

Index

ABANDONMENT OR DISCONTINUANCE

See also Delay/Abandonment,
Time-Limits
Deemed, **9:112, 9:132**
Dismissal for, see Delay/
Abandonment, Time-Limits
Inaction, **9:80, 9:133**
Motion for, **9:132**
Notice of, **9:132**

ABUSE OF PROCESS

Generally, **2:6, 5:35 to 5:43, 9:127**

ADJOURNMENT OF HEARING IN APPEAL COURT

See Hearing in Appellate Court

ADJOURNMENT OF TRIAL

Generally, **12:22 to 12:29**
Absence of Counsel, **12:27**
Absence of Witness, **12:28**
Denied, **12:25**
Factors to be Considered, **12:23**
New Arguments, **12:29**
New Evidence, **12:29**
Standard of Review, **12:26**
Tests, **12:23**

ADJUDICATIVE DECISION-MAKING

Generally, **1:10 to 1:15, 3:5**
see also Decision-Making Pro-
cess, Fact-Finding, Trials
Characteristics of, **1:10 to 1:15**
Errors in Decision-Making Process
Applying Law to Facts, **1:33,**
1:34, 3:12 to 3:19, 14:8,
15:72
see also Questions of Mixed
Fact and Law

ADJUDICATIVE DECISION-MAKING —Cont'd

Errors in Decision-Making Process
—Cont'd
By Jury, **13:74 to 13:79**
Discretionary Refusal to Correct
Process Error, **1:24**
Errors in Substance of Decision,
1:25 to 1:34, 14:1 to 14:8
see also Questions of Law,
Questions of Mixed Fact
and Law
Fact-Finding Process, **13:2 to**
13:6
Fact-Identification, **1:27 to 1:29,**
3:5, 3:12 to 3:14, 14:3 to
14:5
Generally, **1:20 to 1:24, 3:7, 13:1**
Inadequate Reasons, **1:21, 13:43**
to 13:51, 15:78
Lack of Neutrality, **1:20**
See also Bias
Law-Declaration, **1:30 to 1:32,**
3:6 to 3:11, 14:6, 14:7
Integrity of, **12:66**
Reasons and, **13:48, 13:50, 13:51**
Remedies for Error, **6:23 to 6:28**
Traditional Model, **1:10 to 1:15**
Whether Appeal Necessary, **1:2**

ADMINISTRATIVE AGENCIES AND DECISION-MAKERS

Appeals from, **1:32, 6:37, 14:42 to**
14:46
see also each jurisdiction (leave
to appeal)
Costs, **6:53**
Intervenor, as, **7:34**

**ADMINISTRATIVE AGENCIES
AND DECISION-MAKERS
—Cont'd**

Leave to Appeal, **4:90 to 4:122**
 see also Leave to Appeal
 New Evidence and Appeals, **10:35**
 New Trial, when warranted, **6:37**
 Remedies on Appeals from, **6:37**
 Costs, **6:53**
 Respondents, as, **7:26**
 Standard of Review of Decisions,
 14:43 to 14:46
 Stated Case, **2:23**
 See also Stating Case to Appel-
 late Court

ADMINISTRATIVE APPEALS

See each jurisdiction (leave to
 appeal)

ADMISSION OF EVIDENCE

See Evidence

ADMISSIONS

See Pleadings

ADVISORY OPINIONS

See References

ALBERTA

Appellate Jurisdiction
 generally, **2:58 to 2:64**
 Application judges, **2:62, 16:1, 16:4**
 Court of Appeal, **1:48, 2:63, 2:64**
 Single Judge, **2:64**
 Dismissal for Delay, **9:103**
 Extension of Time to Appeal, **7:63**
 Family Law, **2:61**
 Interlocutory Orders, **4:39, 4:40**
 Intervention, **7:42**
 Leave to Appeal
 Administrative Tribunal Deci-
 sions, **4:93 to 4:98**
 Criteria, **4:40**
 Interlocutory Orders, **4:39, 4:40**
 Practice Direction, **4:39**

ALBERTA—Cont'd

New Evidence on Appeal, **10:43**
 Notice of Appeal, **7:5**
 Overruling Past Decisions, **1:48**
 Perfecting Appeal, **9:33 to 9:41**
 Provincial and Territorial Courts,
 2:74, 2:75
 Record, Contents of, **9:34**
 Referees, **2:62**
 Security for Costs of Appeal, **8:85**
 Settlement Offers, **6:54**
 Single Appellate Judge, **2:64, 15:46**
 Small Claims Appeals, **2:60, 16:32**
 Stays Pending Appeal, **8:13, 8:75 to**
 8:79, 8:85
 Summary Judgement, **15:61**
 Taxing Officers, **16:22**

AMICUS CURIAE

See Intervenors, Parties

APPEAL HEARING

See Hearing in Appellate Court

APPEAL RIGHTS

See Rights of Appeal

APPELLANT'S

RECORD/FACTUM

See Record, Factums/Appeal Books

APPELLATE COURTS

See also Stare Decisis, Rights of
 Appeal, Hearing in Appellate
 Court, Supreme Court of Can-
 ada
 Composition, **10:2 to 10:6**
 Constitutional Basis, **2:1**
 Death or Disability, **10:5**
 Functions, **1:4 to 1:7**
 Overruling Past Decisions, see Stare
 Decisis
 Quorum, **10:3**
 Role of Courts, **1:4 to 1:9, 1:35 to**
 1:58

INDEX

APPELLATE COURTS—Cont'd

Supreme Court of Canada, **10:6**
see also Supreme Court of Canada

APPELLATE JURISDICTION

See also each jurisdiction
Generally, **2:12 to 2:30**
Consent, **2:8, 2:10**
Control over Process, **2:6**
Criminal Matters, **2:3**
Federal Court, see Federal Courts
Inherent/Implied Jurisdiction, **2:6**
Limitations on, see Rights of Appeal
Need for Litigants, **1:54**
Opinions, **2:15, 2:29**
Parens Patriae Jurisdiction, **2:7**
Provincial Appellate Courts, **2:51 to 2:109**
see also each jurisdiction
Record, **2:16**
see also Record
References, see References
Stated Case, **2:23 to 2:26**
see also Stating Case to Appellate Court
Statutory Nature, **2:4 to 2:11, 2:13**
Supreme Court of Canada, see Supreme Court of Canada
Trials de novo, appeals by, **2:17 to 2:22**
see also Remedial Powers, de novo Appeals

APPELLATE RELIEF

See Remedial Powers, Relief Ordered

ARGUMENT

See Grounds of Appeal, Pleadings, Trials

ASSESSMENT OFFICERS

See Taxing and Assessment Officers, Federal Courts

ATTORNEY GENERAL

As Intervenor, **7:32**

BAD FAITH

See Discretionary Bars

BANKRUPTCY

See Creditors' Rights

BIAS

Generally, **1:13, 1:20, 6:28, 11:1 et seq., 11:1 to 11:6, 11:62 to 11:73**
Animosity, **11:34 to 11:36**
Charter and Bill of Rights Requirements, **11:3**
Comments by Judge, **11:37 to 11:47**
Common Law Requirements, **11:2**
Costs of Abortive Proceedings for, **11:20**
Delay in Challenge, **11:14 to 11:16**
Doctrine of Necessity, **11:17**
Earlier Decisions, arising from, **11:51 to 11:56**
Ex Parte Contacts, **11:57, 11:58**
Family Relationships Resulting in, **11:32, 11:33**
Financial Interest in Decision, **11:22 to 11:24**
Hostility Between Judge and Counsel, **11:34 to 11:36**
In-Court Comments, **11:37 to 11:47**
Independence, Institutional, **11:72, 11:73**
Independence, Judicial, **11:62 to 11:73**
Interlocutory Decisions and, **11:53, 11:54**
Intervention in Trial, **11:44, 11:45**
Judicial Independence, **11:62 to 11:73**
Jurors, Bias in, **1:20, 11:59 to 11:61**
Necessity, **11:17**
New Trial, whether defect warrants, **6:28**
see also Remedial Powers

BIAS—Cont'd

Pecuniary Interest in Decision,
11:22 to 11:24
Personal Relationships, 11:30,
11:31
Prejudgement, 11:40, 11:41
Prior Rulings involving Party, 11:51
to 11:56
Procedure to Challenge, 11:11 to
11:13
Professional Relationships Result-
ing in, 11:28, 11:29
Proof of, 11:7 to 11:9
Rationales for Disqualification, 11:4
to 11:6
Reasonable Apprehension of Bias,
11:7 to 11:9, 11:25 to 11:58
Animosity, 11:34 to 11:36
Conduct Suggesting Pre- Judge-
ment, 11:37 to 11:41
Deciding Preliminary/ Interlocu-
tory Matters, 11:53, 11:54
Earlier Decisions Involving Party,
11:55, 11:56
Evidentiary Rulings, 11:51, 11:52
Exception for disqualification for,
11:10, 11:11
Ex Parte Contacts, 11:57, 11:58
Family Relationships, 11:32,
11:33
In-Court Comments and
Conduct, 11:37 to 11:47
Interlocutory Decisions, 11:53,
11:54
Judge's Comments, 11:37 to
11:47
Jurors, 1:20, 11:59 to 11:61
Out-of-Court Comments and
Conduct, 11:46, 11:47
Personal Relationships, 11:30,
11:31
Prejudgement, 11:37 to 11:39
Professional Relationships,
11:28, 11:29
Proof of, 11:7 to 11:9

BIAS—Cont'd

Reasonable Apprehension of Bias,
11:7 to 11:9, 11:25 to 11:58
—Cont'd
Questioning Witnesses, 11:44,
11:45
Reasons for Decision, 11:48 to
11:50
Relationships resulting in, 11:27
to 11:36
Test for, 11:25, 11:26
Reasons for Decision, 11:48 to
11:50
Relationships Giving Rise to, 11:27
to 11:36
Remedies, 11:19 to 11:21
Costs of Abortive Proceedings,
11:20
New Trial/Rehearing, 11:19
Standard of Appellate Review,
11:13
Statutory Authorization, 11:18
Timing of Challenge, 11:12 to
11:16
Trial Judge, 1:20, 11:10, 11:11
Waiver of, 11:10, 11:11

BOOKS OF AUTHORITIES

See Record

BRITISH COLUMBIA

Appellate Jurisdiction Generally,
2:51 to 2:57
Court of Appeal, 1:47
Dismissal for Delay, 9:86 to 9:101
Extension of Time to Appeal, 7:63
Interlocutory Orders, 4:22 to 4:37
Intervention, 7:42
Leave to Appeal
Administrative Tribunal Deci-
sions, 4:91, 4:92
Criteria, 4:22 to 4:37
Interlocutory Orders, 3:34, 4:22
to 4:37
Limited Appeal Orders, 2:55, 3:22,
3:28 to 3:30

INDEX

BRITISH COLUMBIA—Cont'd

Masters, **16:5**
New Evidence on Appeal, **10:41**
Notice of Appeal, **7:4**
Overruling Past Decisions, **1:47**
Perfecting Appeal, **9:20 to 9:32**
Reconsideration and Varying Order, **10:84**
Record, Contents of, **9:20 to 9:32**
Security for Costs Pending Appeal, **8:84**
Settlement Offers, **6:54**
Single Judge, **2:56, 15:45**
Small Claims Appeals, **2:53, 16:32**
Statutes, **2:54, 2:55**
Stays Pending Appeal, **8:12, 8:84**
Summary Judgment, **15:62**
Taxing and Assessment Officers, **16:21**

