



Court Rules Act
SUPREME COURT CIVIL RULES
B.C. Reg. 168/2009

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Consolidated Regulations of British Columbia

This is an unofficial consolidation.

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This is an unofficial consolidation provided for convenience only. This is not a copy prepared for the purposes of the *Evidence Act*.

This consolidation includes any amendments deposited and in force as of the currency date at the bottom of each page. See the end of this regulation for any amendments deposited but not in force as of the currency date. Any amendments deposited after the currency date are listed in the B.C. Regulations Bulletins. All amendments to this regulation are listed in the *Index of B.C. Regulations*. Regulations Bulletins and the Index are available online at www.bclaws.ca.

See the User Guide for more information about the *Consolidated Regulations of British Columbia*. The User Guide and the *Consolidated Regulations of British Columbia* are available online at www.bclaws.ca.

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Court Rules Act

SUPREME COURT CIVIL RULES

B.C. Reg. 168/2009

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Court Rules Act

SUPREME COURT CIVIL RULES

B.C. Reg. 168/2009

PART 1 – INTERPRETATION

RULE 1-1 – INTERPRETATION

Definitions

- (1) In these Supreme Court Civil Rules, unless the context otherwise requires:
- “**accessible address**” means an address that describes a unique and identifiable location in British Columbia that is accessible to the public during normal business hours for the delivery of documents;
 - “**action**” means a proceeding started by a notice of civil claim;
 - “**address for service**”, in relation to a party to a proceeding, means an address that is, under Rule 4-1, the party’s address for service in the proceeding;
 - “**case plan order**” means an order referred to in Rule 5-3 (3);
 - “**Chief Justice**” means the Chief Justice of the Supreme Court of British Columbia;
 - “**court**” means the Supreme Court of British Columbia and, if a master has jurisdiction, includes a master of the Supreme Court;
 - “**document**” has an extended meaning and includes a photograph, film, recording of sound, any record of a permanent or semi-permanent character and any information recorded or stored by means of any device;
 - “**family law case**” has the same meaning as in the Supreme Court Family Rules;
 - “**fast track action**” means an action that is, under Rule 15-1 (1), an action to which Rule 15-1 applies;
 - “**file**” means file in the registry;
 - “**former Supreme Court Rules**” means the Supreme Court Rules, B.C. Reg. 221/90;
 - “**insurer**” means an insurer, as defined in the *Financial Institutions Act*, that
 - (a) has provided a policy of insurance to a party to an action in relation to matters or property in issue in that action, and
 - (b) under that policy, is obligated to indemnify the party for liability imposed on the party in the action,and includes a surety of a party to an action in circumstances in which a claim has been made on a surety bond related to the matters in issue in the action;
 - “**order**” includes a judgment and a decree;
 - “**originating pleading**” means a notice of civil claim, counterclaim, third party notice or any document, other than a petition, that starts a proceeding;

- “party”**, in relation to a proceeding, means a person named as a party in the style of proceeding;
- “party of record”**, in relation to a proceeding, means a person who has filed a pleading, petition or response to petition in the proceeding, and includes,
- (a) in a proceeding referred to in Part 18, a person who has filed a notice of interest under that Part;
 - (b) Repealed. [B.C. Reg. 44/2014, Sch. 2, s. 1.]
- “party’s lawyer”**, in relation to a party to a proceeding, means the lawyer representing the party in that proceeding;
- “petition proceeding”** means a proceeding started by a petition;
- “plaintiff”** means a person who starts an action;
- “pleading”** means a notice of civil claim, a response to civil claim, a reply, a counterclaim, a response to counterclaim, a third party notice or a response to third party notice;
- “pleading period”**, in relation to an action, means the period for filing a responding pleading to the pleading that was most recently filed in the action;
- “proceeding”** means an action, a petition proceeding and a requisition proceeding, and includes any other suit, cause, matter, stated case under Rule 18-2 or appeal;
- “receiver”** includes receiver-manager;
- “registrar”** includes a district registrar and a deputy district registrar;
- “registrar’s hearing”** means an inquiry, an assessment, an accounting, a review of a bill, an examination of an agreement or an assessment of a bill of costs;
- “registry”**, in relation to a proceeding, means the office of the court in which the proceeding is being conducted;
- “relief”** includes remedy;
- “requisition proceeding”** means a proceeding started by a requisition;
- “responding pleading”** means a response to civil claim, a response to counterclaim, a response to third party notice, a reply or any other document filed in response to an originating pleading;
- “serve”**, in relation to a document, means
- (a) serve by ordinary service in accordance with Rule 4-2 (2), or
 - (b) if the document is one referred to in Rule 4-3 (1), serve by personal service in accordance with Rule 4-3 (2);
- “special referee”** means any person, other than a master or registrar, who is appointed by the court under these Supreme Court Civil Rules or under an enactment to conduct an assessment, inquiry or accounting;
- “style of proceeding”** means, in relation to a document that is or is to be filed in a proceeding, that portion of the document that

SUPREME COURT CIVIL RULESRule 1-2 – Citation and Application

- (a) sets out the registry number attributed to the proceeding and the court and registry in which the proceeding is being or is to be conducted, and
- (b) identifies the parties to the proceeding or, if there is no person named as a defendant, the subject matter of the proceeding;

“third party” means a person referred to in Rule 3-5 (1) against whom a third party claim is pursued;

“witness list” means a list referred to in Rule 7-4 (1);

“writ of execution” includes a writ of seizure and sale, a writ of sequestration, a writ of possession and a writ of delivery and any subsequent writ that issues to give effect to these writs, and also includes a warrant or other process of execution issued out of any court in British Columbia that has jurisdiction to grant and issue that process.

[am. B.C. Regs. 119/2010, Sch. A, s. 1; 18/2013; 44/2014, Sch. 2, s. 1.]

Interpretation Act and Supreme Court Act

- (2) Unless a contrary intention appears, the *Interpretation Act* and the interpretation section of the *Supreme Court Act* apply to these Supreme Court Civil Rules.

Titles and headings

- (3) The titles and headings of these Supreme Court Civil Rules are for convenience only and are not intended as a guide to interpretation.

Reference aids

- (4) Italicized words in square brackets are not part of these Supreme Court Civil Rules, are included editorially for convenience of reference only and are not to be used in interpreting the rules or any provision to which the words refer.

RULE 1-2 – CITATION AND APPLICATION**Citation**

- (1) These Supreme Court Civil Rules may be cited as the “Supreme Court Civil Rules” and are included within any reference to the “Rules of Court” or the “Supreme Court Rules”.

Application

- (2) These Supreme Court Civil Rules govern every proceeding in the Supreme Court unless
 - (a) the proceeding is a family law case, in which case the Supreme Court Family Rules apply, or
 - (b) an enactment otherwise provides.

Waiver of rule by agreement

- (3) On application, and if all parties to a proceeding agree, the court may order that any provision of these Supreme Court Civil Rules does not apply to the proceeding.

Petitions and applications

- (4) If an enactment, other than these Supreme Court Civil Rules or the Supreme Court Family Rules, authorizes an application to the court or to a judge, the application must be
- (a) by petition under Rule 16-1 or requisition under Rule 17-1, or
 - (b) if the application is for an order other than a final order, by application under Part 8,
- whether or not the enactment provides for the mode of application.
[am. B.C. Reg. 119/2010, Sch. A, s. 2.]

Enactments of Canada

- (5) Subrule (4) does not apply if a particular mode of application is required by an enactment of Canada.

RULE 1-3 – OBJECT OF RULES

Object

- (1) The object of these Supreme Court Civil Rules is to secure the just, speedy and inexpensive determination of every proceeding on its merits.

Proportionality

- (2) Securing the just, speedy and inexpensive determination of a proceeding on its merits includes, so far as is practicable, conducting the proceeding in ways that are proportionate to
- (a) the amount involved in the proceeding,
 - (b) the importance of the issues in dispute, and
 - (c) the complexity of the proceeding.

SUPREME COURT CIVIL RULESRule 2-1 – Choosing the Correct Form of Proceeding

PART 2 – HOW TO MAKE A CLAIM**RULE 2-1 – CHOOSING THE CORRECT FORM OF PROCEEDING****Commencing proceedings by notice of civil claim**

- (1) Unless an enactment or these Supreme Court Civil Rules otherwise provide, every proceeding must be started by the filing of a notice of civil claim under Part 3.

Commencing proceedings by petition or requisition

- (2) To start a proceeding in the following circumstances, a person must file a petition or, if Rule 17-1 applies, a requisition:
- (a) the person starting the proceeding is the only person who is interested in the relief claimed, or there is no person against whom relief is sought;
 - (b) the proceeding is brought in respect of an application that is authorized by an enactment to be made to the court;
 - (c) the sole or principal question at issue is alleged to be one of construction of an enactment, will, deed, oral or written contract or other document;
 - (d) the relief, advice or direction sought relates to a question arising in the execution of a trust, or the performance of an act by a person in the person's capacity as trustee, or the determination of the persons entitled as creditors or otherwise to the trust property;
 - (e) the relief, advice or direction sought relates to the maintenance, guardianship or property of infants or other persons under disability;
 - (f) the relief sought is for payment of funds into or out of court;
 - (g) the relief sought relates to land and is for
 - (i) a declaration of a beneficial interest in or a charge on land and of the character and extent of the interest or charge,
 - (ii) a declaration that settles the priority between interests or charges,
 - (iii) an order that cancels a certificate of title or making a title subject to an interest or charge, or
 - (iv) an order of partition or sale;
 - (h) the relief, advice or direction sought relates to the determination of a claim of solicitor and client privilege.

[am. B.C. Reg. 149/2013, s. 1 (a).]

Estate proceedings

- (2.1) Without limiting any other provision of this Rule, a proceeding to which Part 25 applies may be started by
- (a) the filing of a submission for estate grant under Rule 25-3 (2),
 - (b) the filing of a submission for resealing under Rule 25-6 (2),

- (c) the filing of a requisition under Rule 25-12 (2), 25-14 (1) or 25-14 (1.11), or
- (d) the filing of a petition under Rule 25-14 (1.1), (2) or (4).

[en. B.C. Reg. 149/2013, s. 1 (b); am. B.C. Reg. 115/2019, s. 1.]

Procedures applicable to particular proceedings

- (3) Without limiting subrules (1) to (2.1), the following provisions apply to the following applications and proceedings:
 - (a) Rule 8-3 applies to an application for an order by consent;
 - (b) Rule 8-4 applies to an application of which notice need not be given;
 - (c) Rule 10-3 applies to a proceeding brought to obtain relief by way of interpleader or in which such relief is sought;
 - (c.1) Rule 14-1 (21) applies to an appointment for a review of a bill or an examination of an agreement under the *Legal Profession Act*;
 - (d) Rule 15-1 applies to a fast track action;
 - (e) Rule 18-2 applies to a stated case;
 - (f) Rule 18-3 applies to an appeal that is authorized, by an enactment, to be made to the court;
 - (g) Rule 19-3 applies to a proceeding to register a reciprocally enforceable judgment within the meaning of Rule 19-3;
 - (h) Rule 21-1 applies to a proceeding brought in rem against a ship or other property;
 - (i) Part 25 applies to a proceeding in relation to the administration of an estate;
 - (j) Repealed. [B.C. Reg. 149/2013, s. 1 (d).]
 - (k) Rule 21-7 applies to a proceeding for foreclosure of the equitable right to redeem mortgaged property, for redemption or for cancellation of an agreement for sale.

[am. B.C. Regs. 119/2010, Sch. A, s. 3; 149/2013, s. 1 (c) and (d).]

RULE 2-2 – TRIBUNAL AWARDS

Definition

- (1) In this rule, “**tribunal award**” means any order, decision, judgment or other determination that, under an enactment, may be filed or registered in the court for enforcement purposes.

[en. B.C. Reg. 120/2014, s. 1.]

Tribunal awards may be filed

- (2) A tribunal award may be filed in a registry.

[en. B.C. Reg. 120/2014, s. 1.]

Filing tribunal awards

- (3) To file a tribunal award under subrule (2), a certified copy of the tribunal award must be attached to a requisition in Form 17.2 and the requisition must be filed.

[en. B.C. Reg. 120/2014, s. 1.]

PART 3 – PROCEEDINGS STARTED BY FILING A NOTICE OF CIVIL CLAIM

RULE 3-1 – NOTICE OF CIVIL CLAIM

Notice of civil claim

- (1) To start a proceeding under this Part, a person must file a notice of civil claim in Form 1.

Contents of notice of civil claim

- (2) A notice of civil claim must do the following:
 - (a) set out a concise statement of the material facts giving rise to the claim;
 - (b) set out the relief sought by the plaintiff against each named defendant;
 - (c) set out a concise summary of the legal basis for the relief sought;
 - (d) set out the proposed place of trial;
 - (e) if the plaintiff sues or a defendant is sued in a representative capacity, show in what capacity the plaintiff sues or the defendant is sued;
 - (f) provide the data collection information required in the appendix to the form;
 - (g) otherwise comply with Rule 3-7.

RULE 3-2 – SERVING AND RENEWING THE NOTICE OF CIVIL CLAIM

Renewal of original notice of civil claim

- (1) An original notice of civil claim does not remain in force for more than 12 months, but if a defendant named in a notice of civil claim has not been served, the court, on the application of the plaintiff made before or after the expiration of the 12 months, may order that the original notice of civil claim be renewed for a period of not more than 12 months.

Further renewal of notice of civil claim

- (2) If a renewed notice of civil claim has not been served on a defendant named in the notice of civil claim, the court, on the application of the plaintiff made during the currency of the renewed notice of civil claim, may order the renewal of the notice of civil claim for a further period of not more than 12 months.

When renewal period begins

- (3) Unless the court otherwise orders, a renewal period ordered under subrule (1) or (2) begins on the date of the order.

SUPREME COURT CIVIL RULESRule 3-3 – Responding to a Notice of Civil Claim

After renewal of notice of civil claim

- (4) Unless the court otherwise orders, a copy of each order granting renewal of a notice of civil claim must be served with the renewed notice of civil claim, and the renewed notice of civil claim remains in force and is available to prevent the operation of any statutory limitation and for all other purposes.

RULE 3-3 – RESPONDING TO A NOTICE OF CIVIL CLAIM**Filing a response to civil claim**

- (1) To respond to a notice of civil claim, a person must, within the time for response to civil claim referred to in subrule (3),
 - (a) file a response to civil claim in Form 2, and
 - (b) serve a copy of the filed response to civil claim on the plaintiff.

Contents of response to civil claim

- (2) A response to civil claim under subrule (1)
 - (a) must
 - (i) indicate, for each fact set out in Part 1 of the notice of civil claim, whether that fact is
 - (A) admitted,
 - (B) denied, or
 - (C) outside the knowledge of the defendant,
 - (ii) for any fact set out in Part 1 of the notice of civil claim that is denied, concisely set out the defendant's version of that fact, and
 - (iii) set out, in a concise statement, any additional material facts that the defendant believes relate to the matters raised by the notice of civil claim,
 - (b) must indicate whether the defendant consents to, opposes or takes no position on the granting of the relief sought against that defendant in the notice of civil claim,
 - (c) must, if the defendant opposes any of the relief referred to in paragraph (b) of this subrule, set out a concise summary of the legal basis for that opposition, and
 - (d) must otherwise comply with Rule 3-7.

Period for filing response to civil claim

- (3) Unless the court otherwise orders, to respond to a notice of civil claim, a response to civil claim under this rule must be filed and served within the following period:
 - (a) in the case of a notice of civil claim that is served on a person,

- (i) if the person was served anywhere in Canada, within 21 days after that service,
 - (ii) if the person was served anywhere in the United States of America, within 35 days after that service, or
 - (iii) if the person was served anywhere else, within 49 days after that service;
- (b) in the case of a notice of civil claim that is served on a ship or property under Rule 21-1 (5), within 21 days after service.

