ms X had suffered a serious injury within the

meaning s 93(17) of the Act. Ms X relied upon paragraph (a) of the definition which states a ‘serious injury’ is “a serious long-term impairment or loss of a body function.”

9. His Honour found that Ms X continues to suffer pain and restrictions which are marked and significant but he could not accept that these restrictions were “very considerable” according to the test set out in *Humphries v Poljak*.³ Further, he noted “the fact that after a fairly brief time Ms X has been fit and available to continue her pre-accident work also points away from her injuries being serious” [see paras [...] – [...] of his Honour’s reasons for judgment].
10. His Honour concluded that the aggravation of pre-existing degenerative changes in her spine, which occurred due to the accident, did not constitute a serious injury within the meaning of the Act. His Honour also found that the appellant suffered compression fractures to her spine in the accident, as noted by Mr Z, but that the evidence showed that five years after the accident and despite the injury, Ms X continued to lead a moderately active lifestyle and her employment was unaffected.
11. His Honour dismissed Ms X’s application for leave to bring proceedings on 6 June 2012
12. Ms X filed a Notice of Appeal on 11 October 2012 against the whole of the judgment and orders of Judge Y.⁴ She contends that because Mr Z described her pain and restrictions as the result of an aggravation of pre-existing degenerative change in the cervical region and upper thoracic crush fractures, his Honour erred in failing to find that hers was not a serious long term impairment or loss of spinal function within the meaning of s 93(17) of the Act.
13. Ms X also asserts that the judge erred by finding that her emotional and psychological issues were not, at least in part, secondary to physical pain and restriction from the

³ [1992] 2 VR 129.

⁴ The Court of Appeal granted leave to appeal to Ms X on .../.../....

injuries.

14. She further contends that the judge failed to have regard to uncontradicted medical evidence of her psychological response to the injuries in determining the seriousness and longevity of her spinal injury.

Rule 64.06

FORM 64C

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
IN THE COURT OF APPEAL

File No.

BETWEEN

Applicant/Appellant

and

Respondent

LIST OF PERSONS SERVED

Date of Document:

Filed on behalf of:

Party's or lawyer's name and address:

Solicitor Code:

Tel:

Fax:

Ref:

Email:

Pursuant to Rule 64.06(5) of Chapter I of the Rules of the Supreme Court, the undersigned states that a copy of the *Application for Leave to Appeal/*Notice of Appeal and all other documents required by the rules or any applicable practice direction were served on the following parties:

[list the parties (e.g. first respondent, second respondent etc and the firm names of their solicitors if represented or their details if self-represented), their addresses (including email addresses) and the date served].

Example

Person served	Party	Solicitor	Date served
A Smith	First respondent	A Brown & Co Solicitors 100 Beach St Mentone VIC 3194 Email: reception@brownsolicitors.com.au	1 February 2014

Date:

Signed

*[Name of lawyer
/self-represented party]*

*delete if inapplicable.

IN THE SUPREME COURT OF VICTORIA
 AT MELBOURNE
 IN THE COURT OF APPEAL

File No.

BETWEEN

Applicant/Appellant

and

Respondent

AGREED LIST OF TRANSCRIPT REFERENCES

Ground	Applicant/Appellant	Respondent	All parties
1	4	8	10-12

Date:

Signed

*[Name of the lawyer
 /self-represented party]*

Date:

Signed

*[Name of the lawyer
 /self-represented party]*

Rule 64.08, 64.11

FORM 64E

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
IN THE COURT OF APPEAL

File No.

BETWEEN

Applicant/Appellant

and

Respondent

NOTICE OF INTENTION NOT TO RESPOND OR CONTEST

Date of Document:

Filed on behalf of:

Party's or lawyer's name and address:

Solicitor Code:

Tel:

Fax:

Ref:

Email:

Details of additional parties (if any) are attached:

*YES/*NO

TO: the Registrar

AND TO the *applicant/*appellant/*respondent

TAKE NOTICE that the *applicant/*appellant/*respondent *does not intend to respond to/*does not contest the [*appeal/*application] filed on [date].

Date:

Signed

[Name of lawyer
/self-represented party]

*delete if inapplicable.

Rule 64.32

FORM 64G

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
IN THE COURT OF APPEAL

File No.