BURDEN OF PROOF

See Fact-Finding, Decision-Making
Process, Trials

CERTIFIED QUESTIONS

See Federal Courts

CHARGE TO JURY

See Jury Trials

CITIZENSHIP MATTERS

See Federal Courts

CLASS ACTION

See Discretion

COMMENCEMENT OF APPEAL

See Notice of Appeal, Perfection of
Appeal, Record

COMMERCIAL LITIGATION

Commercial Arbitration, Leave to
Appeal, **4:78 to 4:89**
Stays Pending Appeal, **8:56, 8:57**

CONDUCT OF APPELLANT

See Discretionary Bars, Costs
Orders

CONSTITUTION ACT, 1867

Generally, **2:1 to 2:3**
Appellate Jurisdiction under, **2:1 to 2:3, 2:38 to 2:40**
Bias and, **11:3**
No Guarantee of Appeal Right, **2:2**
Public Access to Trial, **12:19**
Right to Counsel, **12:43**
Right to Funding, **9:2**
Right to Interpreter, **12:53**

CONSTITUTIONAL LITIGATION, NEW EVIDENCE

Generally, **10:36**

CONTEMPT

Generally, **2:6, 3:44, 5:35 to 5:37, 8:117**
Review of Penalty, **15:52**

CONTRACT INTERPRETATION

Generally, **3:11, 14:25**

COSTS, RELIEF FROM

Generally, **9:2**

COSTS ORDERS

Generally, **6:1, 6:41 to 6:53, 15:64 to 15:73**
Adjournments, of, **10:10 to 10:12**
Administrative Agencies, **6:53**
Conduct of Parties, **6:48, 6:49**
Cross-Appeals, **6:42**
Decision-Process Error, **15:71**
Delay, for, **9:101, 9:117**
Discretion and, **4:74, 15:64 to 15:73**
Error of Fact, **15:69**
Error of Law, **15:70**
Exceptions, **15:67**
Family Litigation, **6:52**
Final or Interlocutory Orders, **3:61, 6:46**
Interlocutory Orders, **4:76, 6:46**
Intervenors, **6:50**

COSTS ORDERS—Cont'd

Leave to Appeal, **4:69 to 4:76**
 Motions, **6:46**
 Multiple Parties, **6:44**
 New Trial Order, **6:45, 11:20**
 Novel or Complex Issue, **6:47, 6:51**
 Practice Considerations, **6:40**
 Punitive, **4:75**
 Sanction, as, **6:49**
 Security for, Pending Appeal, **3:49, 8:31, 8:80 to 8:111**
 Settlement Offers, **6:54**
 Shared Success, **6:43**
 Standard of Appellate Review, **15:68 to 15:73**
 Statutory Powers, **6:39**
 To Facilitate Appeals, **6:51**
 Unnecessary Litigation, **6:48**

COUNSEL

Absence of at Trial, **12:27**
 Adjournment if Unavailable, **12:27**
 Adjournment to Retain, **10:10 to 10:12**
 Conduct of, **12:38 to 12:42**
 Constitutional Right to, **12:43**
 Costs and, **6:49**
 Delay in Appeal, **7:71**
 Denial of, **12:44 to 12:46**
 Discharge of Jury due to conduct of, **12:38 to 12:42**
 Disqualification of at Trial, **12:46**
 Ex Parte Contacts with Judge, **11:57, 11:58**
 Incompetence, **12:47, 12:48**
 Jury Trials, **12:38 to 12:42, 12:50**
 Misconduct by, **12:49, 12:50**
 Right to, **12:43, 12:44 to 12:46**
 Unavailability or Withdrawal of, **12:45**

COURT, COMPOSITION OF

See Appellate Courts

COURT-APPOINTED EXPERTS

See Evidence

CREDIBILITY

See Reasons for Decision, Fact-Finding, Standards of Appellate Review

CREDITORS' RIGHTS

See also Registrars in Bankruptcy
 Final vs. Interlocutory Orders, **16:16**
 Leave to Appeal Considerations, **4:62 to 4:68**
 Registrars in Bankruptcy, **16:28, 16:29**
 Stay Pending Appeal, **8:57**

CROSS-APPEALS

Extensions of Time to Cross-Appeal, **7:59, 7:83**
 Notice of, **7:15, 7:16**

CROSS-EXAMINATION

See Trials

CUSTODY

See Family Litigation

DAMAGE AWARDS

Aggravated Damages, **15:15 to 15:17**
 Appellate Court Assessment, **15:12, 15:20**
 Errors of Fact respecting, **15:4, 15:5**
 Errors of Law in, **15:2, 15:3, 15:8**
 Errors of Mixed Fact and Law, **15:6**
 Jury Awards, **15:11, 15:13**
 Nance Test, **15:10**
 New Evidence and, **10:33, 10:34**
 Non-Pecuniary Damages, **15:8 to 15:14**
 Pecuniary Damages, **15:7**
 Punitive Damages, **15:18 to 15:20**
 Standard of Review, **15:1 to 15:22**
 Trial Judge, Review of, **15:14**
 Wallace Damages, **15:17**
 Wrongful Dismissal, **15:17**

INDEX

DECISION

See Judgments and Orders

DECISION-MAKING PROCESS

See also Fact-Finding, Evidence,
Adjudicative Decision-Making

Generally, **3:7**

Adverse Inference Errors, **13:3,**
13:15 to 13:19

Bias, see Bias

Burden of Proof, Wrong, **1:16,**
13:36, 13:37

By Jury, Errors in, **6:34, 13:74 to**
13:79

Costs, error concerning, **15:71**

Damages, **15:3, 15:5**

see also Damage Awards

Deciding on Ground not Advanced
by Parties, **13:40, 13:41**

Discretion Error, **13:42, 15:31,**
15:38

Division of Process with Jury, see
Jury Trials

Error of Law, **3:7, 6:31, 14:24 to**
14:27

see also Questions of Law

Errors by Jury, **6:34, 13:74 to 13:79**

Errors of Fact, **6:30**

see also Fact-Finding

Evidence, see Evidence

Evidence-Related Process Errors,
6:24, 6:25, 13:20 to 13:31

see also Fact-Finding, Evidence

Fact-Finding Process Errors, see
Fact-Finding

Failure to Deal with Material Issue,
13:38, 13:39

Irrelevant/Relevant Considerations,
13:23, 13:24, 13:30

Jury Trials, Error by, **6:34, 13:74 to**
13:79

Lack of Neutrality, see Bias

Leave to Appeal and, **4:34**

DECISION-MAKING PROCESS

—Cont'd

Merits, Errors in, **6:29 to 6:31**

see also Questions of Law, Stan-
dards of Appellate Review

New Trial, whether error warrants,
6:8 to 6:38

Reasons, Inadequate, see Reasons
for Decision

Reconsideration, **10:76**

Remedies, **6:8 to 6:38, 13:41**

see also Remedial Powers

Review of Jury Verdict by Trial
Judge, **13:74 to 13:78**

Shared with Jury, see Jury Trials

Standard of Proof, Wrong, **13:36 to**
13:37

Submissions, Refusal of, **12:96 to**
12:99

DEFERENCE

See Standards of Appellate Review

DELAY/ABANDONMENT

See also Time-Limits, Perfection of
Appeal, Abandonment/
Discontinuance

Commencement of Appeal, **7:70 to**
7:75

see also Notice of Appeal

Dismissal for, **9:80**

Alberta, **9:103**

British Columbia, **9:86 to 9:101**

Federal Court, **9:84, 9:85**

Manitoba, **9:108 to 9:110**

New Brunswick, **9:119, 9:120**

Newfoundland, **9:125, 9:126**

Nova Scotia, **9:121, 9:122**

Ontario, **9:111 to 9:117**

Prince Edward Island, **9:123,**
9:124

Quebec, **9:118**

Saskatchewan, **9:105 to 9:107**

Supreme Court of Canada, **9:82,**
9:83

DELAY/ABANDONMENT

—Cont'd

- Dismissal for, **9:80—Cont'd**
- Yukon, **9:88**
- Notice of Appeal, **7:70, 7:71**
- Perfecting Appeal, **9:79 to 9:126**
- see also Time-Limits
- Seeking Security for Costs, **8:102**

DE NOVO APPEALS

- Generally, **2:17 to 2:22**
- Discretion, **2:19**
- Lack of Reasons as Basis, **2:20**
- Standard of Review, **2:21, 2:22**
- Statutory Language Necessary, **2:18**

DE NOVO TRIALS

- See Trials

DIRECTIONS, MOTION FOR

- See Motions

DISCOVERY

- Generally, **3:60, 16:14, 16:17**

DISCRETION

- See also Discretionary Bars
- Generally, **1:18, 1:19, 1:22, 2:19, 15:23 to 15:34**
- Admissibility Rulings concerning Evidence, **12:75, 12:81**
- Bifurcation of Trial, **12:16**
- Chambers Judge's, **15:37 to 15:41**
- Class Action Certification, **15:42, 15:43**
- Costs, **4:74, 15:64 to 15:73**
- Decision-Process Errors, **13:42, 15:31**
- Error of Law, **15:29**
- Evidence Admissibility, **12:75, 12:81**
- Fact-Finding, **13:42, 15:30**
- see also Fact-Finding
- Federal Court Associate Judges' Orders, **16:6**
- Interest, **15:74 to 15:78**

DISCRETION—Cont'd

- Interlocutory Decisions, **15:35 to 15:41**
- Intervenors, to add, **7:29**
- Law Application, **15:72**
- Leave to Appeal, **4:5 to 4:7, 4:74, 4:84, 4:89**
- Lifting Stays, **8:73**
- Masters' Orders, **16:4 to 16:5**
- Mixed Fact and Law, **15:26, 15:32**
- New Argument Raised on Appeal, **10:50**
- Polycentricity, and, **15:25**
- References, **2:28**
- Remedies, see Remedial Powers
- Reopening Trial, **12:92**
- Right to Interpreter, **12:56**
- Security for Costs, **8:101, 8:102**
- Severance of Issues, **12:16, 12:17**
- Single Appellate Judges' Decisions, **15:44 to 15:50**
- Splitting of Trial, **12:16**
- Standard of Review, **15:27 to 15:34**
- Standing, **7:24**
- Stays, **8:27 to 8:36, 8:101, 8:102**
- Summary Judgment Motion, **15:60 to 15:62**
- Time-Limits, Extension, **7:64**
- To Add Intervenor, **7:29**
- To Extend Time-Limits, **7:64**
- To Grant Adjournment, **12:26**
- To Grant Standing, **7:24**
- To Order Stays Pending Appeal, **8:27 to 8:36, 8:101, 8:102**
- To Proceed by Trial de novo, **2:19**
- To Sever Issues, **12:16, 12:17**
- Trial Judge's Exercise of, **1:18, 1:19, 1:24**

DISCRETIONARY BARS

- Generally, **5:1 to 5:5**
- Bad Faith, **5:35 to 5:43**
- Concurrent Jurisdiction, **5:4**