[am. B.C. Regs. 95/2011, Sch. A, s. 1; 112/2012, Sch. A, s. 1.]

Payment into court when tender pleaded

- (4) If the response to civil claim alleges a defence of tender or tender of money by way of amends, the defendant must pay into court the amount alleged to have been tendered, failing which the defence of tender or tender of money by way of amends may be struck out.

Costs if defence of tender successful

- (5) If, on a judgment, costs are awarded to a defendant who has paid into court under this rule, the assessed costs must be paid to the defendant out of the money in court.

Application for money paid into court

- (6) A plaintiff may, before trial, apply to take out money paid into court under this rule, and the court may deal with costs of the action as if the defence of tender had succeeded.

Tender in defamation action

- (7) If in an action for defamation the defendant is permitted to allege the plaintiff failed to mitigate his or her damages, the defendant may also allege tender of money by way of amends, whether the tender was made before or after action was started.

Consequence if fact not responded to

- (8) An allegation of fact in a notice of civil claim, if not admitted, denied or stated to be outside the knowledge of the defendant, is deemed to be outside the knowledge of the defendant.

RULE 3-4 – COUNTERCLAIM

Counterclaim

- (1) A defendant in an action who wishes to pursue a claim within that action against the plaintiff must, within the time set out for the filing of a response to civil claim under Rule 3-3 (3), file a counterclaim in Form 3 that accords with Rule 3-7.

SUPREME COURT CIVIL RULESRule 3-4 – Counterclaim

Counterclaim against another person

- (2) If the counterclaim referred to in subrule (1) raises questions between the defendant bringing the counterclaim and a person other than the plaintiff, the defendant may join that other person as a party against whom the counterclaim is brought.

Identification of parties

- (3) In a counterclaim,
- (a) the plaintiff against whom the counterclaim is brought must be identified as the “plaintiff”,
 - (b) each defendant against whom the counterclaim is brought must, along with the defendant bringing the counterclaim, be identified as a “defendant”, and
 - (c) any other person against whom the counterclaim is brought must be identified as a “defendant by way of counterclaim”.

Service of counterclaim

- (4) Unless the court otherwise orders, a defendant who files a counterclaim
- (a) must serve a copy of the filed counterclaim on all parties of record within the time set out in Rule 3-3 (3) for the filing and service of a response to civil claim, and
 - (b) if the counterclaim is brought against a person who is not yet a party of record to the action, must serve that defendant by way of counterclaim by personal service with
 - (i) a copy of the filed counterclaim, and
 - (ii) a copy of the filed notice of civil claimwithin 60 days after the date on which the counterclaim was filed.

Response to counterclaim

- (5) A person against whom a counterclaim is brought must, if that person wishes to dispute the counterclaim,
- (a) file a response to counterclaim in Form 4 that accords with Rule 3-7, and
 - (b) serve a copy of that filed response to counterclaim on all parties of record.

Application of rules

- (6) Except to the extent that this rule otherwise provides, Rules 3-1, 3-3 and 3-8 apply to a counterclaim as if it were a notice of civil claim and to a response to counterclaim as if it were a response to civil claim.

If action stayed or discontinued

- (7) Without limiting subrule (6) of this rule, a defendant’s counterclaim in an action may proceed even though the plaintiff’s claim in the action has been stayed, discontinued or dismissed.

Separate trial of counterclaim

- (7.1) If, on the application of a party against whom a counterclaim is made, it appears that the subject matter of the counterclaim ought to be dealt with separately, the court may order that the counterclaim be struck out or tried separately or may make any other order the court considers will further the object of these Supreme Court Civil Rules.

[en. B.C. Reg. 119/2010, Sch. A, s. 4.]

Judgment

- (8) If a set-off or counterclaim of a defendant establishes a defence to the plaintiff's claim, the court may grant judgment in favour of the defendant for any balance in the defendant's favour or for other relief as the court considers appropriate.

RULE 3-5 – THIRD PARTY CLAIMS

Making a third party claim

- (1) A party against whom relief is sought in an action may, if that party is not a plaintiff in the action, pursue a third party claim against any person if the party alleges that
- (a) the party is entitled to contribution or indemnity from the person in relation to any relief that is being sought against the party in the action,
 - (b) the party is entitled to relief against the person and that relief relates to or is connected with the subject matter of the action, or
 - (c) a question or issue between the party and the person
 - (i) is substantially the same as a question or issue that relates to or is connected with
 - (A) relief claimed in the action, or
 - (B) the subject matter of the action, and
 - (ii) should properly be determined in the action.

Plaintiff as defendant to counterclaim

- (1.1) Subrule (1) does not preclude a plaintiff from pursuing a third party claim in his or her capacity as a defendant to a counterclaim.

[en. B.C. Reg. 119/2010, Sch. A, s. 5 (a).]

Third party need not be party to original action

- (2) A third party claim may be pursued against a person, whether or not that person is a party to the action.

Pursuing a third party claim

- (3) Subject to subrule (4), a party wishing to pursue a third party claim referred to in subrule (1) must file a third party notice in Form 5 that accords with Rule 3-7.

SUPREME COURT CIVIL RULESRule 3-5 – Third Party Claims

When leave is required

- (4) A party may file a third party notice
 - (a) at any time with leave of the court, or
 - (b) without leave of the court, within 42 days after being served with the notice of civil claim or counterclaim in which the relief referred to in subrule (1) is claimed.

Court may consider case plan order

- (5) If the court makes an order under subrule (4) (a) in an action in which a case plan order has been made, the court may
 - (a) consider if and to what extent the case plan order is appropriate given the third party notice, and
 - (b) amend the case plan order, if necessary, for that purpose.

Application for leave

- (6) Notice of an application for leave under subrule (4) (a) must be served on
 - (a) the third party, and
 - (b) all parties of record.

Service

- (7) Unless the court otherwise orders, a party who files a third party notice must,
 - (a) within 60 days after the date on which the third party notice is filed, serve on the third party
 - (i) a copy of the filed third party notice, and
 - (ii) if the third party is not a party of record at the time of service, a copy of any filed pleading that has previously been served by any party to the action, and
 - (b) promptly after the date on which the third party notice is filed, serve a copy of the filed third party notice on all parties of record.

Application to set aside third party notice

- (8) At any time, on application, the court may set aside a third party notice.

Response to third party notice

- (9) Subject to subrule (10), if a third party wishes to dispute the third party notice, the third party must
 - (a) file a response to third party notice in Form 6 that accords with Rule 3-7, and
 - (b) serve a copy of the filed response to third party notice on all parties of record.

When response to third party notice not required

- (10) A third party who is a defendant in the action need not file or serve a response to third party notice and is deemed to deny the facts alleged in the third party notice and to rely on the facts pleaded in that party's response to civil claim if all of the following apply:
- (a) the third party notice contains no claim other than a claim for contribution or indemnity under the *Negligence Act*;
 - (b) the third party has filed and served a response to civil claim to the plaintiff's notice of civil claim;
 - (c) the third party intends, in defending against the third party notice, to rely on the facts set out in the third party's response to civil claim and on no other facts.

Application of rules

- (11) Except to the extent that this rule otherwise provides, Rules 3-1 and 3-3 apply to a third party notice as if it were a notice of civil claim and to a response to third party notice as if it were a response to civil claim.

[am. B.C. Reg. 119/2010, Sch. A, s. 5 (b).]

Response to civil claim

- (12) A third party who has filed a response to third party notice may, within the period for filing and serving a response to the third party notice, file and serve on all parties of record a response to civil claim to the plaintiff's notice of civil claim, raising any defence open to a defendant.

Application for directions

- (13) A party affected by a third party procedure may apply to the court for directions.

Powers of court

- (14) The court may impose terms on any third party procedure to limit or avoid any prejudice or unnecessary delay that might otherwise be suffered by a party as a result of that third party procedure.

Third party issues

- (15) An issue between the party filing the third party notice and the third party may be tried at the time the court may direct.

Default of response to third party notice

- (16) If a third party has not filed a response to third party notice and the time for filing the response to third party notice has expired, the party who filed the third party notice may apply for judgment in default of response to third party notice against the third party and notice of the application must be served on each other party of record.

[en. B.C. Reg. 119/2010, Sch. A, s. 5 (a).]

Relief

- (17) On an application under subrule (16), the court may grant any or all of the relief claimed in the third party notice.

[en. B.C. Reg. 119/2010, Sch. A, s. 5 (a).]

RULE 3-6 – REPLY

Service of reply

- (1) A plaintiff may, within 7 days after the response to civil claim has been served, file and serve on all parties of record a reply in Form 7 that accords with Rule 3-7.

Pleading subsequent to reply

- (2) No pleading subsequent to a reply may be filed or served without leave of the court.

Failure to reply

- (3) If no reply to a response to civil claim is served, a joinder of issue on that response to civil claim is implied.

No joinder of issue

- (4) A reply that is a simple joinder of issue must not be filed or served.

RULE 3-7 – PLEADINGS GENERALLY

Content of Pleadings

Pleading must not contain evidence

- (1) A pleading must not contain the evidence by which the facts alleged in it are to be proved.

Documents and conversations

- (2) The effect of any document or the purport of any conversation referred to in a pleading, if material, must be stated briefly and the precise words of the documents or conversation must not be stated, except insofar as those words are themselves material.

When presumed facts need not be pleaded

- (3) A party need not plead a fact if
- (a) the fact is presumed by law to be true, or
 - (b) the burden of disproving the fact lies on the other party.

**When performance of a condition precedent
need not be pleaded**

- (4) A party need not plead the performance of a condition precedent necessary for the party's case unless the other party has specifically denied it in the other party's pleadings.

Matters arising since start of proceeding

- (5) A party may plead a matter that has arisen since the start of the proceeding.

Inconsistent allegations

- (6) A party must not plead an allegation of fact or a new ground or claim inconsistent with the party's previous pleading.

Alternative allegations

- (7) Subrule (6) does not affect the right of a party to make allegations in the alternative or to amend or apply for leave to amend a pleading.

Objection in point of law

- (8) A party may raise in a pleading an objection in point of law.

Pleading conclusions of law

- (9) Conclusions of law must not be pleaded unless the material facts supporting them are pleaded.

Status admitted

- (10) Unless the incorporation of a corporate party or the office or status of a party is specifically denied, it is deemed to be admitted.

Set-off or counterclaim

- (11) A defendant in an action may set off or set up by way of counterclaim any right or claim, whether the set-off or counterclaim is for damages or not, so as to enable the court to pronounce a final judgment on all claims in the same action.

Pleading after the notice of civil claim

- (12) In a pleading subsequent to a notice of civil claim, a party must plead specifically any matter of fact or point of law that
 - (a) the party alleges makes a claim or defence of the opposite party not maintainable,
 - (b) if not specifically pleaded, might take the other party by surprise, or
 - (c) raises issues of fact not arising out of the preceding pleading.

General relief

- (13) A pleading need not ask for general or other relief.

SUPREME COURT CIVIL RULESRule 3-7 – Pleadings Generally

General damages must not be pleaded

- (14) If general damages are claimed, the amount of the general damages claimed must not be stated in any pleading.

Substance to be answered

- (15) If a party in a pleading denies an allegation of fact in the previous pleading of the opposite party, the party must not do so evasively but must answer the point of substance.

Denial of contract

- (16) If a contract, promise or agreement is alleged in a pleading, a bare denial of it by the opposite party is to be construed only as a denial of fact of the express contract, promise or agreement alleged, or of the matters of fact from which it may be implied by law, and not as a denial of the legality or sufficiency in law of that contract, promise or agreement.

Allegation of malice

- (17) It is sufficient to allege malice, fraudulent intention, knowledge or other condition of the mind of a person as a fact, without setting out the circumstances from which it is to be inferred.

Particulars

When particulars necessary

- (18) If the party pleading relies on misrepresentation, fraud, breach of trust, wilful default or undue influence, or if particulars may be necessary, full particulars, with dates and items if applicable, must be stated in the pleading.

Lengthy particulars

- (19) If the particulars required under subrule (18) of debt, expenses or damages are lengthy, the party pleading may refer to this fact and, instead of pleading the particulars, must serve the particulars in a separate document either before or with the pleading.

Further particulars

- (20) Particulars need only be pleaded to the extent that they are known at the date of pleading, but further particulars
- (a) may be served after they become known, and
 - (b) must be served within 10 days after a demand is made in writing.

Particulars in libel or slander

- (21) In an action for libel or slander,
- (a) if the plaintiff alleges that the words or matter complained of were used in a derogatory sense other than their ordinary meaning, the plaintiff must give

particulars of the facts and matters on which the plaintiff relies in support of that sense, and

- (b) if the defendant alleges that, insofar as the words complained of consist of statements of fact, they are true in substance and in fact, and that insofar as they consist of expressions of opinion, they are fair comment on a matter of public interest, the defendant must give particulars stating which of the words complained of the defendant alleges are statements of fact and of the facts and matters relied on in support of the allegation that the words are true.

Order for particulars

- (22) The court may order a party to serve further and better particulars of a matter stated in a pleading.

Demand for particulars

- (23) Before applying to the court for particulars, a party must demand them in writing from the other party.

Demand for particulars not a stay of proceedings

- (24) A demand for particulars does not operate as a stay of proceedings or give an extension of time, but a party may apply for an extension of time for serving a responding pleading on the ground that the party cannot answer the originating pleading until particulars are provided.

RULE 3-8 – DEFAULT JUDGMENT

Default in filing and serving a response to civil claim

- (1) A plaintiff may proceed against a defendant under this rule if
 - (a) that defendant has not filed and served a response to civil claim, and
 - (b) the period for filing and serving the response to civil claim has expired.

[am. B.C. Reg. 119/2010, Sch. A, s. 6.]

Filings required

- (2) A plaintiff who wishes to proceed against a defendant under this rule must file
 - (a) proof of service of the notice of civil claim on that defendant,
 - (b) proof that the defendant has failed to serve a response to civil claim,
 - (c) a requisition endorsed by a registrar with a notation that no response to civil claim has been filed by that defendant, and
 - (d) a draft default judgment order in Form 8.

SUPREME COURT CIVIL RULESRule 3-8 – Default Judgment

Claims for Which Default Judgment Is Available**Claim for specified or ascertainable amount**

- (3) If the plaintiff's action against a defendant includes a claim for recovery of money in a specified or ascertainable amount, the plaintiff may
- (a) on that claim, obtain judgment in Form 8 against that defendant for an amount not exceeding the total of
 - (i) the amount claimed,
 - (ii) the interest, if any, to which the plaintiff is entitled, and
 - (iii) costs, and
 - (b) proceed against one or more of the defendants, including the defendant against whom judgment was obtained, on any other claims brought in the action that are not barred as a result of the judgment referred to in paragraph (a).
- [en. B.C. Reg. 95/2011, Sch. A, s. 2 (a).]

Interest

- (4) For the purpose of subrule (3), a claim may be treated as a claim for recovery of money in a specified or ascertainable amount even though
- (a) part of the claim is for interest accruing after the date of the notice of civil claim, and
 - (b) the interest is to be computed from the date of the notice of civil claim to the date that judgment is granted.
- [en. B.C. Reg. 95/2011, Sch. A, s. 2 (a).]

Claim for damages to be assessed

- (5) If the plaintiff's action against a defendant includes a claim for damages in an amount that is neither specified nor ascertainable, the plaintiff may
- (a) on that claim, obtain judgment in Form 8 against that defendant for damages to be assessed and costs, and
 - (b) proceed against one or more of the defendants, including the defendant against whom judgment was obtained, on any other claims brought in the action that are not barred as a result of the judgment referred to in paragraph (a).
- [en. B.C. Reg. 95/2011, Sch. A, s. 2 (a).]

