



TO: Notice to the Parties and the Profession

FROM: R.P. Guenette
A/Chief Administrator

DATE: April 18, 2006

SUBJECT: Requests for Consent Orders on Applications for Judicial Review in the Federal Court under the Immigration and Refugee Protection Act

Herewith is a copy of a Notice by the Honourable Allan Lutfy, Chief Justice of the Federal Court.

NOTICE TO THE PARTIES AND THE PROFESSION

Requests for Consent Orders on Applications for Judicial Review in the Federal Court under the Immigration and Refugee Protection Act

The Federal Court has continued the following practice in respect of requests for consent orders to dispose of applications for judicial review under the Immigration and Refugee Protection Act:

General

Counsel are expected to notify the Federal Court Registry promptly of any proposed request for a consent order.

All requests for consent orders shall be made to the Federal Court by notice of motion in accordance with the Federal Courts Rules. Judges may expect that the motion record disclose the substantive reasons underlying the consent order. Counsel should include in the motion record a consent duly executed by counsel for the parties together with a draft order. Where a hearing date has been fixed, the draft order should also include a request that the hearing date be vacated and the motion record should be accompanied by a letter to the Registry highlighting the date and location of the hearing.

Generally, the Federal Court will dispose of an application for judicial review in accordance with the draft order and consent without the necessity of an appearance; however, if a judge is of the view that the consent should be further justified, counsel will be notified and given an opportunity to do so.

Absent exceptional circumstances, requests should be made in advance of the scheduled hearing date, and the following procedures should be followed:

Counsel should submit the draft order and consent to the Federal Court Registry, which will refer it to the judge assigned to preside at the hearing of the application for judicial review or the duty judge.

If the judge is of the opinion that the consent should be further justified, the judge will direct the Federal Court Registry to notify counsel of the time and manner in which the justification should be given.

If the judge is of the opinion that it is inappropriate to issue an order based on the consent, that judge will hear and determine the application for judicial review on its merits as scheduled or after granting a reasonable adjournment, if required.

If counsel are unable to submit a draft order and signed consent in advance of the scheduled hearing date, the following procedures should be followed:

Both counsel should appear at the hearing and be prepared to respond to any questions or concerns which the presiding judge may have about the order requested.

If the presiding judge is of the opinion that it is inappropriate to issue an order based on the consent and the oral representations of counsel, that judge will hear and determine the application for judicial review on its merits after granting a reasonable adjournment, where appropriate.

Allan Lutfy

Chief Justice

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