INDEX

DISCRETIONARY BARS—Cont'd

Conduct of Appellant, **5:2, 5:34 to 5:47, 8:28**
Abuse of Process, **5:35 to 5:43**
Acquiescence, **5:44 to 5:47**
Acting on Judgment Under Appeal, **5:46**
Appeals from Consent Orders, **5:47**
 Proceeding to Trial Before Completion of Interlocutory Appeal, **5:45**
Bad Faith, **5:35 to 5:43**
Contempt, **5:35 to 5:37**
Waiver, **1:23, 5:44 to 5:47**
Contempt, **5:35 to 5:37**
 see also Contempt
Delay, see Delay/Abandonment, Time-Limits
De minimis/Harmless Error, **1:24, 6:2, 6:5, 6:13**
Interim Rulings, **5:32, 5:33**
Issue Estoppel, **5:5**
Justiciability, **1:58, 2:28, 5:3**
Leave to Appeal, **4:6**
Mootness, **1:56, 4:6, 5:2, 5:6 to 5:23**
 Generally, **5:6, 5:7 to 5:11**
 Changes in Law, **5:10**
 Collateral Issues Outstanding, **5:15**
 Judicial Economy, **5:17 to 5:20**
Discretion to Hear Moot Appeal, **5:12 to 5:23**
 Adequate Adversarial Presentation, **5:13 to 5:16**
 Appeal Not Wholly Moot, **5:14**
Factual Changes, **5:9**
Law-Making Power, Excess of, **5:21 to 5:23**
Practical Effect, **5:18**
Test Cases, **5:16**

DISCRETIONARY BARS—Cont'd

Prematurity, **3:21, 5:2, 5:24 to 5:33, 9:82**
Evidentiary Rulings, challenges to, **12:78**
Exceptional Circumstances, **5:33**
Interlocutory Decisions, **3:21, 5:29 to 5:31**
Mid-trial Rulings, **3:21**
Non-Compliance with Formal Requirements, **5:26, 5:27**
Ripeness, **5:25 to 5:28**
Rulings Made in Course of Trial or Hearing, **5:32, 5:33**
Res Judicata, **5:5**
Stays Pending Appeal, **8:29**

DIVISION OF ASSETS

See Family Litigation

DUE PROCESS

See also Decision-Making Process, Adjudicative Decision-Making
Ensuring, **1:10 to 1:24, 2:6**
Errors in, **1:16, 1:17, 3:6, 6:23 to 6:28, 6:33, 10:16, 13:17**
Interlocutory Orders and, **4:55, 4:56**

ERROR OF JURISDICTION

See also Rights of Appeal
Generally, **10:15, 10:18**

ERROR OF LAW

See Questions of Law, Standards of Appellate Review

EVIDENCE

Adducing at Trial, **12:51 to 12:88**
Admissibility of, **12:73 to 12:84**
 Discretion and, **12:75**
 Failure to Object, **12:73 to 12:78**
 Remedies for Error, **12:79 to 12:84**
Replay Evidence, **12:91**
When Appealable, **12:78**
Adverse Inference from, **13:15 to 13:19**

EVIDENCE—Cont'd

Appeal of Admissibility Rulings, **12:79 to 12:84**
 Bias, of, **11:7 to 11:9**
 see also Bias
 Court-Appointed Witnesses, **12:57, 12:58**
 Drawing Inferences from, **14:5**
 Effect of, **10:49**
 Family Law Appeals, **10:31, 10:32**
 Fraud, **10:17**
 Errors as to Admissibility, **12:73 to 12:84, 12:91**
 Ex parte Evidence-Gathering, **1:16, 6:24, 13:7 to 13:19**
 Expert Evidence, **12:57, 12:58, 12:61, 12:82 to 12:84, 14:22**
 Failure to Disclose, **12:81**
 Failure to Object, **12:77**
 Interlocutory Orders, **10:28 to 10:30**
 Judicial Notice, **10:19, 13:9 to 13:14**
 Jurisdictional Error, evidence of, **10:15, 10:18**
 Leave to Admit, **10:38, 10:39**
 Alberta, **10:43**
 British Columbia, **10:41**
 Federal Courts, **10:41**
 Legislative Provisions, **10:13, 10:40 to 10:48**
 Limitations on, **10:14 to 10:18**
 Manitoba, **10:45**
 New Brunswick, **10:47**
 Newfoundland, **10:48**
 Northwest Territories, **10:43**
 New Trial resulting, **10:49**
 Non-Disclosure, **10:17**
 Nova Scotia, **10:48**
 Nunavut, **10:43**
 Ontario, **10:46**
 Prince Edward Island, **10:48**

EVIDENCE—Cont'd

Leave to Admit, **10:38, 10:39**
 —Cont'd
 Post-Trial Evidence, **10:23, 10:34**
 Procedural Considerations, **10:38 to 10:48**
 Reopening Trial, **10:37**
 Saskatchewan, **10:44**
 Supreme Court of Canada, **10:40**
 Test for, **10:20 to 10:27**
 Timing, **10:39**
 Use of, **10:49**
 Yukon, **10:42**
 New Argument on Appeal, see Grounds of Appeal
 New Evidence, Reopening of Trial for, **10:37 to 10:48, 12:92 to 12:95**
 New Evidence on Appeal, **6:21, 10:13 to 10:49**
 see also Grounds of Appeal
 Administrative Appeals, **10:35**
 Affidavits, **10:38, 10:40 to 10:48**
 Constitutional Litigation, **10:36, 10:38, 10:40 to 10:48**
 Criteria for Admission, **10:20 to 10:27**
 Damages Assessment, **10:33, 10:34**
 Due Process Error, evidence of, **10:16**
 Extracts of Key Evidence, **9:41**
 “No Evidence,” see Fact-Finding
 Presentation at Trial, **12:51 to 12:88**
 Admissibility Rulings, **12:73 to 12:84**
 Appellate Intervention, when warranted, **12:79 to 12:84**
 Court-Appointed Experts, **12:57, 12:58**
 Discretion and, **12:75**
 Evidentiary Rulings, **12:73 to 12:78**

INDEX

EVIDENCE—Cont'd

Presentation at Trial, **12:51 to 12:88**
—Cont'd
Examination of Witnesses, **12:63 to 12:65**
Exclusion of Witnesses, **12:59 to 12:62**
Expert Evidence, **12:57, 12:58, 12:61, 12:82 to 12:84**
Failure to Disclose on Discovery, **12:81**
Failure to Object to Evidence, **12:77**
Interpreter, Right to, **12:53 to 12:56**
Intervention by Trial Judge in, **12:66 to 12:72**
Materiality, **12:79**
New Evidence, reopening for, **10:37**
Order of Presentation, **12:52**
Re-examination of, **12:65**
Relevance of Evidence, **12:74**
Reopening Trial to Hear Evidence, **10:37, 12:92 to 12:95**
Reply Evidence, **12:89 to 12:91**
Right to Interpreter, **12:53 to 12:56**
Standard of Review, **12:76**
Taking a View, **12:85 to 12:88**
When Appealable, **12:78**
Remedies for Error, **12:79 to 12:84, 12:87, 12:91**
Reopening Trial for, **10:37, 12:92 to 12:95**
Reply/Rebuttal Evidence, **12:89 to 12:91**
Admissibility Rulings, **12:91**
Remedies for Wrongful Admission Rulings, **12:91**
Scope of, **12:89**
Sufficiency of, **3:13**
Taking a View, **12:85 to 12:88**
Weighing of, **3:13, 14:4**

EVIDENCE—Cont'd

Witnesses, see Witnesses

EXPEDITED APPEAL

See Hearing in Appellate Court

EXPERT EVIDENCE

See Evidence

EXTRACTS OF KEY EVIDENCE

See Evidence

FACT-FINDING

See also Evidence

Generally, **1:27 to 1:29, 13:2 to 13:6, 14:3 to 14:5**

Adverse Inferences, **13:3, 13:15 to 13:19**

Classification as, **1:27, 3:4, 14:29, 14:30**

Costs, **15:69**

Credibility, **14:19**

Damage Awards, **15:4, 15:5**

Discretion and, **15:30**

Erroneous Conclusions, distinguished, **13:4**

Error in, remedy for, **6:30**

Evidence-Weighing, see Evidence

Fact-Identification, **1:27 to 1:29, 3:5 to 3:19, 13:2, 14:3**

Federal Courts Act, **3:14**

Inferences, **13:3, 14:5**

Judicial Notice, **10:19, 13:3, 13:9 to 13:14**

see also Evidence, Judicial Notice

Jury, by

see Jury Trials

Legislative Facts, **14:11**

Primary Facts, **1:27**

Process, Errors in, **3:12, 13:2 to 13:6, 13:7 to 13:34, 13:35 to 13:42, 15:71**

see also Decision- Making Process

FACT-FINDING—Cont'd

Process, Errors in, 3:12, 13:2 to 13:6, 13:7 to 13:34, 13:35 to 13:42, 15:71—Cont'd
 Adverse Inference Errors, **13:3, 13:15 to 13:19**
 Burden of Proof, **13:36, 13:37**
 By Jury, **13:74 to 13:79**
 Conjecture, **13:21**
 Considering Irrelevant Evidence, **13:24**
 Considering Rejected Evidence, **13:25**
 Damage Assessment, **15:5**
 Discretion and, **13:42**
 Error by Jury, **13:74 to 13:79**
 Ex parte Evidence-Gathering, **13:7 to 13:19**
 Fact-Finding Process Errors, **13:2, 13:7 to 13:34**
 Failure to Make Material Findings, **13:32 to 13:34, 13:38, 13:39**
 Grounds not Advanced, Findings on, **13:40, 13:41**
 Ignoring Relevant Evidence, **13:23, 13:30**
 Irrelevant Evidence, **13:24**
 Judicial Notice, **13:3, 13:9 to 13:14**
 Material Findings, Failure to Make, **13:32 to 13:34, 13:38, 13:39**
 Misapprehension of Evidence, **13:26 to 13:31**
 Relying on Rejected Evidence, **13:25**
 Remedies, **13:39, 13:41**
 Standard of Proof, **13:37**
 Standard of Review, **13:4, 13:6, 14:9 to 14:23, 14:29, 15:30**
 see also Standards of Appellate Review
 Unclear Findings, **13:33**
 Reconsideration and, **10:76**

FACT-FINDING—Cont'd

Sources of, **13:3**
 Evidence, see Evidence
 Judicial Notice, **10:19, 13:9 to 13:14**
 see also Evidence
 Legislative Facts, **14:11**
 Standard of Review, see Standards of Appellate Review
 Unreasonable Findings of Fact as Errors of Law, **3:14, 13:28**

FACTUMS/APPEAL BOOKS

See also Record, Perfection of Appeal
 Appellant's, **9:7 to 9:77**
 Cross-Appeal, **9:10, 9:29**
 Federal Court, **9:14**
 Intervenor's, **9:9, 9:30, 9:39, 9:59**
 Respondent's, **9:8, 9:28, 9:38, 9:57, 9:64, 9:68, 9:73**

FAMILY LITIGATION

See also each jurisdiction
 Adequacy of Reasons respecting, **15:82**
 Adjournments and, **12:24**
 Costs, **6:52**
 Custody, **8:53, 8:116, 15:80 to 15:84**
 Division of Family Assets, **15:79 to 15:93**
 Final Orders and, **3:40, 16:18**
 Interim Custody and Maintenance, **3:51**
 Interim Relief, **8:114**
 Interlocutory Orders, **3:51, 16:15**
 Lifting Stays, **8:74**
 New Evidence on Appeal, **10:31, 10:32**
 Questions by Trial Judge, **12:67, 12:68**
 Reasons, **15:82**
 Standard of Review, **15:83, 15:86, 15:90**