Claim for detention of goods

- (6) If the plaintiff's action against a defendant includes a claim for the detention of goods, the plaintiff may
- (a) on that claim, obtain
 - (i) judgment in Form 8 against that defendant for the delivery of the goods, or their value to be assessed and costs, or

- (ii) judgment in Form 8 against that defendant for the value of the goods to be assessed and costs, and
 - (b) proceed against one or more of the defendants, including the defendant against whom judgment was obtained, on any other claims brought in the action that are not barred as a result of the judgment referred to in paragraph (a).
[en. B.C. Reg. 95/2011, Sch. A, s. 2 (a).]
- (7) Repealed. [B.C. Reg. 95/2011, Sch. A, s. 2 (a).]

Application to judge or master

- (8) If a registrar is not certain that a plaintiff's claim against a defendant relates to a claim within subrule (3), (5) or (6), the registrar may refuse to grant judgment and the plaintiff may apply to a judge or master for default judgment.
[am. B.C. Reg. 95/2011, Sch. A, s. 2 (b).]

Judgment in other actions

- (9) If the plaintiff's claim against a defendant is not one referred to in subrule (3), (5) or (6), the plaintiff may apply for judgment against the defendant under subrule (10).
[en. B.C. Reg. 95/2011, Sch. A, s. 2 (a).]

Application for judgment

- (10) The following apply to an application under subrule (9):
- (a) the application may be brought under Rule 8-4;
 - (b) the application must be supported by an affidavit setting out the facts that verify the claim and stating that the person swearing the affidavit knows of no fact that would constitute a defence to the claim except as to amount;
 - (c) if the action in which the application is made is brought against several defendants, the court may
 - (i) impose terms on any judgment for the plaintiff, including a stay of execution of the judgment until the trial of the action against the other defendants, or
 - (ii) adjourn the application until the trial of the action against the other defendants.
- [en. B.C. Reg. 95/2011, Sch. A, s. 2 (a).]

Court may set aside or vary default judgment

- (11) The court may set aside or vary any judgment granted under this rule.

Assessments**Method of assessment**

- (12) Subject to subrule (13), if a plaintiff has obtained judgment for damages to be assessed or value to be assessed,

SUPREME COURT CIVIL RULESRule 3-8 – Default Judgment

- (a) the plaintiff may set the assessment down for trial, and
- (b) if the assessment is set for trial, unless the court otherwise orders, the assessment must be tried at the same time as the trial of the action or issues against any other defendant.

Alternative methods of assessment

- (13) If a plaintiff has obtained judgment under subrule (5) or (6), the plaintiff may, instead of proceeding to trial to assess the damages or the value of the goods, apply to the court, and, on that application, the court may
 - (a) assess the damages or value of the goods summarily on affidavit or other evidence,
 - (b) order an assessment, an inquiry or an accounting,
 - (c) give directions as to the trial or hearing of the assessment or determination of value, or
 - (d) make any other order the court considers will further the object of these Supreme Court Civil Rules.

[am. B.C. Reg. 95/2011, Sch. A, s. 2 (c).]

PART 4 – SERVICE

RULE 4-1 – ADDRESS FOR SERVICE

Party must have address for service

- (1) Each party of record to a proceeding must,
 - (a) if the party is represented by a lawyer in the proceeding, have, as the party's address for service, an accessible address that is the office address of that lawyer, or
 - (b) if the party is not represented by a lawyer in the proceeding,
 - (i) have, as the party's address for service, an accessible address within 30 kilometres of the registry, or
 - (ii) if the party does not have an accessible address within 30 kilometres of the registry, have, as the party's addresses for service, both
 - (A) an accessible address, and
 - (B) a postal address in British Columbia, a fax number or an e-mail address.

Additional addresses for service

- (2) A party may have, in addition to the address or addresses for service the party is required to have under subrule (1), one or more of the following as addresses for service:
 - (a) a postal address;
 - (b) a fax number;
 - (c) an e-mail address.

Change of address for service

- (3) A party of record may change his or her address or addresses for service by filing and serving on the other parties of record a notice of address for service in Form 9 that shows, for the party,
 - (a) the address or addresses for service required under subrule (1), and
 - (b) any additional addresses for service referred to in subrule (2) that the party wishes to include.

RULE 4-2 – ORDINARY SERVICE

Documents normally to be served by ordinary service

- (1) Subject to Rule 4-3 (1) and unless the court otherwise orders, documents to be served by a party under these Supreme Court Civil Rules may be served by ordinary service.

SUPREME COURT CIVIL RULESRule 4-2 – Ordinary Service

How to serve documents by ordinary service

- (2) Unless the court otherwise orders, ordinary service of a document is to be effected in any of the following ways on a person who has provided an address for service in the proceeding:
- (a) by leaving the document at the person's address for service;
 - (b) by mailing the document by ordinary mail to the person's address for service;
 - (c) subject to subrule (5) of this rule, if a fax number is provided as one of the person's addresses for service, by faxing the document to that fax number together with a fax cover sheet;
 - (d) if an e-mail address is provided as one of the person's addresses for service, by e-mailing the document to that e-mail address.

When service by delivery is deemed to be completed

- (3) A document served by leaving it at a person's address for service is deemed to be served on the person as follows:
- (a) if the document is left at the address for service at or before 4 p.m. on a day that is not a Saturday or holiday, the document is deemed to be served on the day of service;
 - (b) if the document is left at the address for service on a Saturday or holiday or after 4 p.m. on any other day, the document is deemed to be served on the next day that is not a Saturday or holiday.

When service by mail is deemed to be completed

- (4) A document sent for service by ordinary mail under this rule is deemed to be served one week later on the same day of the week as the day of mailing or, if that deemed day of service is a Saturday or holiday, on the next day that is not a Saturday or holiday.

When documents may be served by fax

- (5) A document may be served by fax as follows:
- (a) if the document, including the fax cover sheet, is less than 30 pages, the document may be served by fax at any time;
 - (b) if the document, including the fax cover sheet, is 30 pages or more, the document may be served by fax if it is transmitted
 - (i) between 5 p.m. and the following 8 a.m., or
 - (ii) at another time if the person receiving the document agreed to that time before service.

When service by fax or e-mail is deemed to be completed

- (6) A document transmitted for service by fax or e-mail under this rule is deemed to be served as follows:

- (a) if the document is transmitted before 4 p.m. on a day that is not a Saturday or holiday, the document is deemed to be served on the day of transmission;
- (b) if the document is transmitted on a Saturday or holiday or after 4 p.m. on any other day, the document is deemed to be served on the next day that is not a Saturday or holiday.

If no address for service given

- (7) If, despite these Supreme Court Civil Rules, a party of record on whom a document is to be served has no address for service, and if these Supreme Court Civil Rules do not specify that the document must be served by personal service on the party,
 - (a) the document may be served by mailing a copy of the document by ordinary mail to
 - (i) the party's lawyer, or
 - (ii) if the party has no lawyer representing the party in the proceeding, to the party's last known address, and
 - (b) subrule (4) applies.

RULE 4-3 – PERSONAL SERVICE**When documents must be served by personal service**

- (1) Unless the court otherwise orders or these Supreme Court Civil Rules otherwise provide, the following documents must be served by personal service in accordance with subrule (2):
 - (a) a notice of civil claim;
 - (b) a petition;
 - (c) a counterclaim if that counterclaim is being served on a person who is not a party of record;
 - (d) a third party notice if that third party notice is being served on a person who is not a party of record;
 - (e) a subpoena to a witness who is not a party of record;
 - (f) a subpoena to a debtor under Rule 13-3;
 - (f.1) a subpoena under Rule 25-12;
 - (g) a citation referred to in Rule 25-11;
 - (h) a notice of intention to withdraw under Rule 22-6 if that notice is being served on the person who was being represented by the lawyer who filed the notice;
 - (i) a notice of application under Rule 22-8 for an order for contempt;
 - (j) any document not mentioned in paragraphs (a) to (i) of this subrule that is to be served on a person who is not a party of record to the proceeding or

SUPREME COURT CIVIL RULES

Rule 4-3 – Personal Service

who has not provided an address for service in the proceeding under Rule 8-1 (11);

- (k) any other document that under these Supreme Court Civil Rules is to be served by personal service.

[am. B.C. Reg. 149/2013, s. 2.]

How to serve documents by personal service

- (2) Unless the court otherwise orders, personal service of a document is to be effected as follows:

- (a) on an individual, by leaving a copy of the document with him or her;
- (b) on a corporation,
 - (i) by leaving a copy of the document with the president, chair, mayor or other chief officer of the corporation,
 - (ii) by leaving a copy of the document with the city clerk or municipal clerk,
 - (iii) by leaving a copy of the document with the manager, cashier, superintendent, treasurer, secretary, clerk or agent of the corporation or of any branch or agency of the corporation in British Columbia, or
 - (iv) in the manner provided by the *Business Corporations Act* or any enactment relating to the service of court documents,and, for the purpose of this paragraph, if the chief place of business of the corporation is outside British Columbia, every person who, within British Columbia, transacts or carries on any of the business of, or any business for, that corporation is deemed to be an agent of the corporation;
- (c) on an unincorporated association, other than a trade union, by leaving a copy of the document with any officer of the association;
- (d) on a trade union, by leaving a copy of the document with any officer of the trade union or with a business agent;
- (e) on an infant, in the manner provided by the *Infants Act*;
- (f) on a mentally incompetent person, by leaving a copy of the document
 - (i) with the person's committee or, if there is no committee, with the person with whom the mentally incompetent person resides or in whose care he or she is or with the person appointed by the court to be served in the mentally incompetent person's place, and
 - (ii) with the Public Guardian and Trustee,and in no case is it necessary to show the original document;
- (g) on a principal referred to in subrule (3), in accordance with subrules (3) to (5);
- (h) on the Attorney General, in accordance with subrule (6).

Agent may be served

- (3) If an agent residing or carrying on business in British Columbia enters into a contract, in British Columbia, on behalf of a principal who resides outside British Columbia, and a proceeding is brought that relates to or arises out of that contract, a pleading or other document in that proceeding may be served on the agent with leave of the court.

Court may grant leave

- (4) The court may make an order granting leave under subrule (3) before the agent's authority or the agent's business relations with the principal have been determined.

Notice to principal

- (5) Promptly after a pleading or other document is served on an agent under subrule (3), the party serving the pleading or other document must send, by registered mail to the principal at the principal's address outside British Columbia,
- (a) a copy of the entered order giving leave for that service, and
 - (b) a copy of the filed pleading or other document.

Service on Attorney General

- (6) A document to be served on the Attorney General must be served at the Ministry of Attorney General in the City of Victoria, and is sufficiently served if it is left during office hours with any lawyer on the staff of the Attorney General at Victoria or mailed by registered mail to the Deputy Attorney General at Victoria.

[am. B.C. Regs. 27/2013, Sch. 2, s. 13; 99/2018, Sch. 2, s. 16.]

When personal service is deemed to be completed

- (7) A document served by personal service is deemed to be served as follows:
- (a) if the document is served at or before 4 p.m. on a day that is not a Saturday or holiday, the document is deemed to be served on the day of service;
 - (b) if the document is served on a Saturday or holiday or after 4 p.m. on any other day, the document is deemed to be served on the next day that is not a Saturday or holiday.

Date of deemed service

- (8) If an originating pleading or petition has not been served on a person, but the person files a responding pleading or response to petition or attends at the trial or at the hearing of the petition, the originating pleading or petition is deemed to have been served on that person on the date the person files or attends.

RULE 4-4 – ALTERNATIVE METHODS OF SERVICE**Alternative service methods**

- (1) If it is impracticable to serve a document by personal service or if the person to be served by personal service

SUPREME COURT CIVIL RULESRule 4-5 – Service outside British Columbia

(a) cannot be found after a diligent search, or

(b) is evading service of the documents,

the court may, on application without notice, make an order for substituted service granting permission to use an alternative method of service.

[am. B.C. Reg. 119/2010, Sch. A, s. 7 (a).]

If an alternative service method is permitted

(2) If a document is to be served by an alternative method permitted under subrule (1), a copy of the entered substituted service order that granted permission to use that alternative method must be served with the document unless

(a) the court otherwise orders, or

(b) the alternative method of service permitted under subrule (1) is service by advertisement.

[am. B.C. Reg. 119/2010, Sch. A, s. 7 (b).]

Service by advertisement

(3) If, under subrule (1), the court permits a document to be served by advertisement, the advertisement must be in Form 10.

RULE 4-5 – SERVICE OUTSIDE BRITISH COLUMBIA**Service outside British Columbia without leave**

(1) An originating pleading, petition or other document may be served on a person outside British Columbia without leave in any of the circumstances enumerated in section 10 of the *Court Jurisdiction and Proceedings Transfer Act*.

[am. B.C. Reg. 119/2010, Sch. A, s. 8.]

Required endorsement

(2) A copy of an originating pleading or petition served outside British Columbia without leave must state, by endorsement in Form 11, the circumstances enumerated in section 10 of the *Court Jurisdiction and Proceedings Transfer Act* on which it is claimed that service is permitted under this rule.

Application for leave to serve outside the jurisdiction

(3) In any case not provided for in subrule (1), leave of the court must be obtained before an originating pleading, petition or other document may be served outside British Columbia, and the court may grant such leave on an application referred to in subrule (4).

[am. B.C. Reg. 119/2010, Sch. A, s. 8.]

Applications may be made without notice

(4) An application for leave to serve a person outside British Columbia

(a) may be made without notice in accordance with Rule 8-1 (2) (b), and

- (b) must be supported by an affidavit or other evidence showing
 - (i) in what place or country that person is or probably may be found, and
 - (ii) the grounds on which the application is made.

Service of order and related documents

- (5) If an order is made granting leave to serve an originating pleading, petition or other document outside British Columbia, the following documents must be served with that originating pleading or other document:
 - (a) a copy of the filed notice of application or requisition for leave to serve;
 - (b) a copy of all filed affidavits in support of the application;
 - (c) a copy of the entered order granting leave to serve.

[am. B.C. Reg. 119/2010, Sch. A, s. 8.]

If service without leave valid

- (6) This rule does not invalidate service of a document outside British Columbia without leave of the court if the document could have been validly served apart from this rule.

Contract containing terms for service

- (7) Despite this rule, the parties to a contract may agree
 - (a) that the court will have jurisdiction to hear a proceeding in respect of the contract, and
 - (b) that a document in the proceeding may be served
 - (i) at any place, within or outside British Columbia,
 - (ii) on any party,
 - (iii) on any person on behalf of any party, or
 - (iv) in any mannerspecified or indicated in the contract.

Contract does not invalidate effective service

- (8) Service of a document in accordance with a contract referred to in subrule (7) is effective service, but no contractual stipulation as to service of a document invalidates service that would otherwise be effective under these Supreme Court Civil Rules.

Definition

- (9) In subrules (10) to (13), “**Convention**” means the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, signed at the Hague on November 15, 1965.

Manner of service abroad

- (10) A document may be served outside British Columbia

SUPREME COURT CIVIL RULESRule 4-6 – Proving Service

- (a) in a manner provided by these Supreme Court Civil Rules for service in British Columbia,
- (b) in a manner provided by the law of the place where service is made if, by that manner of service, the document could reasonably be expected to come to the notice of the person to be served, or
- (c) in a state that is a contracting state under the Convention, in a manner provided by or permitted under the Convention.

