



## **Court of Appeal of New Zealand**

### **Te Kōti Pīra o Aotearoa**

#### **CIVIL APPEALS PRACTICE NOTE 2022**

1. A synopsis of argument must inform the Court and the other party of the party's case. It must comply with the time and page limits in rule 40E of the Court of Appeal (Civil) Rules 2005.
2. A synopsis should not be written as if it will be read aloud. The Court rarely if ever permits counsel to use hearing time in that way.
3. A synopsis should be written in the expectation that:
  - (a) the Court will read it before the hearing;
  - (b) it may be used as a point of reference during the hearing, but will not usually be traversed in full there;
  - (c) the Court will not permit counsel to take a point at the hearing, or in a roadmap, that was not taken in the synopsis;
  - (d) the Court will use it after the hearing when reviewing the evidence and authorities;
  - (e) accordingly, it should be a complete and self-contained account of the party's submissions.
4. These requirements point to the structure and style of a good synopsis. It should:
  - (a) be as concise as the issues permit. Its objective is to assist the Court, and brevity and clarity aid understanding;
  - (b) define and confine the issues for decision;
  - (c) adopt a structure that is best suited to deciding those issues economically, using headings and numbered paragraphs for clarity;

- (d) aim to tell the Court everything the Judges must know about those issues to decide the appeal, and no more;
  - (e) address the issues in a clear and economical way, eschewing rhetoric in favour of concise, clear and neutral prose;
  - (f) identify the central facts, usually in chronological sequence. Where a separate chronology of key dates is provided, the appellant's should rarely exceed two pages and the respondent should normally confine itself to noting any disagreement;
  - (g) supply a glossary of technical terms or people involved where the Court may need it;
  - (h) use footnotes identifying, with pinpoint footnoted references, the salient references to evidence and authorities so the Court may use them for pre-reading and for subsequent judgment-writing;
  - (i) avoid extensive quotations from documents or evidence;
  - (j) avoid block quotations from authority. Block quotations often detract from an argument. They should be used only where the point cannot be better or more clearly stated. A synopsis must in any event state the specific proposition of law for which the authority stands and identify in a footnote the passages in the authority where it appears;
  - (k) eschew needless citation of authorities — one usually suffices — and evidence. Where there must be more than one footnoted reference to a point, the best reference should be highlighted or hyperlinked.
5. The synopsis should address costs, and the classification of the appeal for costs purposes. Counsel must be prepared to address costs at the hearing.
6. The Court permits counsel to hand up an outline of oral argument at the hearing. It must comply with the time and page limits prescribed in rule 47A, and is:
- (a) a useful means of structuring argument and referring the Court to salient parts of the synopsis, judgment below or case on appeal;
  - (b) not a substitute for the synopsis. It may not introduce any point not taken in the synopsis unless the Court grants leave to do so.

**Stephen Kós P**  
**1 March 2022**