INDEX

FAMILY LITIGATION—Cont'd

Stays Pending Appeal, **8:53 to 8:55, 8:77 to 8:79, 8:114**
Support, **8:115, 15:79 to 15:93**
Valuation, **15:91, 15:92**
Variation, **15:84, 15:88**

FEDERAL COURTS

Appeal Books/Factums, **9:14**
Appellate Jurisdiction Generally, **2:38 to 2:50**
Assessment Officers, **2:44, 16:26**
Associate Judges, **2:44, 16:1, 16:6**
Certified Questions, **2:48 to 2:50, 4:4, 9:129**
Citizenship Appeals, **2:42**
Court of Appeal, **1:52, 2:40, 2:45 to 2:50**
Dismissal for Delay, **9:84, 9:85**
Extensions of Time to Appeal, **7:63**
Federal Court, **2:39**
Federal Statutes, **2:43**
Immigration Matters, **2:48 to 2:50**
Interlocutory Judgments, **2:46, 2:47**
Intervention, **7:41**
Leave to Appeal
 Administrative Tribunal Decisions, **4:120 to 4:122**
Need for Judgment, **2:47**
New Evidence on Appeal, **10:41**
Notice of Appeal, **7:3**
Overruling Past Decisions, **1:52**
Perfection of Appeal in, **9:13 to 9:19**
Prothonotaries, **2:44**
 see also Prothonotaries
Record, Contents of, **9:13 to 9:19**
Referees, **2:44**
Security for Costs Pending Appeal, **8:83**
Small Claims Appeals, **16:30**
Statutes, **2:43**
Stays Pending Appeal, **8:10, 8:83**
Summary Judgments, **15:62**

FEDERAL COURTS—Cont'd

Tax Court of Canada, **2:40, 2:45 to 2:50**
Taxing Officers, **16:26**
Transcripts, **9:15**

FINAL ORDERS

See also Interlocutory Judgments/Orders, Judgments and Orders
Generally, **3:28 to 3:44, 16:7 to 16:19**
Classification as, **2:93, 3:22, 3:23, 3:28 to 3:34, 4:30, 16:7 to 16:19**
Classification as Vital/Non-Vital to Outcome, **16:10, 16:11 to 16:19**
Interim Relief, **16:18**
Relating to Contempt, **3:44**
Relating to Discovery, **16:17**
Relating to Judgments, **3:36**
Relating to Jurisdiction, **3:42, 3:43**
 Res Judicata, Issue Estoppel and Stare Decisis, **3:43**
 Stays of Proceeding, **3:42**
Relating to Matrimonial and Custody Matters, **3:40, 16:15**
Relating to Non-Parties, **3:38, 3:39**
Relating to Parties, **3:37, 16:12**
Relating to Production of Documents/Subpoenas, **3:38, 16:17**
Relating to Realization of Security, **3:41, 16:16**
Relating to Writs and Pleadings, **3:35, 16:19**

FRESH EVIDENCE

See Evidence

FUNCTUS OFFICIO

See Judgments and Orders

GROUND OF APPEAL

See also Rights of Appeal
Errors of Fact
 see Fact-Finding

GROUND OF APPEAL—Cont'd

- Errors of Law
 - see Questions of Law
- Jurisdictional Errors, see Rights of Appeal
- New Grounds Raised on Appeal, **10:50 to 10:66**
 - Amendment of Pleadings, **10:50, 10:64 to 10:66**
 - Argument, **10:50, 10:59 to 10:63**
 - Discretion to Permit, **10:50**
 - Factors to be Considered, **10:51, 10:52**
 - Practice Considerations, **10:53 to 10:55**
 - Tests for, **10:56 to 10:63**

HEARING IN APPELLATE COURT

- Additional Evidence, see Evidence
- Adjourning, **10:7 to 10:12**
 - Mid-Trial Appeals, **10:9**
 - Prematurity, **10:8, 10:9**
 - To Ensure Fairness, **10:10 to 10:12**
- Admission of Additional Evidence, see Evidence
- Composition of Court, **10:2 to 10:6**
- Expediting, **10:7**
- Raising New Grounds of Appeal, **10:50 to 10:66**

IMMIGRATION

- See also Federal Courts
- Appeals from Judicial Review
 - Decisions, **2:48 to 2:50**
- Certified Questions, **2:49, 2:50, 4:4, 9:129**

IMPARTIALITY

- See Bias

INDEPENDENCE, LACK OF

- See Bias

INJUNCTIONS

- See Interlocutory Judgments/Orders

INTEREST

- Generally, **15:74 to 15:78**
- Discretion, **15:77**
- Error of Law, **15:76**
- Inadequate Reasons for, **15:78**
- Pre-judgment, **15:74**
- Standard of Review, **15:75**

INTERIM RELIEF

- See Interlocutory Judgments/Orders

INTERLOCUTORY JUDGMENTS/ORDERS

- See also Stays Pending Appeal, Leave to Appeal
- And, **3:28 to 3:30**
- Appeals From, **3:20 to 3:61, 8:61 to 8:63, 12:4**
- Approvals under Corporate and Securities Legislation, **3:59**
- Bars to, **3:25 to 3:27**
- Bifurcation of Trial, **3:56**
- Chambers Judge's Discretion, **15:37 to 15:41**
- Classification as, **2:93, 3:22, 3:23, 3:28 to 3:34, 4:30, 16:7 to 16:19**
- Classification as Vital/Not Vital to Outcome, **16:10, 16:11 to 16:19**
- Costs, **3:61, 4:76, 6:46**
- Criminal Proceedings, **2:3**
- Decision-Making Process Errors, **15:38**
- Default Judgments, **3:52**
- Discovery, **3:60, 16:14, 16:17**
- Discretion and, **15:35, 15:37 to 15:41**
- Discretionary Bars to Appeal, **5:29 to 5:31**
- Extension of Time-Limits, **3:57**
- Family Litigation, **16:15**
- Federal Jurisdiction, **2:46, 2:47**
- Final vs. Interlocutory Order
 - Distinction, **2:93, 3:22, 3:23,**