Proof of service abroad

- (11) Service of a document outside British Columbia may be proved
 - (a) in a manner provided by these Supreme Court Civil Rules for proof of service in British Columbia,
 - (b) in the manner provided for proof of service by the law of the place where service was made regardless of the manner under subrule (10) by which service was effected, or
 - (c) in accordance with the Convention, if service was effected under subrule (10) (c).

Forms

- (12) If service is to be made in accordance with Article 5 of the Convention, Forms 12 and 13 must be used.

Certificate

- (13) If an authority has, in accordance with Article 6 of the Convention, completed a certificate in Form 14, the certificate is evidence of the facts stated in it.

RULE 4-6 – PROVING SERVICE**Proof of service**

- (1) Service of a document is proved as follows:
 - (a) service on a person of an originating pleading is proved
 - (i) by filing an affidavit of personal service in Form 15, or
 - (ii) by the person filing a responding pleading;
 - (b) service on a person of a petition is proved
 - (i) by filing an affidavit of personal service in Form 15, or
 - (ii) by the person filing a response to petition;
 - (c) service of any other document served by personal service is proved by filing an affidavit of personal service in Form 15;
 - (d) service of any document that is served by ordinary service is proved
 - (i) by filing an affidavit of ordinary service in Form 16, or

- (ii) by filing a requisition in Form 17 to which is attached a written acknowledgment of receipt signed by the party or lawyer on whom the document was served.

Proof of service by sheriff

- (2) Service of a document by a sheriff may be proved by a certificate in Form 18 endorsed on a copy of the document.

Service on member of Canadian Armed Forces

- (3) If a member of the Canadian Armed Forces has been served with a document by an officer of the Canadian Armed Forces, proof of the service in the form of a certificate annexed to a copy of the document served, signed by the officer and stating his or her rank and when, where and how service was effected, may be filed as proof of service.

Admissibility of other evidence of service

- (4) Nothing in subrules (1) to (3) restricts the court from considering any other evidence of service that the court considers appropriate in the circumstances.

RULE 4-7 – RELIEF

If service is alleged to be ineffective

- (1) If a document has been served in accordance with this Part but a person can show that the document
 - (a) did not come to his or her notice,
 - (b) came to his or her notice later than when it was served, or
 - (c) was incomplete or illegible,

the court may set aside an order, extend time, order an adjournment or make such other order as it considers will further the object of these Supreme Court Civil Rules.

SUPREME COURT CIVIL RULESRule 5-1 – Requesting a Case Planning Conference

PART 5 – CASE PLANNING**RULE 5-1 – REQUESTING A CASE PLANNING CONFERENCE****Case planning conference may be requested**

- (1) A party of record to an action may, at any time after the pleading period has expired, request a case planning conference by
 - (a) obtaining a date and time for the case planning conference from the registry, and
 - (b) filing a notice of case planning conference in Form 19.

Case planning conference may be directed

- (2) Without limiting subrule (1), at any stage of an action after the pleading period has expired, the court
 - (a) may direct that a case planning conference take place, and
 - (b) in that case, must direct that a party request a case planning conference in accordance with subrule (1).

Time for service of notice

- (3) Unless the court otherwise orders or the parties of record otherwise agree, a party who is requesting a case planning conference under subrule (1) or who has been directed to file a notice of case planning conference under subrule (2) must serve the filed notice of case planning conference on the other parties of record,
 - (a) in the case of the first case planning conference to be held in the action, at least 35 days, or any shorter period that the court may order, before the date set for the case planning conference, and
 - (b) in the case of any other case planning conference to be held in the action, at least 7 days, or any shorter period that the court may order, before the date set for the case planning conference.

Application must be made by requisition

- (4) An application under subrule (3) (a) or (b) to shorten the service period applicable to a notice of case planning conference
 - (a) must be made by requisition in Form 17,
 - (b) must be supported by a letter signed by the party or the party's lawyer setting out the reasons why the order is sought, and
 - (c) unless the court otherwise orders, may be made without notice.

Case plan proposal required

- (5) Unless the court otherwise orders, if a case planning conference is requested or ordered under this rule, the parties of record must, before the first case planning conference to be held in the action, file case plan proposals as follows:
- (a) the party of record who is requesting the case planning conference must, within 14 days after serving the notice of case planning conference,
 - (i) file the party's case plan proposal, and
 - (ii) serve a copy of the filed case plan proposal on all other parties of record;
 - (b) each other party of record must, within 14 days after receipt of the case plan proposal referred to in paragraph (a),
 - (i) file the party's case plan proposal, and
 - (ii) serve a copy of the filed case plan proposal on all other parties of record.

[am. B.C. Reg. 120/2014, s. 2.]

Contents of case plan proposal

- (6) A party's case plan proposal referred to in subrule (5) must be in Form 20 and must, in a summary manner, indicate the party's proposal with respect to the following steps:
- (a) discovery of documents;
 - (b) examinations for discovery;
 - (c) dispute resolution procedures;
 - (d) expert witnesses;
 - (e) witness lists;
 - (f) trial type, estimated trial length and preferred periods for the trial date.

RULE 5-2 – CONDUCT OF CASE PLANNING CONFERENCE**Case planning conference must be conducted by judge or master**

- (1) A case planning conference held in an action must be conducted by a judge or master.

Who must attend

- (2) Unless the court otherwise orders, the following persons must attend a case planning conference in accordance with subrule (3):
- (a) each lawyer representing a party of record;
 - (b) a party of record if
 - (i) the party is not represented by a lawyer in the action, or
 - (ii) the party is ordered to attend by the court.

SUPREME COURT CIVIL RULESRule 5-2 – Conduct of Case Planning Conference

Manner of attendance

- (3) Unless the court otherwise orders, a lawyer or party of record referred to in subrule (2) must
- (a) attend in person at the first case planning conference held in an action, and
 - (b) attend any subsequent case planning conference held in the action
 - (i) by telephone or other communication medium, if all persons participating in the case planning conference, whether by telephone, by other communication medium or in person, are able to communicate with each other, or
 - (ii) in person.

Application must be made by requisition

- (4) Each application under subrule (2) for an order exempting a person from attending a case planning conference and an application under subrule (3) respecting the method of attendance
- (a) must be made by requisition in Form 17,
 - (b) must be supported by a letter signed by the person or the person's lawyer setting out the reasons why the order is sought, and
 - (c) unless the court otherwise orders, may be made without notice.

Considerations of the court

- (5) If an application is brought under subrule (2) for an order exempting a person from attending a case planning conference, the court may make such an order if the court considers that
- (a) it is not reasonably possible for the person to attend given the distance the person has to travel for that attendance or the cost required for that attendance,
 - (b) attendance must be excused on health or compassionate grounds, or
 - (c) other extraordinary circumstances exist that justify the order.

Non-attendance at case planning conference

- (6) If a person who, under subrule (2), is required to attend a case planning conference fails to attend at that case planning conference, the case planning conference judge or master may do one or more of the following:
- (a) proceed in the absence of the person who failed to attend;
 - (b) adjourn the case planning conference;
 - (c) order that the person, or the party on whose behalf the person was to attend, pay costs to one or more other parties.

Proceedings must be recorded

- (7) Proceedings at a case planning conference must be recorded, but no part of that recording may be made available to or used by any person without court order.

RULE 5-3 – CASE PLANNING CONFERENCE ORDERS**Orders**

- (1) At a case planning conference, the case planning conference judge or master may make one or more of the following orders in respect of the action, whether or not on the application of a party:
- (a) setting a timetable for the steps to be taken;
 - (b) amending a previous case plan order;
 - (c) any order referred to in Rule 22-4 (2);
 - (d) requiring amendment of a pleading to provide details of
 - (i) the facts,
 - (ii) the relief sought, or
 - (iii) the legal basis on which relief is sought or opposedset out in that pleading;
 - (e) respecting the length and content of pleadings;
 - (f) respecting discovery, listing, production, preservation, exchange or examination of documents or exhibits, including, without limitation, orders
 - (i) respecting electronically stored information, and
 - (ii) that discovery, listing, production, exchange or examination be limited or otherwise conducted as ordered;
 - (g) respecting discovery of parties or the examination or inspection of persons or property, including, without limitation, that discovery, examination or inspection be limited, expanded or otherwise conducted in the manner ordered;
 - (h) respecting interrogatories;
 - (i) respecting third party claims, including imposing terms on any third party procedure to limit or avoid any prejudice or unnecessary delay that might otherwise be suffered by the plaintiff as a result of that third party procedure;
 - (j) respecting witness lists;
 - (k) respecting experts, including, without limitation, orders
 - (i) that the expert evidence on any one or more issues be given by one jointly-instructed expert,
 - (ii) respecting the number of experts a party may call,

SUPREME COURT CIVIL RULESRule 5-3 – Case Planning Conference Orders

- (iii) that the parties' experts must confer before the service of their respective reports,
- (iv) setting a date by which an expert's report must be served on the other parties of record, and
- (v) respecting the issues on which an expert may be called;
- (l) respecting admissions;
- (m) respecting offers to settle;
- (n) respecting the conduct of any application, including, without limitation, that an application may be made by written submissions under Rule 8-6;
- (o) requiring the parties of record to attend one or more of a mediation, a settlement conference or any other dispute resolution process, and giving directions for the conduct of the mediation, settlement conference or other dispute resolution process;
- (p) authorizing or directing the parties of record to try one or more issues in the action independently of others;
- (q) fixing the length of trial;
- (r) respecting the place at which any step in the action is to be conducted;
- (s) setting the action for trial on a particular date or on a particular trial list;
- (s.1) striking out a counterclaim or directing that a counterclaim be tried separately;
- (t) adjourning the case planning conference;
- (u) directing the parties to attend a further case planning conference at a specified date and time;
- (v) any orders the judge or master considers will further the object of these Supreme Court Civil Rules.

[am. B.C. Reg. 119/2010, Sch. A, s. 9.]

Prohibited orders

- (2) A case planning conference judge or master must not, at a case planning conference,
 - (a) hear any application supported by affidavit evidence, except under subrule (6), or
 - (b) make an order for final judgment, except by consent or under subrule (6).

Case plan order required

- (3) Without limiting subrules (1) and (2), the judge or master conducting a case planning conference must, at the conclusion of the case planning conference, make a case plan order.

Case plan order

- (4) A case plan order under subrule (3) must be in Form 21 and
 - (a) must set out any order made under subrule (1), and

- (b) may but need not include any other matter referred to in Form 21.

When approval in writing by lawyer not required

- (5) Without limiting Rule 13-1 (2), if a case plan order under subrule (3) is approved in writing by the case planning conference judge or master, that order need not be approved in writing by a lawyer or by a party.

Consequences of non-compliance

- (6) If a party fails to comply with this Part or an order made under this rule or if anything is done or omitted improperly or unnecessarily by or on behalf of a party in relation to anything under this Part, the court may, on application, do one or both of the following:
- (a) make an order under Rule 22-7;
 - (b) despite any other provision of these Supreme Court Civil Rules to the contrary and without limiting Rule 14-1 (14),
 - (i) award costs of the application in a lump sum fixed under Schedule 3 of Appendix B, and
 - (ii) set the period within which those costs must be paid.

Application may be made at case planning conference

- (7) Without limiting Part 8, a party may apply for an order under subrule (6) at a case planning conference.

RULE 5-4 – APPLICATIONS TO AMEND CASE PLAN ORDERS**Requesting amendments to case plan orders**

- (1) Without limiting the ability of a case planning conference judge or master to amend a case plan order at a case planning conference under Rule 5-3 (1) (b), the parties may apply to amend a case plan order as follows:
- (a) if the application is to be by consent, the parties of record must apply under Rule 8-1 (2) (a);
 - (b) if the application is not to be by consent, a party of record must
 - (i) serve on the other parties of record
 - (A) a requisition in Form 17, supported by a letter directed to the registry, identifying the judge or master who made the case plan order and setting out the requested amendment and the basis for the request,
 - (B) a draft of the proposed order, and
 - (C) any supporting documents, other than affidavits, the party considers appropriate, and

SUPREME COURT CIVIL RULESRule 5-4 – Applications to Amend Case Plan Orders

- (ii) provide to the registry copies of the documents served under subparagraph (i), a statement of the applicant that the applicant served the documents referred to in subparagraph (i) on the other parties of record and whichever of the following applies:
 - (A) a statement that the applicant has received no answer to those documents within 7 days after the date of service;
 - (B) if one or more answers have been received in that 7 day period, copies of the answers received.

Party may respond

- (2) Any party on whom documents referred to in subrule (1) (b) (i) have been served may, within 7 days after service, serve on the applicant
 - (a) a letter, directed to the registry, identifying the judge or master who made the case plan order and setting out the party's answer to the requested amendment, and
 - (b) any supporting documents, other than affidavits, the party considers appropriate.

Powers of court

- (3) On an application under subrule (1) (b), the court must
 - (a) make an order amending the case plan order in the manner requested,
 - (b) refuse to make the order requested,
 - (c) direct the parties of record to attend a case planning conference, or
 - (d) make such other order as the court considers will further the object of these Supreme Court Civil Rules.

PART 6 – AMENDMENT OF PLEADINGS AND CHANGE OF PARTIES

RULE 6-1 – AMENDMENT OF PLEADINGS

When pleadings may be amended

- (1) Subject to Rules 6-2 (7) and (10) and 7-7 (5), a party may amend the whole or any part of a pleading filed by the party, other than to change parties or withdraw an admission,
 - (a) once without leave of the court, at any time before service of the notice of trial, or
 - (b) after the notice of trial is served, only with
 - (i) leave of the court, or
 - (ii) written consent of the parties.

[en. B.C. Reg. 120/2014, s. 3; am. B.C. Reg. 104/2019, s. 1.]

How amendments made

- (2) Unless the court otherwise orders, to amend a pleading under subrule (1), a party must
 - (a) amend the pleading in accordance with subrule (3),
 - (b) indicate on the amended pleading the date on which the original version of the pleading was filed, and
 - (c) file the amended pleading.

Identifying amendments

- (3) Unless the court otherwise orders, if a pleading is amended under this rule,
 - (a) any deleted wording must be shown as struck out, and
 - (b) any new wording must be underlined.

Service of amended documents

- (4) Unless the court otherwise orders, if a party amends a pleading under this rule, the party must do both of the following:
 - (a) within 7 days after filing the amended pleading, serve, by ordinary service, a copy of the filed amended pleading on all parties of record;
 - (b) if the amended pleading is an originating pleading, promptly after filing the amended pleading and before taking any further step in the proceeding, serve, by personal service, a copy of the filed amended originating pleading on any person who
 - (i) was served with a copy of the filed original version of the originating pleading, and
 - (ii) has not filed a responding pleading to the original version of the originating pleading.

SUPREME COURT CIVIL RULESRule 6-2 – Change of Parties

Response of a party to amended document

- (5) If a pleading (in this subrule and in subrule (6) called the “primary pleading”) is amended under this rule and the amended pleading is served on a party of record under subrule (4) (a), that party
- (a) may amend, under this rule, any pleading he or she had filed in response to the original version of the primary pleading but only with respect to any matter raised by the amendments to the primary pleading, and
 - (b) in that event, must, within 14 days after being served with the amended pleading, serve a copy of the filed amended responding pleading on all parties of record.

Failure to serve amended responding document

- (6) If a party on whom an amended pleading is served under subrule (4) (a) does not serve an amended responding pleading as provided in subrule (5),
- (a) the pleading he or she filed in response to the original version of the primary pleading is deemed to be the pleading he or she filed in response to the amended pleading, and
 - (b) any new facts set out in the amended pleading are deemed to be outside the knowledge of the defendant.