BETWEEN

Applicant/Appellant

and

Respondent

NOTICE OF CONTENTION

Date of Document:

Filed on behalf of:

Party's or Lawyer's name and address:

Solicitor Code:

Tel:

Fax:

Ref:

Email:

Details of additional parties (if any) are attached:

*YES/*NO

TO: the Registrar

AND TO the *applicant/*appellant

The respondent contends that the judgment of the [*court or tribunal appealed from*] should be affirmed on a ground of fact or law which was *not decided/*was erroneously decided/*was not raised for decision in the court or tribunal.

The respondent does not seek to cross-appeal from any part of the judgment.

Grounds:

[*Specifically and concisely identify the legal reasons to support the judgment of the court or tribunal*]

- 1.
- 2.

Date:

Signed

*[Name of lawyer
/self-represented party]*

*delete if inapplicable.

Note:

This notice must be accompanied by a written case and other documents specified by any applicable Practice Direction.

DRAFT

Rules 64.03, 64.08, 64.10, 64.13, 64.38

FORM 64B

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
IN THE COURT OF APPEAL

File No.

BETWEEN

Applicant/Appellant

and

Respondent

APPLICATION OTHER THAN LEAVE TO APPEAL

Date of Document:

Filed on behalf of:

*Applicant/*Appellant's or lawyer's name and address:

Solicitor Code:

Tel:

Fax:

Ref:

Email:

Respondent's or lawyer's name and address:

Solicitor Code:

Tel:

Fax:

Ref:

Email:

Details of additional parties (if any) are attached:

*YES/*NO

TO: the Registrar

AND TO the respondent [*name and address*]

I wish to apply for the following order:

This application is made on the following grounds:

[insert as applicable]

Date:

Signed

*[Name of lawyer
/self-represented party]*

*delete if inapplicable.

Note:

An application other than for leave to appeal or cross-appeal must be filed with an affidavit and any additional documents required to be filed, at the time of commencing the application, by any applicable practice direction.

An application must be accompanied by the applicable filing fee.

DRAFT

Rule 64.18

FORM 64F

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
IN THE COURT OF APPEAL

File No.

BETWEEN

and

Applicant/Appellant

Respondent

**APPLICATION TO HAVE DISMISSAL OF APPLICATION FOR LEAVE SET
ASIDE OR VARIED**

Date of Document:

Filed on behalf of:

*Applicant/*Appellant's or lawyer's name and address:

Solicitor Code:

Tel:

Fax:

Ref:

Email:

Respondent's or lawyer's name and address:

Solicitor Code:

Tel:

Fax:

Ref:

Email:

Details of additional parties (if any) are attached:

*YES/*NO

TO: the Registrar

I, [full name], having received the Registrar's notification that my application for leave to appeal has been determined and dismissed by the Court of Appeal without an oral hearing

and without that Court making a determination that the application was completely without merit, apply to have the dismissal set aside or varied at a hearing of my application.

Date:

Signed

*[Name of lawyer
/self-represented party]*

*delete if inapplicable.

Note:

The Court will determine an application to have the dismissal set aside or varied at an oral hearing on the basis of the application, written cases and documents filed by the parties prior to the decision to dismiss the application and any additional documents ordered by the Court or the Registrar. Further material will not be considered except with the Court's leave.

DRAFT

Rules 64.08, 64.11

FORM 64D

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
IN THE COURT OF APPEAL

File No.

BETWEEN

Applicant/Appellant

and

Respondent

**NOTICE OF OPPOSITION TO APPLICATION OTHER THAN
FOR LEAVE TO APPEAL**

Date of Document:

Filed on behalf of:

Party's or lawyer's name and address:

Solicitor Code:

Tel:

Fax:

Ref:

Email:

Details of additional parties (if any) are attached:

*YES/*NO

TO: the Registrar

AND TO the *applicant/*appellant/*respondent

TAKE NOTICE that the *applicant/*appellant/*respondent opposes the application to*/for*
[insert brief description of application] filed on [date] for the following reasons.

[state briefly but specifically the reasons for the opposition]

- 1.
- 2.

Note:

This notice must be accompanied by any affidavit on which the
*applicant/*appellant/*respondent intends to rely in opposition to the application and any
additional document required by any applicable practice direction.

Date:

Signed

*[Name of lawyer
/self-represented party]*

*delete if inapplicable.

DRAFT