INDEX

INTERLOCUTORY

JUDGMENTS/ORDERS

—Cont'd

3:28 to 3:34, 4:30, 16:7 to 16:19

Interim Custody and Maintenance, **3:51**

Interim Orders Generally, **8:112 to 8:117**

Interim Receivers, **3:48**

Interim Relief, **3:45 to 3:51, 8:1, 8:112 to 8:117, 16:18**

Interlocutory Injunctions, **3:46**

Judgments, as to, **3:52**

Jurisdiction, as to, **3:55**

Leave to Appeal, **3:27, 3:34, 4:21 to 4:57**

see also Leave to Appeal

Legislative Provisions, **3:22 to 3:27**

Limitations On, **3:20 to 3:61**

Limited Appeal Orders, **2:55, 3:22**

Motions for Interim Relief, **8:1**

New Evidence, **10:28 to 10:30**

Notices of Pending Litigation, **3:50**

Parties, as to, **3:54, 16:12**

Pending Litigation, **3:50**

Pleadings, as to, **3:53**

Pre-Trial Orders, **12:1, 15:35 to 15:50**

Procedural Orders, **3:55 to 3:60, 16:19**

Production of Documents, **16:17**

Removal of Solicitors from Record, **3:58**

Security for Costs, **3:49**

Standard of Review, **15:35 to 15:50**

Stays of Proceedings, **3:47, 8:61 to 8:63**

Stays Pending Appeal, see Stays Pending Appeal

Substantive Issues, as to, **16:13**

Time-Limits on Appeal, **3:22, 3:26**
Extension of, **3:57**

INTERPRETER, RIGHT TO

See Evidence

INTERVENORS

See also Parties

Adding, **7:29, 12:7**

Administrative Agencies, as, **7:34**

Amicus Curiae, **7:46 to 7:50**

Criteria, **7:48 to 7:50**

Limitations, **7:47**

As Party, **7:28 to 7:50**

By Attorney General, **7:32**

Costs, **6:50**

Discretion to Add, **7:29**

Imposition of Terms, **7:30**

In Supreme Court of Canada, **7:36 to 7:38**

Inviting, **7:31**

Parens Patriae, **7:32**

Practice Considerations, **7:35**

Provincial Appellate Courts, **7:39 to 7:50**

Tests for, **7:43 to 7:45**

JUDGES

Acting on Own Motion, **12:3**

Intervention by, **12:66 to 12:72**

Persona Designata, **2:11**

JUDGMENTS AND ORDERS

See also Relief Ordered, Remedial Powers

Consent, **2:10, 4:77**

Effective Date of, **10:68**

Entry of, **10:67**

Functus Officio, **10:69, 10:81**

Need for, to appeal, **2:33, 2:47, 2:55**

Opinions, appeal from, **2:15, 2:92**

Reconsideration of, **10:69 to 10:80**

Denial of, **10:78 to 10:80**

Grounds for, **10:72 to 10:80**

Intermediate Appellate Courts, in, **10:74 to 10:77**

JUDGMENTS AND ORDERS

—Cont’d

Reconsideration of, **10:69 to 10:80**

—Cont’d

Prior to Entry, **10:70, 10:71, 10:74**

Procedure for, **10:70**

Supreme Court of Canada, in, **10:72, 10:73**

Timing, **10:71**

Settlement of, **10:67**

Signing, **10:68**

‘Slip’ Rules, **10:82**

Variation of, **10:69 to 10:84**

JUDICIAL NOTICE

At Trial, **13:3, 13:9 to 13:14**

see also Fact-Finding

On Appeal, **10:19**

see also Evidence

JUDICIAL REVIEW DECISIONS, APPEAL OF

See Standards of Appellate Review, Administrative Agencies and Decision-Makers

JURISDICTION

See Appellate Jurisdiction, Rights of Appeal

JURISDICTIONAL ERROR, EVIDENCE OF

Generally, **10:15, 10:18**

JURISDICTIONAL LIMITATIONS

See Rights of Appeal

JURY TRIALS

See also Trials

Generally, **12:30 to 12:42**

Bias of Juror, **11:59**

Challenge to Juror, **12:32**

Charge to, **1:17, 6:34, 13:58, 13:61 to 13:73**

Counsel, **12:38 to 12:50**

see also Counsel

JURY TRIALS—Cont’d

Damage Awards, **6:36, 15:13**

Decision-Process Errors by, **6:34, 13:74 to 13:79**

Discharge of Jury, **12:31, 12:33 to 12:42**

Division of Decision-Making, **13:36, 13:37, 13:52, 13:53**

Defamation, **13:55**

Motor Vehicle Negligence, **13:56**

Wrongful Dismissal, **13:57**

Error by, **6:32 to 6:36, 13:74 to 13:79**

Evidence

see Evidence

Failure to Object to Charge, **13:58**

Jury Charge, **1:17, 13:58, 13:61 to 13:73**

Jury Selection, **12:32**

Jury Verdict, Review of, **13:74 to 13:79, 14:34 to 14:37**

Misconduct by Counsel, **12:49, 12:50**

see also Counsel

Mistrials, **12:31**

New Trial, when warranted, **6:32, 12:35, 13:61 to 13:79**

see also Remedial Powers

“No Evidence” **14:35**

see also Fact-Finding

Opening Address, **12:39, 12:97**

Questions for, **13:59, 13:60**

Remedies for Errors by, **6:32, 13:61 to 13:78**

Reopening, see Trials

Role of Trial Judge, **12:31, 13:52, 13:53**

Selection of Jury, **12:32**

Standard of Review, **12:34, 13:75, 14:34 to 14:37, 15:11, 15:13**

Structuring Questions, **13:59, 13:60**

Submissions, right to make, see Trials

Test for Discharge of Jury, **12:37, 12:38 to 12:42**

INDEX

JURY TRIALS—Cont'd

Verdict, Review by Judge, **13:74 to 13:78**

Verdicts, **14:34 to 14:37**

No Evidence, **14:35**

see also Fact-Finding

Standard of Review, **14:36**

JUSTICIABILITY

See also Discretionary Bars

Generally, **1:58, 2:25**

LAW-APPLICATION

See Adjudicative Decision-Making,
Reasons for Decision, Questions of Law

LAW-DECLARATION

See Adjudicative Decision-Making,
Reasons for Decision, Questions of Law

LAW ENFORCEMENT REVIEW BOARD LEAVE TO APPEAL

Generally, **4:98**

LAW-MAKING

See Appellate Courts, Stare Decisis

LEAVE TO APPEAL

See also Notice of Appeal

Generally, **4:1 to 4:7**

Administrative Agency Decisions,
4:90 to 4:122

Alberta, **4:93 to 4:98**

British Columbia, **4:91, 4:92**

Curial Deference, **4:90**

Federal Court, **4:120 to 4:122**

Manitoba, **2:73, 4:102 to 4:108**

Newfoundland and Labrador,
4:114, 4:115

Nova Scotia, **4:116, 4:117**

Ontario, **4:109 to 4:113**

Prince Edward Island, **4:118**

Saskatchewan, **4:99 to 4:101**

Territories, **4:119**

Appeal from Denial of, **4:2**

LEAVE TO APPEAL—Cont'd

Bankruptcy and Insolvency Decisions, **4:62 to 4:68**

Commercial Arbitration Decisions,
4:78 to 4:89

Legislation, **4:78, 4:79**

Procedural Considerations, **4:79**

Provincial Criteria, **4:80 to 4:84**

Conflicting Decisions, **4:15, 4:27, 4:45 to 4:47**

Consent Orders, **4:77**

Constitutional Issues, **4:13**

Costs Orders, **4:69 to 4:76**

Creditors' Rights Legislation, **4:62 to 4:68**

Criteria, **4:72 to 4:76**

Cross-Appeal, **4:7**

Decision-Making Process Error
and, **4:34**

Denial of, **4:2**

Discretionary Nature, **4:5 to 4:7, 4:48**

Federal Court, **7:3**

Granting of, **4:2 to 4:4**

Discretionary Nature of, **4:5 to 4:7**

Jurisdictional Effects of, **4:4**

Terms of, **4:3**

Interlocutory Orders, **3:27, 4:21 to 4:57**

see also each jurisdiction

Jurisdictional Effects of, **4:4**

Law Enforcement Review Board,
4:98

Leave to Cross-Appeal, **4:7**

Legislative Provisions, **4:1 to 4:7, 7:2 to 7:10**

No Appeal from Denial of, **4:2**

Ontario

As Appellate Court, **4:19**

Criteria for Leave, **4:19, 4:20**

Divisional Court, from, **4:17 to 4:20**

Administrative Action, Review
of, **4:20**

LEAVE TO APPEAL—Cont'd

Ontario—Cont'd

Exercising Original Jurisdiction,
4:20

Jurisdictional Considerations,
4:17, 4:18

Practice Considerations, **4:16,**
4:18

Procedural Considerations, **4:63 to**
4:68, 4:79

Bankruptcy and Insolvency Act,
4:63

Winding-Up Act, **4:64, 4:65**

Small Claims Appeals, **4:58 to 4:61**

Supreme Court of Canada, to, **2:32,**
4:8 to 4:16, 7:2

By Provincial Appellate Courts/
Federal Court of Appeal, **4:9**

By Supreme Court of Canada,
4:10 to 4:16

Terms of, **4:3, 4:37**

LIMITATIONS ON APPEAL

See Rights of Appeal

LOCUS STANDI

See Parties

MANITOBA

Administrative Appeals, **2:73**

Appellate Jurisdiction Generally,
2:74, 2:75

Single Judge, **2:75**

Associate judge, **2:71, 16:4**

Court of Appeal, **1:48, 2:74**

Dismissal for Delay, **9:108 to 9:110**

Extensions of Time to Appeal, **7:63**

Intervention, **7:40**

Leave to Appeal

Administrative Tribunal Deci-
sions, **4:102 to 4:108**

Small Claims, **4:58 to 4:61**

New Evidence on Appeal, **2:71,**
10:45

see also Evidence

Notice of Appeal, **7:7**

MANITOBA—Cont'd

Overruling Past Decisions, **1:48**

Perfecting Appeal, **9:47 to 9:51**

Queen's Bench Appellate Jurisdic-
tion, **2:71 to 2:73**

Record, Contents of, **9:47 to 9:51**
see also Record

Security for Costs Pending Appeal,
8:87

Single Appellate Judges, **2:75,**
15:45

Small Claims, **2:72**

Stays Pending Appeal, **8:16, 8:87**

Summary Judgement, **15:61**

Taxing Officers, **16:24**

MASTERS

See also Prothonotaries

Alberta, **2:62, 16:2, 16:4**

British Columbia, **2:52, 16:1 to**
16:19

Discretionary Orders, **16:4 to 16:5**

Federal, **2:44, 16:2**

see also Prothonotaries

Final Orders, **16:8**

see also Final Orders

Interlocutory Orders, **16:9, 16:11 to**
16:19

see also Interlocutory Judgments/
Orders

Leave to Appeal, **7:2 to 7:10**

Manitoba, **2:71, 16:2, 16:4**

Ontario, **16:2, 16:5**

Standards of Review, **16:3 to 16:5**

Yukon, **2:52**

MERITS OF DECISION

See Adjudicative Decision-Making,
Questions of Law, Fact-Find-
ing, Standards of Appellate
Review

MIXED FACT AND LAW

See Questions of Mixed Fact and
Law

INDEX

MOOTNESS

See Discretionary Bars

MOTIONS

Abandonment, see Abandonment/
Discontinuance

Discharge of Jury, **12:33 to 12:42**

For Abandonment, see
Abandonment/Discontinuance

For Directions, **2:29, 2:37, 9:3**

Interim Relief, see Interlocutory
Judgments/Orders

Interlocutory, **8:1**

see also Interlocutory Judgments/
Orders

Leave to Appeal, see Leave to
Appeal, Notice of Appeal

New Argument, **10:53 to 10:55**

New Evidence, see Evidence

Non-Suit, **15:54 to 15:59**

Appellate Review, **15:57**

Election, **15:59**

Procedural Error, **15:58**

Remedy on Appeal, **15:59**

Standard of Review, **15:56**

Test for, **15:55, 15:57**

Security for Costs Pending Appeal,
8:80 to 8:104

Summary Judgment, **15:60 to 15:62**

Supreme Court of Canada, **2:37**

To Extend Time, see Time-Limits

To Quash, **9:127 to 9:131**

Futility, **9:130, 9:131**

Lack of Jurisdiction, **9:129**

Timing of, **9:128**

To Raise New Argument on Appeal,
10:53

To Reinstate, **9:115, 9:116**

NEW ARGUMENT

See Grounds of Appeal

NEW BRUNSWICK

Appellate Jurisdiction Generally,
2:99, 2:100

Costs Appeals, **2:98**

NEW BRUNSWICK—Cont'd

Court of Appeal, **1:51, 2:99**

Single Judge, **2:100**

Dismissal for Delay, **9:119, 9:120**

Extension of Time to Appeal, **7:63**

Interlocutory Order, **2:99, 4:41 to
4:57**

Intervention, **7:40**

Leave to Appeal

Criteria, **4:43 to 4:51**

Interlocutory Orders, **4:41 to
4:57**

Small Claims, **4:61**

New Evidence on Appeal, **10:47**

Notice of Appeal, **7:10**

Overruling Past Decisions, **1:51**

Perfecting Appeal, **9:61 to 9:65**

Queen's Bench, **2:96 to 2:98**

Record, Contents of, **9:61 to 9:65**
Security for Costs Pending Appeal,
8:89

Small Claims Appeals, **2:97, 4:58
to 4:51, 16:31**

Stays Pending Appeal, **8:21, 8:89**

Summary Judgement, **15:62**

Taxing and Assessment Officers,
16:25

NEW EVIDENCE

See Evidence

NEWFOUNDLAND AND LABRADOR

Administrative Appeals, **2:107**

Appellate Jurisdiction Generally,
2:108

Court of Appeal, **1:51, 2:107**

Extension of Time to Appeal,
7:63

Single Judge, **2:109**

Dismissal for Delay, **9:118 to 9:126**

Intervention, **7:40**

Leave to Appeal, **2:108**

Administrative Tribunal Deci-
sions, **4:114, 4:115**

Criteria, **4:44, 4:45 to 4:51**

**NEWFOUNDLAND AND
LABRADOR—Cont'd**

New Evidence on Appeal, **10:48**
 Notice of Appeal, **7:10**
 Overruling Past Decisions, **1:51**
 Perfecting Appeals, **9:75 to 9:78**
 Record, Contents of, **9:75 to 9:78**
 Security for Costs Pending Appeal,
8:90
 Single Appellate Judge, **2:109,**
15:50
 Small Claims Matters, **2:107**
 Stays Pending Appeal, **8:24, 8:90**
 Summary Judgment, **15:61**
 Supreme Court, **2:107**
 Taxing and Assessment Officers,
2:107, 16:25

NEW TRIALS

See Remedial Powers

NON-SUITS

See Motions

NORTHWEST TERRITORIES

Appellate Jurisdiction Generally,
2:59
 Court of Appeal, **2:63**
 Single Judge, **2:64**
 Leave to Appeal
 Administrative Tribunal Deci-
 sions, **4:119**
 New Evidence on Appeal, **10:43**
 Notice of Appeal, **7:5**
 Perfection of Appeal, **9:33 to 9:41**
 Record, Contents of, **9:35**
 Security for Costs Pending Appeal,
8:85
 Small Claims Appeals, **2:60**
 Stays Pending Appeal, **8:14, 8:85**
 Taxing and Assessment Officers,
16:22

**NOTICE OF ABANDONMENT/
DISCONTINUANCE**

Generally, **9:132, 9:133**

NOTICE OF APPEAL

Amendment of, **7:13**
 Content of Notice, **7:11 to 7:14**
 Cross-Appeal, Notice of, **7:15, 7:16**
 Delay, **7:70, 7:71**
 Leave-to-Appeal Notice, **7:1**
 Legislative Provisions, **7:2 to 7:10**
 Alberta, **7:5**
 British Columbia, **7:4**
 Federal Court, **7:3**
 Manitoba, **7:7**
 New Brunswick, **7:10**
 Newfoundland, **7:10**
 Northwest Territories, **7:5**
 Nova Scotia, **7:10**
 Nunavut, **7:5**
 Ontario, **7:8**
 Prince Edward Island, **7:10**
 Quebec, **7:9**
 Saskatchewan, **7:6**
 Supreme Court of Canada, **7:2**
 Yukon Territory, **7:4**
 Notice of Cross-Appeal, **7:15, 7:16**
 Parties, **7:17 to 7:27**
 Purpose of Notice, **7:11 to 7:13**
 Service and Filing, **7:14, 7:68**
 Supplementary, **7:11 to 7:13**
 Time-Limits for Commencement,
7:51 to 7:84
 see also Time- Limits
 Beginning of Period, **7:55 to**
 7:61
 Commencement of, **7:55 to 7:61**
 Conditions Attached to Exten-
 sions, **7:54**
 Conflicting Time Periods, **7:61**
 Cross-Appeals, **7:59, 7:83**
 Delay, **7:70, 7:71**
 Effect of Non-Compliance, **7:52**
 End Point, **7:60**
 Extensions of, **7:53, 7:54, 7:62 to**
 7:83
 Prejudice, **7:72 to 7:75**
 Triggering Act, **7:56**