Responding to amended pleading

- (7) If an originating pleading is amended under this rule and served under subrule (4) (b) on a person who is not yet a party of record, the person has the same period for filing a responding pleading to that amended originating pleading as the party had to file a responding pleading to the original version of the originating pleading.

[am. B.C. Reg. 119/2010, Sch. A, s. 11.]

Amendment at trial

- (8) Unless the court otherwise orders, if an amendment is granted during a trial or hearing, an order need not be taken out and the amended pleading need not be filed or served.

RULE 6-2 – CHANGE OF PARTIES**Change of Party Status or Interest****Party ceasing to exist**

- (1) If a party dies or becomes bankrupt, or a corporate party is wound up or otherwise ceases to exist, but the claim survives, the proceeding may continue in spite of the death or bankruptcy or the corporate party having been wound up or ceasing to exist.

[am. B.C. Reg. 119/2010, Sch. A, s. 12.]

Effect of death

- (2) Whether or not the claim survives, a proceeding may continue in spite of either party dying between the verdict or finding on the issues of fact and the entry of judgment, but judgment may be entered despite the death.

[am. B.C. Reg. 119/2010, Sch. A, s. 13.]

Assignment or conveyance of interest

- (3) If, by assignment, conveyance or death, an estate, interest or title devolves or is transferred, a proceeding relating to that estate, interest or title may be continued by or against the person on whom that estate, interest or title has devolved or to whom that estate, interest or title has been transferred.

[am. B.C. Reg. 119/2010, Sch. A, s. 13.]

Change or transmission of interest or liability

- (4) If, after the start of a proceeding,
- (a) a change or transmission of interest or liability of a party takes place or a person interested comes into existence, and
 - (b) it becomes necessary or desirable that
 - (i) a person not already a party should be made a party, or
 - (ii) a person already a party should be made a party in another capacity,
- the court may order that the proceeding be continued between the continuing parties and the new party.

[am. B.C. Reg. 119/2010, Sch. A, ss. 12 and 13.]

Prosecution of proceeding if plaintiff or petitioner dies

- (5) If a plaintiff or petitioner has died and the proceeding may be continued, a defendant or respondent may apply to the court for an order that the person entitled to proceed do proceed within the time that the court orders and that, in default, the proceeding be dismissed for want of prosecution.

Costs on dismissal

- (6) If a proceeding is dismissed under subrule (5), an order for payment of costs may be made and enforced against the assets of the deceased's estate.

Change of Parties

Adding, removing or substituting parties by order

- (7) At any stage of a proceeding, the court, on application by any person, may, subject to subrules (9) and (10),
- (a) order that a person cease to be party if that person is not, or has ceased to be, a proper or necessary party,
 - (b) order that a person be added or substituted as a party if
 - (i) that person ought to have been joined as a party, or

SUPREME COURT CIVIL RULESRule 6-2 – Change of Parties

- (ii) that person's participation in the proceeding is necessary to ensure that all matters in the proceeding may be effectually adjudicated on, and
- (c) order that a person be added as a party if there may exist, between the person and any party to the proceeding, a question or issue relating to or connected with
 - (i) any relief claimed in the proceeding, or
 - (ii) the subject matter of the proceedingthat, in the opinion of the court, it would be just and convenient to determine as between the person and that party.

[am. B.C. Reg. 119/2010, Sch. A, ss. 12 and 13.]

Procedure if party added, removed or substituted by order

- (8) Unless the court otherwise orders, if an order is made under subrule (7) adding, removing or substituting a party,
 - (a) the originating pleading or petition must be amended in accordance with these Supreme Court Civil Rules, a reference to the order must be endorsed on that amended pleading or petition and Rule 6-1 (4) to (7) applies,
 - (b) no further steps may be taken against a person added or substituted as a party under this subrule until a copy of the filed amended originating pleading or filed amended petition and a copy of the entered order adding or substituting the party are served on the person, and
 - (c) if a person is made a party under the order,
 - (i) the person may apply to the court to vary or discharge the order within 21 days after the date on which the order is served on the person under paragraph (b) of this subrule, and
 - (ii) unless the court orders, in an application under subparagraph (i) of this paragraph or otherwise, that the person not be added as a party, these Supreme Court Civil Rules apply in relation to that added party as if the amended originating pleading or petition were a new originating pleading or petition.

If case plan order in effect

- (9) If an order is made under subrule (4) or (7) in an action in which a case plan order has been made,
 - (a) if a person is removed as a party, the case plan order remains in effect, and
 - (b) if a person is added or substituted as a party and that person becomes a party of record, no step may be taken by or against the added or substituted party until the case plan order is amended to apply to the added or substituted party.

Application without notice

- (9.1) Unless the court otherwise orders, an application under subrule (7) may be made without notice to any person who is not a party.

[en. B.C. Reg. 104/2019, s. 2.]

General

Consent required

- (10) A person must not be added or substituted as a plaintiff or petitioner without the person's consent.

Effect of order

- (11) Unless the court otherwise orders, if a person becomes a party in substitution for a former party, all things done in the proceeding before the person became a party have the same effect in relation to that person as they had in relation to the former party, but the substituted party must file a notice of address for service in Form 9.

SUPREME COURT CIVIL RULESRule 7-1 – Discovery and Inspection of Documents

PART 7 – PROCEDURES FOR ASCERTAINING FACTS**RULE 7-1 – DISCOVERY AND INSPECTION OF DOCUMENTS****List of documents**

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
 - (a) prepare a list of documents in Form 22 that lists
 - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party of record at trial to prove or disprove a material fact, and
 - (ii) all other documents to which the party intends to refer at trial, and
 - (b) serve the list on all parties of record.

Documents to be enumerated

- (2) Subject to subrules (6) and (7), each party's list of documents must include a brief description of each listed document.

Insurance policy

- (3) A party must include in the party's list of documents any insurance policy under which an insurer may be liable
 - (a) to satisfy the whole or any part of a judgment granted in the action, or
 - (b) to indemnify or reimburse any party for any money paid by that party in satisfaction of the whole or any part of such a judgment.

Information not to be disclosed

- (4) Despite subrule (3), information concerning the insurance policy must not be disclosed to the court at trial unless it is relevant to an issue in the action.

Insurance policy

- (5) For the purposes of subrules (3) and (4), “**insurance policy**” does not include an application for insurance.

Claim for privilege

- (6) If it is claimed that a document is privileged from production, the claim must be made in the list of documents with a statement of the grounds of the privilege.

Nature of privileged documents to be described

- (7) The nature of any document for which privilege from production is claimed must be described in a manner that, without revealing information that is privileged, will enable other parties to assess the validity of the claim of privilege.

Affidavit verifying list of documents

- (8) The court may order a party of record to serve an affidavit verifying a list of documents.

Amending the list of documents

- (9) If, after a list of documents has been served under this rule,
- (a) it comes to the attention of the party serving it that the list is inaccurate or incomplete, or
 - (b) there comes into the party's possession or control a document that could be used by any party of record at trial to prove or disprove a material fact or any other document to which the party intends to refer at trial,
- the party must promptly amend the list of documents and serve the amended list of documents on the other parties of record.

[am. B.C. Reg. 119/2010, Sch. A, s. 14 (a).]

Party may demand documents required under this rule

- (10) If a party who has received a list of documents believes that the list omits documents or a class of documents that should have been disclosed under subrule (1) (a) or (9), the party may, by written demand, require the party who prepared the list to
- (a) amend the list of documents,
 - (b) serve on the demanding party the amended list of documents, and
 - (c) make the originals of the newly listed documents available for inspection and copying in accordance with subrules (15) and (16).

[am. B.C. Reg. 119/2010, Sch. A, s. 14 (b) and (c).]

Party may demand additional documents

- (11) If a party who has received a list of documents believes that the list should include documents or classes of documents that
- (a) are within the listing party's possession, power or control,
 - (b) relate to any or all matters in question in the action, and
 - (c) are additional to the documents or classes of documents required under subrule (1) (a) or (9),
- the party, by written demand that identifies the additional documents or classes of documents with reasonable specificity and that indicates the reason why such additional documents or classes of documents should be disclosed, may require the listing party to
- (d) amend the list of documents,
 - (e) serve on the demanding party the amended list of documents, and
 - (f) make the originals of the newly listed documents available for inspection and copying in accordance with subrules (15) and (16).

[en. B.C. Reg. 119/2010, Sch. A, s. 14 (d).]

SUPREME COURT CIVIL RULESRule 7-1 – Discovery and Inspection of Documents

Response to demand for documents

- (12) A party who receives a demand under subrule (10) or (11) must, within 35 days after receipt, do one of the following:
- (a) comply with the demand in relation to the demanded documents;
 - (b) comply with the demand in relation to those of the demanded documents that the party is prepared to list and indicate, in relation to the balance of the demanded documents,
 - (i) why an amended list of documents that includes those documents is not being prepared and served, and
 - (ii) why those documents are not being made available;
 - (c) indicate, in relation to the demanded documents,
 - (i) why an amended list of documents that includes those documents is not being prepared and served, and
 - (ii) why those documents are not being made available.

[am. B.C. Reg. 119/2010, Sch. A, s. 14 (e).]

Application for production of documents

- (13) If a party who receives a demand under subrule (10) or (11) does not, within 35 days after receipt, comply with the demand in relation to the demanded documents, the demanding party may apply for an order requiring the listing party to comply with the demand.

Court may alter requirements

- (14) On an application under subrule (13) or otherwise, the court may
- (a) order that a party be excused from compliance with subrule (1), (3), (6), (15) or (16) or with a demand under subrule (10) or (11), either generally or in respect of one or more documents or classes of documents, or
 - (b) order a party to
 - (i) amend the list of documents to list additional documents that are or have been in the party's possession, power or control relating to any or all matters in question in the action,
 - (ii) serve the amended list of documents on all parties of record, and
 - (iii) make the originals of the newly listed documents available for inspection and copying in accordance with subrules (15) and (16).

[am. B.C. Reg. 119/2010, Sch. A, s. 14 (b), (c) and (f).]

Inspection of documents

- (15) A party who has served a list of documents on any other party must allow the other party to inspect and copy, during normal business hours and at the location specified in the list of documents, the listed documents except those documents that the listing party objects to producing.

[am. B.C. Reg. 119/2010, Sch. A, s. 14 (g).]

Copies of documents

- (16) If a party is entitled to inspect listed documents under subrule (15), the listing party must, on the request of the party entitled to inspection and on receiving payment in advance of the cost of reproduction and service, serve on the requesting party copies of the documents, if reproducible, for which a request has been made.

[am. B.C. Reg. 119/2010, Sch. A, s. 14 (h).]

Order to produce document

- (17) The court may order the production of a document for inspection and copying by any party or by the court at a time and place and in the manner it considers appropriate.

Documents not in possession of party

- (18) If a document is in the possession or control of a person who is not a party of record, the court, on an application under Rule 8-1 brought on notice to the person and the parties of record, may make an order for one or both of the following:

- (a) production, inspection and copying of the document;
- (b) preparation of a certified copy that may be used instead of the original.

Order by consent

- (19) An order under subrule (18) may be made by consent if that order is endorsed with an acknowledgment by the person in possession or control of the document that the person has no objection to the terms of the proposed order.

Inspection of document by court

- (20) If, on an application for production of a document, production is objected to on the grounds of privilege, the court may inspect the document for the purpose of deciding the validity of the objection.

Party may not use document

- (21) Unless the court otherwise orders, if a party fails to make discovery of or produce for inspection or copying a document as required by this rule, the party may not put the document in evidence in the proceeding or use it for the purpose of examination or cross-examination.

Determination of issue before discovery

- (22) If the party from whom discovery, inspection or copying of a document is sought objects to that discovery, inspection or copying, the court may, if satisfied that for any reason it is desirable that an issue or question in dispute should be determined before deciding on the right to discovery, inspection or copying, order that the issue or question be determined first and reserve the question of discovery, inspection or copying.

SUPREME COURT CIVIL RULES

Rule 7-2 – Examinations for Discovery

RULE 7-2 – EXAMINATIONS FOR DISCOVERY**Examination of parties**

- (1) Subject to subrule (2), each party of record to an action must
- (a) make himself or herself available, or
 - (b) if any of subrules (5) to (10) apply, make a person referred to in that subrule available,
- for examinations for discovery by the parties of record to the action who are adverse in interest to the party subject to examination.

Limitations

- (2) Unless the court otherwise orders, the examinations for discovery, including all examinations under subrules (17), (22) and (24), conducted under this rule of a party of record, including any such examinations conducted of a person referred to in subrule (1) (b) who is examined in relation to that party of record, by any other party of record who is adverse in interest must not, in total, exceed in duration
- (a) 7 hours, or
 - (b) any greater period to which the person to be examined consents.

[See Rule 15-1 (11) and (12) for limits on examinations for discovery in fast track actions.]

Considerations of the court

- (3) In an application under subrule (2) to extend the examination for discovery period, the court must consider the following:
- (a) the conduct of a person who has been or is to be examined, including
 - (i) the person's unresponsiveness in any examination for discovery held in the action,
 - (ii) the person's failure to provide complete answers to questions, or
 - (iii) the person's provision of answers that are evasive, irrelevant, unresponsive or unduly lengthy;
 - (b) any denial or refusal to admit, by a person who has been or is to be examined, anything that should have been admitted;
 - (c) the conduct of the examining party;
 - (d) whether or not it is or was reasonably practicable to complete the examinations for discovery within the period provided under subrule (2);
 - (e) the number of parties and examinations for discovery and the proximity of the various interests of those parties.

Oral examination on oath

- (4) An examination for discovery is an oral examination on oath.

Examination of party that is not an individual

- (5) Unless the court otherwise orders, if a party to be examined for discovery is not an individual,
- (a) the examining party may examine one representative of the party to be examined,
 - (b) the party to be examined must nominate as its representative an individual, who is knowledgeable concerning the matters in question in the action, to be examined on behalf of that party, and
 - (c) the examining party may examine
 - (i) the representative nominated under paragraph (b), or
 - (ii) any other person the examining party considers appropriate and who is or has been a director, officer, employee, agent or external auditor of the party to be examined.

Examination of person for whose benefit action brought

- (6) Subject to subrule (9), a person for whose immediate benefit an action is brought or defended may be examined for discovery.

Examination of assignor

- (7) If an action is brought by an assignee, the assignor may be examined for discovery.

Examination of guardian and infants

- (8) Unless the court otherwise orders, if a party to be examined for discovery is an infant, the infant, his or her guardian and his or her litigation guardian may be examined for discovery.

[am. B.C. Reg. 119/2010, Sch. A, s. 15.]

Examination of mentally incompetent person

- (9) If a party to be examined for discovery is a mentally incompetent person, his or her litigation guardian and his or her committee may be examined for discovery, but the mentally incompetent person must not be examined without leave of the court.

Examination of bankrupt

- (10) If a party to be examined for discovery is a trustee in bankruptcy, the bankrupt may be examined for discovery.

Place

- (11) Unless the court otherwise orders or the parties to the examination for discovery otherwise agree, an examination for discovery must take place at a location within 30 kilometres of the registry that is nearest to the place where the person to be examined resides.

SUPREME COURT CIVIL RULESRule 7-2 – Examinations for Discovery

Examination before reporter

- (12) An examination for discovery must be conducted before an official reporter who is empowered to administer the oath.

Service of notice

- (13) Before conducting an examination for discovery under this rule, the party wishing to conduct that examination for discovery must do the following:
- (a) if the person to be examined is a party of record to, and has a lawyer in, the action, ensure that, at least 7 days before the examination for discovery,
 - (i) an appointment in Form 23 is served on that lawyer, and
 - (ii) witness fees in the amount required under Schedule 3 of Appendix C are tendered to that lawyer;
 - (b) in any other case, ensure that, at least 7 days before the examination for discovery,
 - (i) an appointment in Form 23 is served on the person to be examined, and
 - (ii) witness fees in the amount required under Schedule 3 of Appendix C are tendered to the person to be examined;
 - (c) at least 7 days before the examination for discovery, serve a copy of the appointment on all parties of record.