INDEX

NOVA SCOTIA

Administrative Tribunals, **2:102**
Appellate Jurisdiction Generally,
2:101, 2:102
Court of Appeal, **1:51, 2:102**
Single Judge, **2:103**
Dismissal for Delay, **9:121, 9:122**
Extension of Time to Appeal, **7:63**
Interlocutory Orders, **4:38**
Leave to Appeal, **2:102, 4:38**
Leave to Appeal
Administrative Tribunal Deci-
sions, **4:116, 4:117**
Consent Orders, **2:102**
New Evidence on Appeal, **10:48**
Notice of Appeal, **7:10**
Overruling Past Decisions, **1:51**
Perfecting Appeal, **9:66 to 9:69**
Prothonotaries, **2:101**
Record, Contents of, **9:66 to 9:69**
Single Appellate Judge, **2:103,**
15:49
Stays Pending Appeal, **8:23, 8:90**
Summary Judgment, **15:61**
Taxing and Assessment Officers,
16:25

NUNAVUT

Appellate Jurisdiction Generally,
2:59
Court of Appeal, **2:63**
Single Judge, **2:64**
Leave to Appeal
Administrative Tribunal Deci-
sions, **4:119**
Notice of Appeal, **7:5**
Perfection of Appeal, **9:33 to 9:41**
Record, Contents of, **9:35**
Security for Costs Pending Appeal,
8:85
Small Claims Appeals, **2:60, 16:30**
Stays Pending Appeal, **8:14, 8:85**

ONTARIO

Administrative Tribunals, **2:84**

ONTARIO—Cont'd

Combining of Appeals, **2:81**
Court of Appeal, **1:49, 2:91 to 2:94**
Single Judge, **2:94**
Courts of Justice Act, **2:76, 2:82,**
2:91 to 2:94
Dismissal for Delay, **9:111 to 9:117**
Divisional Court, **2:84 to 2:90, 2:92**
Interlocutory Orders, **2:85**
Single Judge, **2:89, 2:90**
Extensions of Time to Appeal, **7:63**
Family Law Appeals, **2:87**
Federal Legislation, effect of, **2:78**
Final Orders, **2:86, 2:93**
Interlocutory Orders, **2:85, 4:41 to**
4:57
see also Interlocutory Judgments/
Orders
Intervention, **7:40**
Leave to Appeal
Administrative Tribunal Deci-
sions, **4:109 to 4:113**
Criteria, **4:42, 4:44, 4:45 to 4:51**
Divisional Court, from, **4:17 to**
4:20
Interlocutory Orders, **4:41 to**
4:57
Small Claims, **4:58**
Masters, **16:5**
Monetary Limits to Jurisdiction,
2:86, 2:88
Motions, **2:94**
New Evidence on Appeal, **10:46**
Notice of Appeal, **7:8**
Other Statutory Bases, **2:77, 2:83**
Overruling Past Decisions, **1:49**
see also Stare Decisis
Perfecting Appeal, **9:52 to 9:60**
Record, Contents of, **9:52**
Single Appellate Judges, **2:94,**
15:47
Small Claims Appeals, **2:88, 4:58,**
16:30
Stated Case, **2:84**

ONTARIO—Cont'd

Stays Pending Appeal, **8:17 to 8:19, 8:67 to 8:74, 8:88**
 Summary Judgment, **15:62**
 Superior Court of Justice, **2:82, 2:83, 2:85, 2:86, 2:93**
 Taxing and Assessment Officers, **16:24**
 Transfers between Courts, **2:80, 2:81**

OVERRULING PAST DECISIONS

See stare Decisis

“PALPABLE AND OVERRIDING ERROR” TEST

See Standards of Appellate Review

PARENS PATRIAE JURISDICTION

Generally, **2:7, 7:32, 8:13**
 Attorney General as Intervenor, **7:32**

PARTIES

Generally, **7:17 to 7:27**
 Adding Parties, **7:27, 12:5**
 Amicus Curiae, **7:46 to 7:50**
 see also Intervenor
 Attorney General, **7:32**
 Capacity, **7:18, 7:20 to 7:24, 12:5**
 Discretion to Grant Standing, **7:24**
 Identification of, **7:17**
 Interlocutory Orders, **3:54**
 Intervenor, see also Intervenor
 As Amicus Curiae, **7:46 to 7:50**
 As Party, **7:28 to 7:50**
 Attorney General, as, **7:32**
 Legislative Criteria to Determine Standing, **7:21 to 7:23**
 Non-parties to Appeal, **7:21**
 Notice of Application to Appeal, **7:1 to 7:10, 7:17 to 7:27**
 Capacity, **7:18**
 Status to Appeal, **7:20 to 7:24**

PARTIES—Cont'd

Respondents, **7:25 to 7:27**
 Administrative Decision- Makers as, **7:26**
 Application to Add, **7:27**
 Notice of Appeal, **7:69**
 Status or Standing, **7:20 to 7:24**

PERFECTION OF APPEAL

See also Record, Factums/Appeal Books, Time-Limits, each jurisdiction
 Generally, **9:1 to 9:78**
 Certificate of Readiness, **9:20, 9:61 to 9:69, 9:87**
 Costs of, relief from, **9:2**
 Delay, **9:79 to 9:126**
 see also Time- Limits
 Motions for Direction, **9:3**
 Relief from Non-Compliance with
 Alberta, **9:102 to 9:104**
 British Columbia, **9:86 to 9:101**
 Federal Courts, **9:84, 9:85**
 Manitoba, **9:108 to 9:110**
 New Brunswick, **9:119, 9:120**
 Newfoundland, **9:125, 9:126**
 Nova Scotia, **9:121, 9:122**
 Ontario, **9:111 to 9:117**
 Prince Edward Island, **9:123, 9:124**
 Quebec, **9:118**
 Requirements, **9:79 to 9:126**
 see also Delay/Abandonment, Time-Limits
 Saskatchewan, **9:105 to 9:107**
 Supreme Court of Canada, **9:82, 9:83**
 Yukon, **9:88**
 Supreme Court of Canada, **9:4 to 9:12**
 Time-Limits, see Time-Limits, Delay/Abandonment

PERSONA DESIGNATA

Generally, **2:11**

INDEX

PLEADINGS

See also Grounds of Appeal, Notice of Appeal, Record
Admissions, withdrawal of, **12:10**
Amending at Trial, **12:9 to 12:14**
Amending on Appeal, **10:64 to 10:66**
Final Orders and, **3:35**
Interlocutory Orders, as to, **3:53**
Severance of Issues, **12:15 to 12:18**
Withdrawal of Admissions, **12:10**

PRE-JUDGMENT INTEREST

See Interest

PREMATURITY

See Discretionary Bars

PRE-TRIAL APPLICATIONS

See Interlocutory Judgments/Orders

PRINCE EDWARD ISLAND

Appellate Jurisdiction Generally, **2:105**
Court of Appeal, **1:51, 2:104**
Single Judge, **2:106**
Dismissal for Delay, **9:123, 9:124**
Extensions of Time to Appeal, **7:63**
Intervention, **7:40**
Leave to Appeal, **2:105**
Administrative Tribunal Decisions, **4:118**
New Evidence on Appeal, **10:48**
Notice of Appeal, **7:10**
Perfecting Appeal, **9:70 to 9:74**
Prothonotaries, **2:104**
Record, Contents of, **9:70 to 9:74**
Security for Costs Pending Appeal, **8:88**
Single Appellate Judge, **2:106, 15:48**
Stays Pending Appeal, **8:22, 8:88**
Summary Judgment, **15:62**
Taxing and Assessment Officers, **16:25**
Trial Division, **2:104**

PROFESSIONAL DISCIPLINE

APPEALS

Stays Pending Appeal, **8:60**

PROTHONOTARIES

See also Masters
British Columbia, **2:52**
Federal Court, **2:44, 16:2**
Leave to Appeal, **7:2 to 7:10**
Standards of Review, **16:3 to 16:5**
Yukon, **2:52**

PUBLIC ACCESS TO TRIALS

See Trials

QUEBEC

Court of Appeal, **1:50, 2:95**
Dismissal for Delay, **9:118**
Notice of Appeal, **7:9**
Overruling Past Decisions, **1:50**
Small Claims Appeals, **16:30**
Stays Pending Appeal, **8:20, 8:91**

QUESTIONS OF FACT

See Fact-Finding, Standards of Appellate Review

QUESTIONS OF LAW

See also Standards of Appellate Review, Grounds of Appeal, Adjudicative Decision-Making
Generally, **1:30 to 1:32, 3:2 to 3:19, 14:24 to 14:27, 14:30**
Adjudication Errors, **3:6, 3:7**
Decision-Making Errors, **3:7**
Due Process Errors, **3:6**
Law-Declaration Errors, **3:8 to 3:11, 6:31**
Appeal Rights Limited to, **3:2 to 3:19**
Classification Generally, **3:9, 14:30**
Construction of Agreements and Other Documents, **3:11**
Contract Interpretation, **14:25**
Costs, **15:70**
Discretion and, **15:29**

QUESTIONS OF LAW—Cont'd

Extricating Question of Law, **1:37 to 1:40, 3:19, 14:32**

Interest, **15:76**

Leave to Appeal, **4:15**

Legislative Interpretation, **3:10**

Limitations of Right to Appeal to, **3:2 to 3:19**

see also Rights of Appeal

New Trial, whether error warrants, **6:31**

“No Evidence” as Error of Law, **3:13**

Small Claims Decisions, **16:34**

Standard of Care, **14:27**

Standard of Review, **14:24, 14:30, 15:29**

Supreme Court of Canada, **4:15**

Unreasonable Findings of Fact as Errors of Law, **3:14**

QUESTIONS OF MIXED FACT AND LAW

See also Standards of Appellate Review

Generally, **1:34, 1:37 to 1:40, 3:15 to 3:19, 14:28 to 14:33**

Classification as, **1:34, 14:29, 14:30**

Damage Awards, **15:6**

Discretion and, **15:26, 15:32**

Examples, **1:34**

Extrication of Question of Law, **1:37 to 1:40, 3:19, 14:32**

Small Claims Decisions, **16:36**

Standard of Review, **1:34, 14:28 to 14:33, 15:32**

see also Standards of Appellate Review

Summary Proceedings, **15:52, 15:53**

REASONABLE APPREHENSION OF BIAS

See Bias

REASONABLENESS

See Standards of Appellate Review

REASONS FOR DECISION

Generally, **13:43**

Absence of, **2:20**

Adequacy of, **13:43 to 13:51**

Credibility, **13:49**

Fact-Identification, **13:48**

Law-Declaration, **13:50, 13:51**

Tests, **13:46, 13:47**

Appeal from, **2:14**

Bias, Appearance of, **11:48 to 11:50**

Duty to Provide, **13:43**

Inadequate, **1:21, 13:43 to 13:51, 15:78, 15:82**

Interest, Inadequate reasons for, **15:78**

Post-Appeal Reasons, **13:45**

Provision after Notice of Appeal, **13:45**

Purposes of, **13:44**

Tests, **13:46, 13:47**

Unclear Findings of Fact, **13:33**

RECONSIDERATION

See Judgments and Orders

RECORD

See also Factums/Appeal Books, Perfection of Appeal

Generally, **2:16, 9:1**

Adequacy for New Trial, **6:16 to 6:22**

Amendment of Pleadings on Appeal, **10:64 to 10:66**

Appeals and, **2:16**

Appellant's, **9:5, 9:22**

Books of Authorities, **9:11, 9:12, 9:19, 9:31, 9:40, 9:46, 9:60, 9:69, 9:74, 9:78**