[am. B.C. Reg. 112/2012, Sch. A, s. 2.]

Person must attend examination

- (14) A person to be examined for discovery must attend and submit to examination for discovery if the party wishing to conduct that examination for discovery has complied with subrule (13) (a) or (b), as the case may be.

Fees must not be attached

- (15) If a lawyer receives witness fees under subrule (13) (a), those fees must not be attached.

Production of documents

- (16) Unless the court otherwise orders, if the person to be examined for discovery is a person referred to in subrule (6), (7), (8), (9) or (10), the person must produce for inspection on the examination for discovery all documents in his or her possession or control, not privileged, relating to the matters in question in the action.

Examination and re-examination

- (17) The examination for discovery of a person is in the nature of a cross-examination, and the person examined for discovery may be re-examined on his or her own behalf or on behalf of a party of record not adverse in interest to him or her in relation to any matter respecting which he or she has been examined.

Scope of examination

- (18) Unless the court otherwise orders, a person being examined for discovery
- (a) must answer any question within his or her knowledge or means of knowledge regarding any matter, not privileged, relating to a matter in question in the action, and
 - (b) is compellable to give the names and addresses of all persons who reasonably might be expected to have knowledge relating to any matter in question in the action.

Scope includes insurance

- (19) Without limiting subrule (18), unless the court otherwise orders, a person being examined for discovery must answer any question within his or her knowledge or means of knowledge that is related to
- (a) the existence and contents of any insurance policy under which an insurer may be liable
 - (i) to satisfy the whole or any part of a judgment granted in the action, or
 - (ii) to indemnify or reimburse a party for any money paid by that party in satisfaction of the whole or any part of such a judgment, and
 - (b) the amount of money available under the policy, and any communication from an insurer denying or limiting liability under the policy.

Information not to be disclosed

- (20) Despite subrule (19), information concerning the insurance policy must not be disclosed to the court at trial unless it is relevant to an issue in the action.

Insurance policy

- (21) For the purposes of subrules (19) and (20), “**insurance policy**” does not include an application for insurance.

Person must inform self

- (22) In order to comply with subrule (18) or (19), a person being examined for discovery may be required to inform himself or herself and the examination may be adjourned for that purpose.

Response may be provided by letter

- (23) If a person is required to inform himself or herself under subrule (22) in order to respond to one or more questions posed on the examination for discovery, the examining party may request the person to provide the responses by letter.

If letter provided

- (24) If the examining party receives a letter under subrule (23),

SUPREME COURT CIVIL RULESRule 7-3 – Discovery by Interrogatories

- (a) the questions set out in the letter and the answers given in response to those questions are deemed for all purposes to be questions asked and answers given under oath in the examination for discovery, and
- (b) the examining party may, subject to subrule (2), continue the examination for discovery.

Objections

- (25) If a person under examination objects to answering a question put to him or her, the question and the objection must be taken down by the official reporter and the court may
 - (a) decide the validity of the objection, and
 - (b) order the person to submit to further examination and set a maximum duration for that further examination.

How recorded

- (26) An examination for discovery is to be taken down in the form of question and answer, and copies of the transcript may be obtained on payment of the proper fee by
 - (a) any party of record,
 - (b) the person examined, or
 - (c) any other person as the court for special reason may permit.

Application to persons outside British Columbia

- (27) So far as is practicable, this rule applies to a person residing outside British Columbia, and the court, on application on notice to the person, may order the examination for discovery of the person at a place and in the manner the court considers appropriate.

Service of order and notice

- (28) Unless the court otherwise orders, if an order is made under subrule (27) for the examination for discovery of a person,
 - (a) the order and the notice of appointment may be served on, and
 - (b) the witness fees referred to in subrule (13) may be paid to the lawyer for the person.

RULE 7-3 – DISCOVERY BY INTERROGATORIES**Party may serve interrogatories by consent or with leave**

- (1) A party of record to an action may serve interrogatories in Form 24 on any other party of record, or on a director, officer, partner, agent, employee or external auditor of a party of record, if
 - (a) the party of record to be examined consents, or
 - (b) the court grants leave.

If a party is a body of persons

- (2) If a party of record to an action is a body of persons, corporate or unincorporate, that is empowered to sue or to be sued in its own name or in the name of an officer or other person, another party of record may, with leave of the court granted at an application or if authorized to do so by a case plan order, serve interrogatories on the officer or member of the body specified in the order.

Powers of court

- (3) In an order granting leave under subrule (1) (b) or (2), the court may set terms and conditions on the interrogatories, including terms and conditions respecting
- (a) the number or length of the interrogatories,
 - (b) the matters the interrogatories are to cover,
 - (c) the timing of any response to the interrogatories, and
 - (d) the notification, if any, to be given to the other parties of record respecting the interrogatories.

Timing of answer to interrogatories

- (4) A person to whom interrogatories are directed must, within 21 days or such other period as the court may order under subrule (3), serve an answer on affidavit to the interrogatories.

If more than one person to answer interrogatories

- (5) If interrogatories are required to be answered by more than one officer, director, partner, agent or employee of a party, the interrogatories must state which of the interrogatories each person is required to answer.

Objection to answer interrogatory

- (6) If a person objects to answering an interrogatory on the grounds of privilege or on the grounds that it does not relate to a matter in question in the action, the person may make the objection in an affidavit in answer.

Insufficient answer to interrogatory

- (7) If a person to whom interrogatories have been directed answers any of them insufficiently, the court may require the person to make a further answer either by affidavit or on oral examination.

Application to strike out interrogatory

- (8) If a party of record objects to an interrogatory on the grounds that it will not further the object of these Supreme Court Civil Rules,
- (a) the party may apply to the court to strike out the interrogatory, and
 - (b) the court must take into account any offer by the party to make admissions, to produce documents or to give oral discovery.

Service of interrogatories on lawyer

- (9) A party of record may, instead of serving interrogatories under subrule (1) or (2), serve the interrogatories on the lawyer of the person to whom the interrogatories are directed.

Lawyer must inform

- (10) If a lawyer receives interrogatories under subrule (9), the lawyer must promptly inform the person to whom the interrogatories are directed.

Continuing obligation to answer

- (11) If a person who has given an answer to an interrogatory later learns that the answer is inaccurate or incomplete, the person must promptly serve on the party who served the interrogatory an affidavit deposing to an accurate or complete answer.

RULE 7-4 – WITNESS LISTS

Witness lists

- (1) Unless the court otherwise orders, each party of record to an action must, within the time set out in the case plan order or, if none, on or before the earlier of the trial management conference and the date that is 28 days before the scheduled trial date, file and serve on every other party of record a list of the witnesses the party may call at trial, other than
- (a) expert witnesses who are to provide evidence under Part 11, and
 - (b) adverse witnesses referred to in Rule 12-5 (20) (a) or (b).

Requirements for list

- (2) Unless the court otherwise orders, a witness list must include the full name and address of each listed witness.

Continuing obligation

- (3) If a party who has provided a witness list or an amended witness list later learns that the list is inaccurate or incomplete, the party must promptly
- (a) amend the witness list,
 - (b) file the amended witness list, and
 - (c) serve a copy of the filed amended witness list on all parties of record.

[am. B.C. Reg. 119/2010, Sch. A, s. 16.]

Witness need not be called

- (4) Nothing in this rule requires a party to call as a witness at trial an individual named as a witness on a witness list served by the party under subrule (1) or (3).

RULE 7-5 – PRE-TRIAL EXAMINATION OF WITNESS**Order for examination**

- (1) If a person who is not a party of record to an action may have material evidence relating to a matter in question in the action, the court may
 - (a) order that the person be examined on oath on the matters in question in the action, and
 - (b) either before or after the examination, order that the examining party pay reasonable lawyer's costs of the person relating to the application and the examination.

Expert

- (2) An expert retained or specially employed by another party in anticipation of litigation or preparation for trial may not be examined under this rule unless the party seeking the examination is unable to obtain facts and opinions on the same subject by other means.

Affidavit in support of application

- (3) An application for an order under subrule (1) must be supported by affidavit setting out
 - (a) the matter in question in the action to which the applicant believes that the evidence of the proposed witness may be material,
 - (b) if the proposed witness is an expert retained or specially employed by another party in anticipation of litigation or preparation for trial, that the applicant is unable to obtain facts and opinions on the same subject by other means, and
 - (c) that the proposed witness
 - (i) has refused or neglected on request by the applicant to give a responsive statement, either orally or in writing, relating to the witness' knowledge of the matters in question, or
 - (ii) has given conflicting statements.

Application procedure

- (4) An applicant for an order under subrule (1) must comply with Rule 8-1, and, without limiting this, the applicant must serve the application materials on the proposed witness and Rule 8-1 applies to the witness as if he or she were a party of record.

Subpoena

- (5) If the court makes an order under subrule (1) entitling a party to examine a person under this rule, the party may, by serving on the person to be examined a subpoena in Form 25, require the person to bring to the examination

SUPREME COURT CIVIL RULESRule 7-6 – Physical Examination and Inspection

- (a) any document in the person's possession or control relating to the matters in question in the action, and
- (b) any physical object in the person's possession or control that the party contemplates tendering at the trial as an exhibit.

Identification of documents and objects

- (6) A subpoena referred to in subrule (5)
 - (a) need not identify any document referred to in subrule (5) (a), and
 - (b) must identify any object referred to in subrule (5) (b).

Notice of examination

- (7) The examining party must give notice of an examination under this rule by serving copies of the subpoena referred to in subrule (5) on all parties of record at least 7 days before the date appointed for the examination.

Mode of examination

- (8) The proposed witness must be cross-examined by the party who obtained the order, then may be cross-examined by any other party of record, and then may be further cross-examined by the party who obtained the order.

Time for examination

- (9) Unless the court otherwise orders, examinations conducted of a person under this rule by all parties of record must not, in total, exceed 3 hours in duration.

Application of examination for discovery rules

- (10) Rule 7-2 (12), (16), (18), (22) and (25) to (28) applies to an examination under this rule.

RULE 7-6 – PHYSICAL EXAMINATION AND INSPECTION**Order for medical examination**

- (1) If the physical or mental condition of a person is in issue in an action, the court may order that the person submit to examination by a medical practitioner or other qualified person, and if the court makes an order under this subrule, the court may also make
 - (a) an order respecting any expenses connected with the examination, and
 - (b) an order that the result of the examination be put in writing and that copies be made available to interested parties of record.

Subsequent examinations

- (2) The court may order a further examination under this rule.

Questions by examiner

- (3) A person who is making an examination under this rule may ask any relevant question concerning the medical condition or history of the person being examined.

Order for inspection and preservation of property

- (4) If the court considers it necessary or expedient for the purpose of obtaining full information or evidence, it may
- (a) order the production, inspection and preservation of any property, and
 - (b) authorize
 - (i) samples to be taken or observations to be made of the property, or
 - (ii) experiments to be conducted on or with the property.

Entry on land or building

- (5) For the purpose of enabling an order under this rule to be carried out, the court may authorize a person to enter on any land or building.

Application to persons outside British Columbia

- (6) Rule 7-2 (27) and (28) applies to examinations and inspections ordered under this rule.

RULE 7-7 – ADMISSIONS

Notice to admit

- (1) In an action in which a response to civil claim has been filed, a party of record may, by service of a notice to admit in Form 26, request any party of record to admit, for the purposes of the action only, the truth of a fact or the authenticity of a document specified in the notice.

Effect of notice to admit

- (2) Unless the court otherwise orders, the truth of a fact or the authenticity of a document specified in a notice to admit is deemed to be admitted, for the purposes of the action only, unless, within 14 days after service of the notice to admit, the party receiving the notice to admit serves on the party serving the notice to admit a written statement that
- (a) specifically denies the truth of the fact or the authenticity of the document,
 - (b) sets out in detail the reasons why the party cannot make the admission, or
 - (c) states that the refusal to admit the truth of the fact or the authenticity of the document is made on the grounds of privilege or irrelevancy or that the request is otherwise improper, and sets out in detail the reasons for the refusal.

Copy of document to be attached

- (3) Unless the court otherwise orders or the demanding party and the responding party consent, a copy of a document specified in a notice to admit must be attached to the notice to admit when it is served.

Unreasonable refusal to admit

- (4) If a responding party unreasonably denies or refuses to admit the truth of a fact or the authenticity of a document specified in a notice to admit, the court may order the party to pay the costs of proving the truth of the fact or the authenticity of the document and may award as a penalty additional costs, or deprive a party of costs, as the court considers appropriate.

Withdrawal of admission

- (5) A party is not entitled to withdraw
- (a) an admission made in response to a notice to admit,
 - (b) a deemed admission under subrule (2), or
 - (c) an admission made in a pleading, petition or response to petition
- except by consent or with leave of the court.

Application for order on admissions

- (6) An application for judgment or any other application may be made to the court using as evidence
- (a) admissions of the truth of a fact or the authenticity of a document made
 - (i) in an affidavit or pleading filed by a party,
 - (ii) in an examination for discovery of a party or a person examined for discovery on behalf of a party, or
 - (iii) in response to a notice to admit, or
 - (b) admissions of the truth of a fact or the authenticity of a document deemed to be made under subrule (2)

and the court, without waiting for the determination of any other question between the parties, may make any order it considers will further the object of these Supreme Court Civil Rules.

RULE 7-8 – DEPOSITIONS

Examination of person

- (1) By consent of the parties of record or by order of the court, a person may be examined on oath before or during trial in order that the record of the examination may be available to be tendered as evidence at the trial.

Examination of person

- (2) An examination under subrule (1) may be conducted before an official reporter or any other person as the court may direct.

Grounds for order

- (3) In determining whether to exercise its discretion to order an examination under subrule (1), the court must take into account
- (a) the convenience of the person sought to be examined,
 - (b) the possibility that the person may be unavailable to testify at the trial by reason of death, infirmity, sickness or absence,
 - (c) the possibility that the person will be beyond the jurisdiction of the court at the time of the trial,
 - (d) the possibility and desirability of having the person testify at trial by video conferencing or other electronic means, and
 - (e) the expense of bringing the person to the trial.

Time limits

- (4) In an order under subrule (1), the court may impose limits on the duration of the direct examination or cross examination of a person under this rule.

Subpoena

- (5) If the court makes an order under subrule (1) entitling a party to examine a person under this rule, the party may, by serving on the person to be examined a subpoena in Form 25, require the person to bring to the examination,
- (a) if the person to be examined is not a party of record or a representative of a party of record, any document in the person's possession or control relating to the matters in question in the action, and
 - (b) any physical object in the person's possession or control that the examining party contemplates tendering at the trial as an exhibit.

Identification of documents and objects

- (6) A subpoena referred to in subrule (5)
- (a) need not identify any document referred to in subrule (5) (a), and
 - (b) must identify any object referred to in subrule (5) (b).

Place of examination

- (7) Unless the court otherwise orders or the parties to the examination consent, an examination under this rule must take place at a location within 30 kilometres of the registry that is nearest to the place where the person to be examined resides.

Application of rule outside British Columbia

- (8) So far as is practicable, this rule applies to the examination of a person residing outside British Columbia, and the court may order the examination of a person in the place and the manner the court considers appropriate.

If person willing to testify

- (9) If the person whose examination is ordered under subrule (8) is willing to testify, the order under subrule (8) must be in Form 27 and the instructions to the examiner appointed in the order must be in Form 28.