Contents, **9:1**

Exhibits, **9:24, 9:34, 9:35, 9:55**

Legislative Requirements
Alberta, **9:34**

INDEX

RECORD—Cont'd

Legislative Requirements—Cont'd
British Columbia, **9:19.10**,
9:19.20, **9:19.30**, **9:19.40**,
9:19.50, **9:19.60**, **9:19.70**
Federal Courts, **9:13 to 9:19**
Manitoba, **9:47 to 9:51**
New Brunswick, **9:61 to 9:65**
Newfoundland, **9:75 to 9:78**
Northwest Territories, **9:35**
Nova Scotia, **9:66 to 9:69**
Nunavut, **9:35**
Ontario, **9:52 to 9:60**
Prince Edward Island, **9:70 to 9:74**
Saskatchewan, **9:42 to 9:46**
Supreme Court of Canada, **9:4 to 9:12**
Yukon, **9:20 to 9:32**
New Evidence, **6:21**
see also Evidence
New Trial, for, **6:16 to 6:22**
References, **2:30**
see also References
Removal of Solicitor from, **3:58**
Respondent's, **9:6**
Taking a View, **12:86**
Transcripts, Lack of, **6:22**, **9:14**,
9:23 to 9:25, **9:43**, **9:48**, **9:53**

REFEREES

Generally, **2:44**, **2:62**

REFERENCES

Generally, **2:12**, **5:3**
Discretion to Refuse, **2:28**
Legislative Basis, **2:27**, **2:91 to 2:94**
Procedure, **2:29**, **2:30**
Record, **2:30**

REGISTRARS IN BANKRUPTCY

See also Creditors' Rights
Generally, **16:28**, **16:29**
Standards of Review, **16:29**

RELIEF ORDERED

See also Remedial Powers
Costs, see Costs Order
Interim Relief
Final vs. Interlocutory Orders,
16:18
Interlocutory Motions, **8:1**
Other Interim Relief, **8:112 to 8:117**
Security for Judgment, see Stays
Pending Appeal
Stays, see Stays Pending Appeal
New Trial, **12:80**
see also Remedial Powers

REMEDIAL POWERS

See also Relief Ordered, Costs
Orders, Damage Awards
Generally, **6:1 to 6:7**
Adequacy of Record, **6:16 to 6:22**
Administrative Agencies, appeals
from, **6:37**
Commercial Arbitration, **6:38**
Costs of, **6:45**
Consent Judgments, **2:10**
Costs, see Costs Order
Damages, see Damage Awards
De minimis/Harmless Errors, **6:2**,
6:5, **6:13**
Decision-Process Errors, **6:23 to 6:28**, **13:41**
see also Decision-Making Process
Failure to Deal with Material
Issue, **13:38**, **13:39**
Jury Trials, **6:32**, **13:61 to 13:79**
Nature of Error, **6:23 to 6:31**
Adjudicative Process Errors,
6:23 to 6:28, **6:32**
see also Adjudicative Decision-Making, Decision-Making Process
Merits Determination, **6:29 to 6:31**
see also Fact-Finding, Questions of Law

REMEDIAL POWERS—Cont'd

- De minimis/Harmless Errors, **6:2, 6:5, 6:13—Cont'd**
 - New Evidence, **6:21**
 - Statutory Authority, **6:1, 6:8**
 - Terms of Order for, **6:14, 6:15**
 - Tests, **6:9 to 6:13, 6:16 to 6:22**
 - Types of Errors, **6:33 to 6:36**
- Evidence, wrongful admission rulings, **12:79, 12:80, 12:91**
- New Trial or Hearing, **6:8 to 6:38, 11:19**
 - Adequacy of Record, **6:16 to 6:22**
 - Administrative Appeals, **6:37**
 - Authority to, **6:8**
 - Bias, **11:19**
 - Burden of Proof, **6:10**

REMITTING FOR REHEARING

- Generally, **6:7, 6:37**
- Technical Defects/Immateriality, **6:5, 6:13**
- Wrongful Evidence Rulings, **12:80**

REOPENING OF TRIAL

- See Trials

REPLY EVIDENCE

- See Evidence

RESPONDENTS

- See Parties

RESPONDENT'S

RECORD/FACTUM

- See Record

REVIEW ON MERITS

- See Standards of Appellate Review, Adjudicative Decision-Making, Questions of Law, Fact-Finding

RIGHTS OF APPEAL

- See also Leave to Appeal
- Generally, **1:1 to 1:3, 2:2, 3:3, 3:24**
- Lack of Guarantee of, **2:2**

RIGHTS OF APPEAL—Cont'd

- Limitations re Interlocutory Orders, **3:20 to 3:61**
- Limitations re Questions of Mixed Fact and Law, **3:15 to 3:19**
- Limitations to Questions of Law or Jurisdiction, **2:63, 2:76, 2:93, 2:99, 3:2 to 3:19**
- Statutory Nature of, **2:4 to 2:11, 3:24**

RULE OF LAW

- Generally, **1:1 to 1:3**

SASKATCHEWAN

- Administrative Appeals, **2:68**
- Appellate Jurisdiction, **2:65 to 2:70**
- Court of Appeal, **1:48, 2:69, 2:70**
 - Single Judge, **2:70**
- Dismissal for Delay, **9:105 to 9:107**
- Family Matters, **2:66 to 2:69**
- Interlocutory Orders, **4:22 to 4:37**
- Intervention, **7:42**
- Leave to Appeal
 - Administrative Tribunal Decisions, **4:99 to 4:101**
 - Interlocutory Orders, **4:22 to 4:37**
 - Small Claims, **4:58**
- Lifting Stays, **8:76**
- New Evidence on Appeal, **10:44**
- Notice of Appeal, **7:6**
- Overruling Past Decisions, **1:48**
- Perfecting Appeal, **9:42 to 9:46**
- Queen's Bench, **2:66 to 2:68**
- Record, Contents of, **9:42 to 9:46**
- Security for Costs Pending Appeal, **8:86**
- Single Appellate Judge, **2:70**
- Small Claims, **2:66, 4:58, 16:30**
- Stays Pending Appeal, **8:15, 8:75 to 8:79, 8:86**
- Summary Judgement, **15:61**
- Taxing Officers, **2:67, 16:23**

INDEX

SECURITY FOR JUDGMENT OR COSTS

See Stays Pending Appeal

SERVICE AND FILING

See Notice of Appeal

SETTLEMENT OFFERS, COSTS OF

Generally, 6:54

SMALL CLAIMS COURT APPEALS

Generally, 16:30 to 16:36

Alberta, 2:60, 16:32

British Columbia, 2:53, 16:32

Error of Fact, 16:35

Error of Law, 16:34

Error of Mixed Fact and Law, 16:36

Federal Court, 16:30

Jurisdiction, 16:30

Leave to Appeal Requirements,
4:58 to 4:61, 7:2 to 7:10

Manitoba, 2:72, 4:59, 4:60, 16:31

New Brunswick, 2:97, 4:61, 16:31

Northwest Territories, 2:60

Nunavut, 2:60, 16:30

Ontario, 2:88, 4:58, 16:30

Quebec, 16:30

Saskatchewan, 2:66, 4:58, 16:30

Standards of Review, 16:33 to
16:36

Trials de Novo, 16:31

Yukon, 2:53, 16:32

STANDARD OF PROOF

See Decision- Making Process

STANDARDS OF APPELLATE REVIEW

See also Questions of Law, Questions of Mixed Fact and Law, Fact-Finding

Adding Parties, 12:6, 12:8

Adjournments, 12:26

Administrative Decisions, 14:43 to
14:46

STANDARDS OF APPELLATE REVIEW—Cont'd

Admissibility of Evidence, 12:76
see also Evidence

Adverse Inference Errors, 13:16

Aggravated Damages, 15:16

Amending Pleadings at Trial, 12:11
to 12:14

Bankruptcy Registrars, 16:29

Bias, recusal for, 11:13

Bifurcation of Trial, 12:18

By Second Appellate Court, 14:38
to 14:41

Class Action Certification, 15:43

Contempt, 15:52

Contract Interpretation, 1:34, 14:25

Costs, 15:68 to 15:73

Counsel, Right to, 12:44

Court-Appointed Experts, 12:58

Credibility, 14:19 to 14:21

Custody, 15:83

Damage Awards, 15:1 to 15:22

see also Damage Awards

Damages for Mental Distress, 15:15

Denial of Counsel, 12:44

Discharge of Jury, 12:34

Discretion, 15:27 to 15:34

see also Discretion

Division of Family Assets, 15:83,
15:90

Division of Function between Judge
and Jury, 13:54

Error of Law, 14:24 to 14:27

Evidence Rulings, 12:73 to 12:78

Exclusion of Witnesses, 12:62

Expert Evidence, 12:58, 14:22

Fact-Finding, 1:28, 13:6, 14:3 to
14:5, 14:9 to 14:23, 16:35

see also Fact-Finding

Family Litigation, 15:83, 15:86,
15:90

Federal court Associate Judges,
16:1, 16:6

In Camera Trial, 12:21

**STANDARDS OF APPELLATE
REVIEW—Cont’d**

Interest, **15:75**
 Interpreter, Right to, **12:56**
 Intervenor, adding, **12:8**
 Intervention by Trial Judge, **12:69**
 Judge-Jury Division, **13:54**
 Judicial Notice, **13:12**
 Judicial Review Decisions, **14:42 to 14:46**
 Jury Charge, **13:66**
 Jury Discharge, **12:34**
 Jury Verdict, **13:74 to 13:79, 14:36, 14:37**
 Jury Verdict Reviewed by Trial Judge, **13:75**
 Law-Declaration, **1:31, 14:6, 14:7**
 Leave-to-Appeal Applications, **4:14**
 Leave-to-Commence Proceedings, **15:22**
 Legislative Facts, **14:11**
 Masters’ Decisions, **16:3 to 16:5**
 Misapprehension of Evidence, **13:28, 13:29**
 Mixed Fact and Law, **1:34, 14:28 to 14:33**
 Nature-of-Question Determination, **14:2 to 14:8, 14:29 to 14:33**
 No Deference, **14:45, 14:46**
 Non-Suit, **15:56**
 Open Trial, **12:21**
 “Palpable and Overriding Error” Test, **14:9 to 14:23**
 Parties, Adding, **12:6, 12:8**
 Pleadings, Amending, **12:11, 12:12 to 12:14**
 Prothonotaries’ Decisions, **16:3 to 16:5**
 Publication Bans, **12:21**
 Questioning of Witnesses, **12:69 to 12:71**
 Questions for Jury, **13:60**
 Questions of Law, **14:24 to 14:27, 15:29**