If person not willing to testify

- (10) If the person whose examination is ordered under subrule (8) is unwilling to testify, or if for any other reason the assistance of a foreign court is necessary, the order under subrule (8) must be in Form 29 and the letter of request referred to in the order must be in Form 30.

Letter of request

- (11) If an order referred to in subrule (10) is made, the letter of request must be sent by the party obtaining the order to the Under Secretary of State for External Affairs of Canada (or, if the evidence is to be taken in Canada, to the Deputy Attorney General for the Province of British Columbia), and must have attached to it
- (a) any interrogatories to be put to the witness,
 - (b) a list of the names, addresses and telephone numbers of the lawyers or agents of the parties, both in British Columbia and in the other jurisdiction, and
 - (c) a copy of the letter of request and any interrogatories
 - (i) translated into the appropriate official language of the jurisdiction where the examination is to take place, and
 - (ii) bearing the certificate of the translator that it is a true translation and giving the translator's full name and address.

Filing of undertaking

- (12) The lawyer for the party obtaining the order referred to in subrule (10) must file with the Under Secretary of State for External Affairs of Canada (or the Deputy Attorney General for the Province of British Columbia, as the case may be) the lawyer's undertaking to be personally responsible for all the charges and expenses incurred by the Under Secretary (or the Deputy Attorney General, as the case may be) in respect of the letter of request and to pay those charges and expenses on receiving notification of the amount.

Notice of examination

- (13) The examining party must give notice of an examination under this rule by serving copies of the subpoena referred to in subrule (5) on all parties of record at least 7 days before the date appointed for the examination.

Mode of examination

- (14) The examining party must conduct a direct examination of the witness and the witness is subject to cross-examination and re-examination.

Objection to question

- (15) If an objection is made to a question put to a witness in an examination under this rule,
- (a) the question and the objection must be taken down by the official reporter,
 - (b) the validity of the objection may, on application, be decided by the court, and
 - (c) the court may, on an application referred to in paragraph (b), order the witness to submit to further examination.

Recording of deposition evidence

- (16) Unless otherwise ordered, an examination under this rule must be recorded by the person authorized under subrule (2) to conduct the examination
- (a) in the form of questions and answers, or
 - (b) on a video recording.

Preserving testimony

- (17) If a person alleges that
- (a) circumstances exist that entitle the person to receive an estate or interest in property on the happening of a future event, and
 - (b) the right or claim to that estate or interest cannot be brought to trial or hearing by the person before the happening of the event,
- the person may apply by petition or by requisition in Form 31 for an order to preserve, by examination under this rule, any testimony that may be material for establishing the right or claim.

SUPREME COURT CIVIL RULES

Rule 8-1 – How to Bring and Respond to Applications

PART 8 – APPLICATIONS**RULE 8-1 – HOW TO BRING AND RESPOND TO APPLICATIONS****Definitions**

- (1) In this rule:

“**application respondent**” means a person who files an application response under subrule (9);

“**business day**” means a day on which the court registries are open for business.

[en. B.C. Reg. 241/2010, Sch. A, s. 1 (a).]

How applications must be brought

- (2) To apply for an order from the court other than at trial or at the hearing of a petition, a party must do the following:

- (a) in the case of an application for an order by consent, apply in accordance with
 - (i) this rule, or
 - (ii) Rule 8-3;
- (b) in the case of an application of which notice need not be given, apply in accordance with
 - (i) this rule, or
 - (ii) Rule 8-4;
- (c) in the case of an urgent application, apply in accordance with Rule 8-5;
- (d) in the case of an application referred to in Rule 8-6 that may be made by written submissions, apply in accordance with the directions of the case planning conference judge referred to in Rule 8-6;
- (e) in the case of an application for which a procedure is provided for by these Supreme Court Civil Rules, apply in accordance with that procedure;
- (f) in the case of any other application, apply in accordance with this rule.

[The ability of a party to a fast track action to bring an application under this Part may be limited – see Rule 15-1 (7) to (9).]

Notice of application

- (3) A party wishing to apply under this rule must file
- (a) a notice of application, and
 - (b) the original of every affidavit, and of every other document, that
 - (i) is to be referred to by the applicant at the hearing, and
 - (ii) has not already been filed in the proceeding.

Contents of notice of application

- (4) A notice of application must be in Form 32 and must
- (a) set out the orders sought or attach a draft of the order sought,
 - (b) briefly summarize the factual basis for the application,
 - (c) set out the rule, enactment or other jurisdictional authority relied on for the orders sought and any other legal arguments on which the orders sought should be granted,
 - (d) list the affidavits and other documents on which the applicant intends to rely at the hearing of the application,
 - (e) set out the applicant's estimate of the time the application will take for hearing,
 - (f) subject to subrules (5) and (6), set out the date and time of the hearing of the application,
 - (g) set out the place for the hearing of the application in accordance with Rule 8-2, and
 - (h) provide the data collection information required in the appendix to the form, and the notice of application, other than any draft order attached to it under paragraph (a), must not exceed 10 pages in length.

[en. B.C. Reg. 241/2010, Sch. A, s. 1 (b).]

Date and time of hearing

- (5) Subject to subrule (6), the hearing of an application must be set for 9:45 a.m. on a date on which the court hears applications or at such other time or date as has been fixed by the court or a registrar.

Date and time if hearing time more than 2 hours

- (6) If the applicant's estimate referred to in subrule (4) (e) is more than 2 hours, the date and time of hearing must be fixed by a registrar.

[am. B.C. Reg. 119/2010, Sch. A, s. 17 (a).]

Service of application materials

- (7) The applicant must serve the following, in accordance with subrule (8), on each of the parties of record and on every other person, other than a party, who may be affected by the orders sought:
- (a) a copy of the filed notice of application;
 - (b) a copy of each of the filed affidavits and documents, referred to in the notice of application under subrule (4) (d), that has not already been served on that person;
 - (c) if the application is brought under Rule 9-7, any notice that the applicant is required to give under Rule 9-7 (9).

[am. B.C. Reg. 120/2014, s. 4.]

SUPREME COURT CIVIL RULESRule 8-1 – How to Bring and Respond to Applications

Time for service

- (8) The documents referred to in subrule (7) of this rule must be served,
- (a) subject to paragraph (b) of this subrule, at least 8 business days before the date set for the hearing of the application, or
 - (b) in the case of an application under Rule 9-7, at least 12 business days before the date set for the hearing of the application.
- [am. B.C. Reg. 241/2010, Sch. A, s. 1 (c) and (d).]

Application response

- (9) A person who is served with documents referred to in subrule (7) of this rule and who wishes to respond to the notice of application (in this subrule called the “responding person”) must do the following within 5 business days after service or, in the case of an application under Rule 9-7, within 8 business days after service:
- (a) file an application response;
 - (b) file the original of every affidavit, and of every other document, that
 - (i) is to be referred to by the responding person at the hearing, and
 - (ii) has not already been filed in the proceeding;
 - (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed application response;
 - (ii) a copy of each of the filed affidavits and documents, referred to in the application response under subrule (10) (b) (ii), that has not already been served on that person;
 - (iii) if the application is brought under Rule 9-7, any notice that the application respondent is required to give under Rule 9-7 (9).
- [en. B.C. Reg. 241/2010, Sch. A, s. 1 (e).]

Contents of application response

- (10) An application response must be in Form 33, must not exceed 10 pages in length and must
- (a) indicate, for each order sought on the application, whether the application respondent consents to, opposes or takes no position on the order, and
 - (b) if the application respondent wishes to oppose any of the relief sought in the application,
 - (i) briefly summarize the factual and legal bases on which the orders sought should not be granted,
 - (ii) list the affidavits and other documents to which the application respondent intends to refer at the hearing of the application, and
 - (iii) set out the application respondent’s estimate of the time the application will take for hearing.
- [am. B.C. Reg. 241/2010, Sch. A, s. 1 (f).]

Address for service

- (11) An application respondent who has not yet provided an address for service in the proceeding must include an address for service in any application response filed under subrule (9), and Rule 4-1 applies.
- (12) Repealed. [B.C. Reg. 241/2010, Sch. A, s. 1 (g).]

Applicant may respond

- (13) An applicant who wishes to respond to any document served under subrule (9) must file and serve on each application respondent any responding affidavits no later than 4 p.m. on the business day that is one full business day before the date set for the hearing.

[am. B.C. Regs. 119/2010, Sch. A, s. 17 (b); 241/2010, Sch. A, s. 1 (h) and (i).]

No additional affidavits

- (14) Unless all parties of record consent or the court otherwise orders, a party must not serve any affidavits additional to those served under subrules (7), (9) and (13).

[am. B.C. Reg. 241/2010, Sch. A, s. 1 (h).]

Application record

- (15) Subject to subrule (18), the applicant must provide to the registry where the hearing is to take place, no later than 4 p.m. on the business day that is one full business day before the date set for the hearing, an application record as follows:
- (a) the application record must be in a ring binder or in some other form of secure binding;
 - (b) the application record must contain, in consecutively numbered pages, or separated by tabs, the following documents in the following order:
 - (i) a title page bearing the style of proceeding and the names of the lawyers, if any, for the applicant and the application respondents;
 - (ii) an index;
 - (iii) a copy of the filed notice of application;
 - (iv) a copy of each filed application response;
 - (v) a copy of every filed affidavit and pleading, and of every other document other than a written argument, that is to be relied on at the hearing;
 - (vi) if the application is brought under Rule 9-7, a copy of each filed pleading;
 - (c) the application record may contain
 - (i) a draft of the proposed order,
 - (ii) subject to subrule (16), a written argument,
 - (iii) a list of authorities and
 - (iv) a draft bill of costs;

SUPREME COURT CIVIL RULESRule 8-1 – How to Bring and Respond to Applications

- (d) the application record must not contain
 - (i) affidavits of service,
 - (ii) copies of authorities, including case law, legislation, legal articles or excerpts from text books, or
 - (iii) any other documents unless they are included with the consent of all the parties of record.

[am. B.C. Regs. 119/2010, Sch. A, s. 17 (c) and (d); 241/2010, Sch. A, s. 1 (i).]

Written argument

- (16) Unless an application is estimated to take more than 2 hours, no party to the application may file or submit to the court a written argument in relation to the application other than that included in the party's notice of application or application response.

Service of application record index

- (17) The applicant must serve a copy of the application record index on each application respondent no later than 4 p.m. on the business day that is one full business day before the date set for the hearing.

[am. B.C. Reg. 241/2010, Sch. A, s. 1 (j).]

If application respondent's application is to be heard at the hearing

- (18) If an application respondent intends to set an application for hearing at the same time as the applicant's application, those parties must, so far as is possible, prepare and provide to the registry where the hearing is to take place a joint application record and agree to a date for the hearing of both applications.

[am. B.C. Reg. 119/2010, Sch. A, s. 17 (e).]

Application record to be returned

- (19) Unless the court otherwise orders, the applicant must retrieve the application record
 - (a) at the conclusion of the hearing, or
 - (b) if the hearing of the application is adjourned to a date later than the following business day, after the hearing is adjourned.

[am. B.C. Regs. 119/2010, Sch. A, s. 17 (f); 241/2010, Sch. A, s. 1 (k).]

Application record to be returned to the registry

- (20) If the application record has been retrieved by the applicant under subrule (19) (b), the applicant must return the application record to the registry between 9:00 a.m. and 4 p.m. on the business day that is one full business day before the new date set for the hearing of the application.

[am. B.C. Regs. 119/2010, Sch. A, s. 18; 241/2010, Sch. A, s. 1 (l).]

Provision of amended application record

- (21) If any additional affidavits are filed and served under subrule (14) and are not included in the application record, the applicant must provide to the registry an amended application record containing those affidavits.

Resetting adjourned applications

- (21.1) To reset an application that has been adjourned without a date being set for it to be heard (“adjourned generally”), the applicant must
- (a) file a requisition in Form 17 setting out the date and time of the hearing, and
 - (b) serve a copy of the filed requisition on the application respondents at least 2 business days before the date set for the hearing.
- [en. B.C. Reg. 119/2010, Sch. A, s. 17 (g); am. B.C. Reg. 241/2010, Sch. A, s. 1 (m).]

Application respondent may apply for directions

- (22) If, after an application has been adjourned generally, the applicant does not reset the application for hearing within a reasonable time after an application respondent has requested the applicant to do so, an application respondent may apply, by requisition in Form 17 on 2 business days’ notice, for directions.
- [am. B.C. Regs. 119/2010, Sch. A, s. 17 (h); 241/2010, Sch. A, s. 1 (n).]

RULE 8-2 – PLACE APPLICATION IS HEARD**Place of hearing of application**

- (1) An application may be heard at
- (a) the place ordered by a registrar under subrule (4),
 - (b) if an order is not made under subrule (4), the place on which all parties of record have agreed, or
 - (c) if paragraphs (a) and (b) do not apply, a place at which the court normally sits in the judicial district in which the proceeding is being conducted.

If more than one place

- (2) If there is more than one place within the judicial district referred to in subrule (1) (c) at which the court normally sits, the applicant may name, as the place for hearing, any of those places.

If place of hearing is a place other than that at which the proceeding is being conducted

- (3) If, under subrule (2), the applicant names as the place for hearing a place that is different than the place at which the proceeding is being conducted, the court may, if the court considers that it was unreasonable to have that named place as the place of hearing, make a special order as to costs and may
- (a) order that the application be heard at some other place,

SUPREME COURT CIVIL RULESRule 8-3 – Consent Applications

- (b) dismiss the application, or
- (c) hear the application.

Place of hearing of application with leave of registrar

- (4) If a registrar is satisfied that, due to urgency or the convenience of the parties, an application should be heard at a place outside the judicial district in which the proceeding is being conducted, the registrar may, without notice, grant leave for the applicant to do either or both of the following:
 - (a) file the notice of application in some other judicial district;
 - (b) name as the place of hearing a place in that other judicial district.

Notice of application must be endorsed to reflect grant of leave

- (5) If a registrar grants leave under subrule (4), he or she must endorse the notice of application accordingly.

If place of hearing is a place chosen with leave of registrar

- (6) If, in respect of an application for which leave was granted under subrule (4), the court at the hearing of the application considers that the application should not be heard at that place, the court may make a special order as to costs and may
 - (a) order that the application be heard at some other place,
 - (b) dismiss the application, or
 - (c) hear the application.

- (7) and (8) Repealed. [B.C. Reg. 119/2010, Sch. A, s. 19.]

RULE 8-3 – CONSENT APPLICATIONS**Application by consent**

- (1) Subject to subrule (2), an application for an order by consent may be made by filing
 - (a) a requisition in Form 31,
 - (b) a draft of the proposed order in Form 34,
 - (c) evidence, in accordance with Rule 13-1 (10), that the application is consented to, and
 - (d) any consent or comments of the Public Guardian and Trustee required under section 40 of the *Infants Act*.

Consent order

- (2) On being satisfied that an application referred to in subrule (1) of this rule is consented to and that the materials appropriate for the application have been filed in accordance with subrule (1), a registrar may

- (a) refer the application to a judge or, if the order sought is within the jurisdiction of a master, to a judge or master, or
- (b) if the registrar is satisfied that
 - (i) none of the parties applying for or consenting to the order is under a legal disability, or
 - (ii) if a party is under a legal disability, section 40 (7) of the *Infants Act* applies,enter the order or proceed under paragraph (a) of this subrule.

Disposition of referred applications

- (3) If an application is referred by a registrar to a judge or master under subrule (2), the judge or master may
 - (a) make the order, or
 - (b) give directions respecting the application.