**STANDARDS OF APPELLATE
REVIEW—Cont’d**

Questions of Mixed Fact and Law, see Questions of Mixed Fact and Law
 Reasonableness, **15:33**
 Registrars in Bankruptcy, **16:29**
 Reopening of Trial for Further Evidence, **12:93**
 Reply Evidence, Admissibility of, **12:90**
 Second Appellate Court, by, **14:38 to 14:41**
 Severing Issues, **12:18**
 Single Appellate Judges’ Decisions, **15:44 to 15:50**
 Small Claims Appeals, **16:33 to 16:36**
 Stays Pending Appeal, **8:40**
 Submissions, Right to Make, **12:98**
 Summary Judgment Motion, **15:60 to 15:62**
 Summary Trial, **15:52, 15:53, 15:63**
 Support, Spousal and Child, **15:86, 15:87**
 Supreme Court of Canada, appeals to, **14:39**
 Trial de novo, **2:21**
 Trial Judge’s Exercise of Discretion, **1:19**
 Trial Judge’s Findings of Fact, **14:18 to 14:23**
 Valuation of Assets, **15:92**
 Verdict Review by Trial Judge, **13:75**

STANDING

See Parties

STARE DECISIS

See also Appellate Courts
 Generally, **1:35, 1:41 to 1:52**
 Comity, principle of, **1:43**
 Decisions of Co-ordinate Jurisdiction Courts, **1:43**
 Decisions of Higher Courts, **1:41**

INDEX

STARE DECISIS—Cont'd

- Doctrine of Precedent, **1:41 to 1:43**
- Overruling Past Intermediate Appellate Court Decisions, **1:46 to 1:52**
- Overruling Prior Supreme Court of Canada Decisions, **1:45**
- Prior Appellate Decisions, **1:42**

STATING CASE TO APPELLATE COURT

- Generally, **2:12, 2:23 to 2:26, 2:75, 2:84**
- Justiciability, **2:25**
- Refusal to State Case, **2:26**
- Statutory Basis, **2:24, 2:91 to 2:94**

STATUTORY PROVISION FOR RIGHT OF APPEAL

- Generally, **2:1 to 2:11**
- References, **2:12**

STAY OF PROCEEDINGS

- Generally, **3:42, 3:47, 8:61 to 8:63**

STAYS PENDING APPEAL

- Generally, **8:2 to 8:4**
- Automatic Stays Pending Appeal, **8:6, 8:65 to 8:79**
- Availability Generally, **8:4**
- By Order, **8:7, 8:25 to 8:64**
- Commercial Litigation, **8:56, 8:57**
- Conditions for, **8:31 to 8:35**
- Creditors' Rights, **8:57**
- Discretion in Ordering, **8:27 to 8:36**
- Expediting Appeal, **8:33**
- Family Litigation, **8:53 to 8:55, 8:77 to 8:79**
- Interlocutory Orders, **8:61 to 8:63**
- Jurisdiction to Grant, **8:5 to 8:24**
- Legislative Provisions
 - Alberta, **8:13, 8:75 to 8:79, 8:85**
 - British Columbia, **8:12, 8:84**
 - Federal Courts, **8:10, 8:83**
 - Manitoba, **8:16, 8:87**
 - New Brunswick, **8:21, 8:89**

STAYS PENDING APPEAL—Cont'd

- Legislative Provisions—Cont'd
 - Newfoundland and Labrador, **8:24, 8:90**
 - Northwest Territories, **8:14, 8:85**
 - Nova Scotia, **8:23, 8:90**
 - Nunavut, **8:14, 8:85**
 - Ontario, **8:19, 8:67 to 8:74, 8:88**
 - Prince Edward Island, **8:22, 8:88**
 - Quebec, **8:20, 8:91**
 - Saskatchewan, **8:15, 8:75 to 8:79, 8:86**
 - Supreme Court of Canada, **8:5 to 8:9, 8:66, 8:82**
 - Yukon, **8:12, 8:84**
- Lifting Stays, **8:64, 8:69, 8:74, 8:76**
- Monetary Judgements, **8:58, 8:59**
- Partial Stays, **8:36, 8:59**
- Professional Discipline, **8:60**
- Security for Judgment Pending Appeal, **8:31, 8:80 to 8:111**
 - Amount, **8:103**
 - Burden of Proof, **8:93**
 - Costs, for, **8:80 to 8:91**
 - Effect of Non-Compliance with Order, **8:104**
 - Factors to be Considered, **8:92, 8:94 to 8:102, 8:109**
 - Judgment Under Appeal, **8:108 to 8:111**
 - Statutory Requirements, **8:82 to 8:91**
 - Trial Costs, for, **8:105 to 8:107**
- Terms for, **8:30 to 8:35**
- Tests for, **8:25, 8:37 to 8:42**
- Tripartite Test For, **8:25, 8:37 to 8:52**
- Undertakings, **8:34**
- Varying Stays, **8:64**

SUBMISSIONS, RIGHT TO MAKE

- See Trials

SUMMARY PROCEEDINGS

Generally, **15:51 to 15:63**
 Non-Suit, **15:54 to 15:59**
 see also Motions
 Standard of Review, **15:52, 15:53, 15:60 to 15:62**

SUMMARY TRIAL

Generally, **15:63**
 Standard of Review, **15:63**

SUPERVISION OF TRIAL

See Trials

SUPPORT

See Family Litigation

SUPREME COURT OF CANADA

Generally, **1:8 to 1:9**
 Appellate Jurisdiction Generally, **2:31 to 2:37**
 Dismissal for Delay, **9:82, 9:83**
 Intervention in, **7:36 to 7:38**
 Leave to Appeal to, **2:32, 4:8 to 4:16**
 From Provincial Appellate Courts/Federal Court of Appeal, **4:9**
 From Supreme Court of Canada, **2:32, 4:10 to 4:16**
 Legislative Bases, **2:32 to 2:36**
 Motions, **2:37**
 New Evidence on Appeal, **10:40**
 Notice of Appeal, **7:2**
 Obiter Dicta, **1:41**
 Perfection of Appeal, **9:4 to 9:12**
 see also Perfection of Appeal
 Reconsideration, **10:72, 10:73**
 Record, Contents of, **9:4 to 9:12**
 Registrars, **2:37, 16:27**
 Role of, **1:8, 1:9, 1:35 to 1:58**
 Security for Costs, **8:82**
 Single Judges, **2:37**
 Stay Pending Appeal, **8:5 to 8:9, 8:66, 8:82**

TAKING A VIEW

See Evidence

TAXING AND ASSESSMENT OFFICERS

Generally, **16:20**
 Alberta, **16:22**
 British Columbia, **16:21**
 Federal Court, **2:44, 16:26**
 Manitoba, **16:24**
 New Brunswick, **16:25**
 Newfoundland, **16:25**
 Northwest Territories, **16:22**
 Nova Scotia, **16:25**
 Ontario, **16:24**
 Prince Edward Island, **16:25**
 Saskatchewan, **2:67, 16:23**
 Supreme Court, **16:27**

TIME-LIMITS

See also Notice of Appeal, Delay/
 Abandonment, Perfection of
 Appeal
 Commencement of Appeal, **7:12, 7:51 to 7:84**
 Beginning Point, **7:55 to 7:61**
 End Point, **7:55 to 7:61**
 Conflicts in, **7:61**
 Cross-Appeals, **7:59, 7:83**
 Delay, **7:70, 7:71, 9:91 to 9:93**
 Effect of Non-Compliance, **7:12, 7:52**
 see also Delay/Abandonment,
 Perfection of Appeal
 Extensions of Time, **7:53, 7:54, 7:62 to 7:83, 9:114**
 Interlocutory Orders, **3:23**
 Jurisdictional Effect, **7:12, 7:52**
 Notice of Appeal, **7:51 to 7:54**
 Perfecting Appeal, **9:80, 9:81, 9:91 to 9:93, 9:103**
 Practice Considerations, **7:84**
 Prejudice, **7:72 to 7:75**
 Relief from Non-Compliance, see
 Perfection of Appeal

INDEX

TIME-LIMITS—Cont'd

Triggering Act, **7:11 to 7:13**

TRANSCRIPT

See Record

Lack of on Appeal, **6:22**

TRIALS

See also Jury Trials

Generally, **12:1**

Absence of Counsel, **12:27**

Absence of Witness, **12:28**

Adding Parties, **12:5 to 12:8**

see also Parties

Adducing Evidence, **12:51 to 12:65**

see also Evidence

Adjournments of, **12:22 to 12:29**

see also Adjournment of Trial

Amending Pleadings at Trial, **12:9 to 12:14**

see also Pleadings

Argument, **12:96 to 12:99**

Bifurcation of, **12:15 to 12:18**

Burden of Proof, **6:10, 13:36, 13:37**

Conduct of Counsel at, see Counsel
Counsel, see Counsel

Cross-Examination, **1:16, 1:17, 12:64, 12:66 to 12:72**

De novo, **2:17 to 2:22**

Errors in Conduct of, **1:16 to 1:19**

Discretion by Trial Judge, **1:18, 1:19**

Non-Compliance with Basic
Participatory Requirements,
1:16, 1:17

Evidence, see Evidence

Examination of Witnesses, **12:63 to 12:65**

Exclusion of Witnesses, **12:59 to 12:62**

Findings of Fact, **14:18 to 14:23**

see also Fact-Finding, Standards
of Appellate Review, Deci-
sion-Making Process

In Camera, **12:20**

TRIALS—Cont'd

Interpreter, right to, **12:53 to 12:56**

Intervention by Trial Judge in

Questioning, **12:66 to 12:72**

see also Judges

Juries, see Jury Trials

Lack of Counsel, **12:27**

Limiting Public Access, **12:19 to 12:21**

New Argument, Adjournment for,
12:29

New Evidence, Adjournment for,
12:29

New Evidence, Admissibility, see
Evidence

Non-Suits, see Motions

Order of Presentation, **12:52**

see also Evidence

Parties, **12:5 to 12:8**

see also Parties

Pleadings, Amending, **12:9 to 12:14**

see also Pleadings

Presentation of Evidence, see Evi-
dence

Public Access, **12:19 to 12:21**

Questioning by Trial Judge, **12:66 to 12:72**

Reopening Trial to Hear Further
Evidence, **12:92 to 12:95**

Severance of Issues, **12:15 to 12:18**

Submissions, Right to Make, **12:96 to 12:99**

Opening, **12:97**

Refusal of, **1:16, 12:98, 12:99**

Remedies for Barring, **12:99**

Taking a View, **12:85 to 12:88**

see also Evidence

Witnesses, **12:28, 12:66 to 12:72**

see also Witnesses

VERDICTS

See Jury Trials

WAIVER

Generally, **2:9, 5:44 to 5:47, 11:10, 11:11**

WEIGHING EVIDENCE

See Evidence

WITNESSES

Absence of, **12:28**

Adjournment for, **12:28**

Court-Appointed, **12:57, 12:58**

Cross-Examination of, **12:64**

Examination of, **12:63 to 12:65**

Exclusion of, **12:59 to 12:62**

Expert, see Evidence

Questioning by Trial Judge, **12:66 to 12:72**

Re-examination of, **12:65**

Unavailability of, **12:28**

YUKON

Appellate Jurisdiction Generally,
2:51 to 2:57

Dismissal for Delay, **9:88**

Leave to Appeal

Administrative Tribunal Deci-
sions, **4:119**

New Evidence on Appeal, **10:42**

Notice of Appeal, **7:4**

Perfection of Appeal, **9:20 to 9:32**

Record, Contents of, **9:13 to 9:19**

Security for Costs Pending Appeal,
8:84

Small Claims Appeals, **2:53**

Stays Pending Appeal, **8:12, 8:84**