RULE 8-4 – APPLICATIONS OF WHICH NOTICE IS NOT REQUIRED**Application of which notice is not required**

- (1) An application of which notice is not required may be made by filing
 - (a) a requisition in Form 31,
 - (b) a draft of the proposed order in Form 35, and
 - (c) affidavit or other evidence in support of the application.

[am. B.C. Reg. 119/2010, Sch. A, s. 20 (a).]

- (2) and (3) Repealed. [B.C. Reg. 119/2010, Sch. A, s. 20 (b).]

RULE 8-5 – URGENT APPLICATIONS**When Applications May Be Heard on Short Notice****Short notice**

- (1) Without limiting subrule (6), in case of urgency, a person wishing to bring an application (in this subrule and in subrules (2) to (5) called the “main application”) on less notice than would normally be required may make an application (in this subrule and in subrules (2) to (4) called the “short notice application”) for an order that the main application may be brought on short notice.

How to make a short notice application

- (2) A short notice application may be made by requisition in Form 17.1, without notice, and in a summary way.

[am. B.C. Reg. 120/2014, s. 5.]

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Normal time and notice rules do not apply

- (3) The time limits and notice requirements provided in these Supreme Court Civil Rules do not apply to a short notice application.

Powers of court on short notice application

- (4) On a short notice application, the court or a registrar may
- (a) order that the main application be heard on short notice,
 - (b) fix the date and time for the main application to be heard,
 - (c) fix the date and time before which service of documents applicable to the main application must be made, and
 - (d) give any other directions that the court or registrar considers will further the object of these Supreme Court Civil Rules.

Effect of short notice order

- (5) If an order is made under subrule (4) that the main application be heard on short notice, the time limits and notice requirements provided in these Supreme Court Civil Rules do not apply to the main application.

When Applications May Be Heard without Any Notice**Orders without notice**

- (6) The court may make an order without notice in the case of urgency.

Service of orders required

- (7) Promptly after an order is made without notice by reason of urgency, the party who obtained the order must serve a copy of the entered order and the documents filed in support on each person who is affected by the order.

Setting aside orders made without notice

- (8) On the application of a person affected by an order made without notice under subrule (6), the court may change or set aside the order.

RULE 8-6 – APPLICATIONS MADE BY WRITTEN SUBMISSIONS**Application made by written submissions**

- (1) If an order is made at a case planning conference that an application may be made by written submissions,
- (a) the case planning conference judge or master must give directions respecting the application, including directions respecting
 - (i) the documents to be filed in support of the application, and

- (ii) the persons on whom and the dates by which the documents referred to in subparagraph (i) and any other documents the judge or master may identify must be served, and
- (b) the application may be made in the manner provided for in those directions.

PART 9 – PRE-TRIAL RESOLUTION PROCEDURES

RULE 9-1 – OFFERS TO SETTLE

Definition

- (1) In this rule, “**offer to settle**” means
- (a) an offer to settle made and delivered before July 2, 2008 under Rule 37 of the former Supreme Court Rules, as that rule read on the date of the offer to settle, and in relation to which no order was made under that rule,
 - (b) an offer of settlement made and delivered before July 2, 2008 under Rule 37A of the former Supreme Court Rules, as that rule read on the date of the offer of settlement, and in relation to which no order was made under that rule, or
 - (c) an offer to settle made after July 1, 2008 under Rule 37B of the former Supreme Court Rules, as that rule read on the date of the offer to settle, or made under this rule, that
 - (i) is made in writing by a party to a proceeding,
 - (ii) has been served on all parties of record, and
 - (iii) contains the following sentence: “The[*party(ies)*].....,[*name(s) of party(ies)*]....., reserve(s) the right to bring this offer to the attention of the court for consideration in relation to costs after the court has pronounced judgment on all other issues in this proceeding.”

Offer not to be disclosed

- (2) The fact that an offer to settle has been made must not be disclosed to the court or jury, or set out in any document used in the proceeding, until all issues in the proceeding, other than costs, have been determined.

Offer not an admission

- (3) An offer to settle is not an admission.

Offer may be considered in relation to costs

- (4) The court may consider an offer to settle when exercising the court’s discretion in relation to costs.

Cost options

- (5) In a proceeding in which an offer to settle has been made, the court may do one or more of the following:
- (a) deprive a party of any or all of the costs, including any or all of the disbursements, to which the party would otherwise be entitled in respect of all or

some of the steps taken in the proceeding after the date of delivery or service of the offer to settle;

- (b) award double costs of all or some of the steps taken in the proceeding after the date of delivery or service of the offer to settle;
- (c) award to a party, in respect of all or some of the steps taken in the proceeding after the date of delivery or service of the offer to settle, costs to which the party would have been entitled had the offer not been made;
- (d) if the offer was made by a defendant and the judgment awarded to the plaintiff was no greater than the amount of the offer to settle, award to the defendant the defendant's costs in respect of all or some of the steps taken in the proceeding after the date of delivery or service of the offer to settle.

[am. B.C. Reg. 119/2010, Sch. A, s. 21.]

Considerations of court

- (6) In making an order under subrule (5), the court may consider the following:
 - (a) whether the offer to settle was one that ought reasonably to have been accepted, either on the date that the offer to settle was delivered or served or on any later date;
 - (b) the relationship between the terms of settlement offered and the final judgment of the court;
 - (c) the relative financial circumstances of the parties;
 - (d) any other factor the court considers appropriate.

Costs for settlement in cases within small claims jurisdiction

- (7) A plaintiff who accepts an offer to settle for a sum within the jurisdiction of the Provincial Court under the *Small Claims Act* is not entitled to costs, other than disbursements, unless the court finds that there was sufficient reason for bringing the proceeding in the Supreme Court and so orders.

Counter offer

- (8) An offer to settle does not expire by reason that a counter offer is made.

RULE 9-2 – SETTLEMENT CONFERENCES

Settlement conference

- (1) If, at any stage of an action, the parties of record jointly request a settlement conference by filing a requisition in Form 17 or a judge or master directs that the parties attend a settlement conference, the parties must attend before a judge or master who must, in private and without hearing witnesses, explore all possibilities of settlement of the issues that are outstanding.

[am. B.C. Reg. 95/2011, Sch. A, s. 3.]

Proceedings must be recorded

- (2) Proceedings at a settlement conference must be recorded, but no part of that recording may be made available to or used by any person without court order.

When judge must not preside

- (3) A judge who has presided at a settlement conference must not preside at the trial, unless all parties consent.

RULE 9-3 – SPECIAL CASE

Statement of special case

- (1) The parties to a proceeding may concur in stating a question of law or fact, or partly of law and partly of fact, in the form of a special case for the opinion of the court.

Court may order special case

- (2) The court may order a question or issue arising in a proceeding, whether of fact or law or partly of fact and partly of law, and whether raised by the pleadings or otherwise, to be stated in the form of a special case.

Form of special case

- (3) A special case must
 - (a) be divided into paragraphs numbered consecutively,
 - (b) state concisely such facts and set out or refer to such documents as may be necessary to enable the court to decide the questions stated, and
 - (c) be signed by the parties or their lawyers.

Hearing of special case

- (4) On the hearing of a special case, the court and the parties may refer to any document mentioned in the special case, and the court may draw from the stated facts and documents any inference, whether of fact or law, that might have been drawn from them if proved at a trial or hearing.

Order after hearing of special case

- (5) With the consent of the parties, on any question in a special case being answered, the court may grant specific relief or order judgment to be entered.

RULE 9-4 – PROCEEDINGS ON A POINT OF LAW

Point of law may be set down for hearing

- (1) A point of law arising from the pleadings in an action may, by consent of the parties or by order of the court, be set down by requisition in Form 17 for hearing and disposed of at any time before the trial.

Court may dispose of whole action

- (2) If, in the opinion of the court, the decision on the point of law substantially disposes of the whole action or of any distinct claim, ground of defence, set-off or counter-claim, the court may dismiss the action or make any order it considers will further the object of these Supreme Court Civil Rules.

RULE 9-5 – STRIKING PLEADINGS**Scandalous, frivolous or vexatious matters**

- (1) At any stage of a proceeding, the court may order to be struck out or amended the whole or any part of a pleading, petition or other document on the ground that
- (a) it discloses no reasonable claim or defence, as the case may be,
 - (b) it is unnecessary, scandalous, frivolous or vexatious,
 - (c) it may prejudice, embarrass or delay the fair trial or hearing of the proceeding, or
 - (d) it is otherwise an abuse of the process of the court,
- and the court may pronounce judgment or order the proceeding to be stayed or dismissed and may order the costs of the application to be paid as special costs.

[am. B.C. Reg. 119/2010, Sch. A, s. 22.]

Admissibility of evidence

- (2) No evidence is admissible on an application under subrule (1) (a).

Powers of registrar

- (3) If, on the filing of a document, a registrar considers that the whole or any part of the document could be the subject of an order under subrule (1),
- (a) the registrar may, despite any other provision of these Supreme Court Civil Rules,
 - (i) retain the document and all filed copies of it, and
 - (ii) refer the document to the court, and
 - (b) the court may, after a summary hearing, make an order under subrule (1).

Reconsideration of order

- (4) If the court makes an order referred to in subrule (3) (b),
- (a) the registrar must give notification of the order, in the manner directed by the court, to the person who filed the document,
 - (b) the person who filed the document may, within 7 days after being notified, apply to the court, and
 - (c) the court may confirm, vary or rescind the order.

RULE 9-6 – SUMMARY JUDGMENT**Definitions**

- (1) In this rule:

“**answering party**”, in relation to a claiming party’s originating pleading, means a person who serves, on the claiming party, a responding pleading that relates to a claim made in the originating pleading;

“**claiming party**” means a party who filed an originating pleading.

Application

- (2) In an action, a person who files an originating pleading in which a claim is made against a person may, after the person against whom the claim is made serves a responding pleading on the claiming party, apply under this rule for judgment against the answering party on all or part of the claim.

Response to application

- (3) An answering party may respond to an application for judgment under subrule (2) as follows:
- (a) the answering party may allege that the claiming party’s originating pleading does not raise a cause of action against the answering party;
 - (b) if the answering party wishes to make any other response to the application, the answering party may not rest on the mere allegations or denials in his or her pleadings but must set out, in affidavit material or other evidence, specific facts showing that there is a genuine issue for trial.

Application by answering party

- (4) In an action, an answering party may, after serving a responding pleading on a claiming party, apply under this rule for judgment dismissing all or part of a claim in the claiming party’s originating pleading.

Power of court

- (5) On hearing an application under subrule (2) or (4), the court,
- (a) if satisfied that there is no genuine issue for trial with respect to a claim or defence, must pronounce judgment or dismiss the claim accordingly,
 - (b) if satisfied that the only genuine issue is the amount to which the claiming party is entitled, may order a trial of that issue or pronounce judgment with a reference or an accounting to determine the amount,
 - (c) if satisfied that the only genuine issue is a question of law, may determine the question and pronounce judgment accordingly, and
 - (d) may make any other order it considers will further the object of these Supreme Court Civil Rules.

Claiming party may proceed

- (6) If, under this rule, a claiming party obtains judgment against a person on a claim made against that person in the originating pleading, the judgment is without prejudice to the right of the claiming party to
- (a) proceed with the action in respect of any other claim made, in the originating pleading, against the person against whom the judgment was obtained, and
 - (b) proceed with the action against any other person against whom a claim is made in the originating pleading.

Costs consequences

- (7) Subject to subrule (8), if the party applying under subrule (2) or (4) obtains no relief on the application, the court may
- (a) fix the costs of the party responding to the application, and
 - (b) fix the period within which those costs must be paid.

Court may decline to fix costs

- (8) The court may decline to fix and order costs under subrule (7) if the court is satisfied that the application under subrule (2) or (4), although unsuccessful, was nevertheless reasonable.

Bad faith or delay

- (9) If it appears to the court that a party to an application under subrule (2) or (4) has acted in bad faith or primarily for the purpose of delay, the court may
- (a) fix the costs of the application as special costs, and
 - (b) fix the period within which those costs must be paid.

RULE 9-7 – SUMMARY TRIAL**Definition**

- (1) In this rule, “**summary trial application**” means an application referred to in subrule (2).

Application

- (2) A party may apply to the court for judgment under this rule, either on an issue or generally, in any of the following:
- (a) an action in which a response to civil claim has been filed;
 - (b) a proceeding that has been transferred to the trial list under Rule 22-1 (7) (d);
 - (c) a third party proceeding in which a response to third party notice has been filed;

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- (d) an action by way of counterclaim in which a response to counterclaim has been filed.

When application must be heard

- (3) A summary trial application must be heard at least 42 days before the scheduled trial date.

Setting application for hearing

- (4) Unless the court otherwise orders, a summary trial application must be set for hearing in accordance with Rule 8-1.

Evidence on application

- (5) Unless the court otherwise orders, on a summary trial application, the applicant and each other party of record may tender evidence by any or all of the following:
 - (a) affidavit;
 - (b) an answer, or part of an answer, to interrogatories;
 - (c) any part of the evidence taken on an examination for discovery;
 - (d) an admission under Rule 7-7;
 - (e) a report setting out the opinion of an expert, if
 - (i) the report conforms with Rule 11-6 (1), or
 - (ii) the court orders that the report is admissible even though it does not conform with Rule 11-6 (1).

Application of Rule 12-5

- (6) Rule 12-5 (46), (49), (50), (51), (56) to (58) applies to subrule (5) of this rule.

Application of Rule 11-6

- (7) Rule 11-6 (2) applies to a summary trial application.
[am. B.C. Reg. 119/2010, Sch. A, s. 23.]

- (7.1) Repealed. [B.C. Reg. 207/2020, s. 1.]

Filings with application

- (8) A party who applies for judgment under subrule (2)
 - (a) must serve, with the notice of application and the other documents referred to in Rule 8-1 (3), every expert report, not already filed, on which the party will rely in support of the application, and
 - (b) must not serve any further affidavits, expert reports or notices except
 - (i) to tender evidence that would, at a trial, be admitted as rebuttal evidence,
 - (ii) to respond to a notice of application filed and served by another party of record, or

- (iii) with leave of the court.

Notice of evidence to be used on application

- (9) If a party intends, on a summary trial application, to rely on
 - (a) evidence taken on an examination for discovery,
 - (b) answers to interrogatories, or
 - (c) admissions,the party must give notice of that fact in accordance with subrule (10).

Giving notice

- (10) Notice under subrule (9) must be given
 - (a) by an applicant, in accordance with Rule 8-1 (7) and (8), and
 - (b) by a party who is not an applicant, in accordance with Rule 8-1 (9).

[am. B.C. Reg. 241/2010, Sch. A, s. 2.]

Adjournment or dismissal

- (11) On an application heard before or at the same time as the hearing of a summary trial application, the court may
 - (a) adjourn the summary trial application, or
 - (b) dismiss the summary trial application on the ground that
 - (i) the issues raised by the summary trial application are not suitable for disposition under this rule, or
 - (ii) the summary trial application will not assist the efficient resolution of the proceeding.

Preliminary orders

- (12) On or before the hearing of a summary trial application, the court may order that
 - (a) a party file and serve, within a fixed time, any of the following on which the party intends to rely in support of the application:
 - (i) an affidavit;
 - (ii) a notice referred to in subrule (9),
 - (b) the person who swore or affirmed an affidavit, or an expert whose report is relied on, attend for cross-examination, either before the court or before another person as the court directs,
 - (c) cross-examinations on affidavits be completed within a fixed time,
 - (d) no further evidence be tendered on the application after a fixed time, or
 - (e) a party file and serve a brief, with such contents as the court may order, within a fixed time.

SUPREME COURT CIVIL RULESRule 9-7 – Summary Trial

Ancillary or preliminary orders may be made at or before application

- (13) An order under subrule (11) or (12) may be made by a judge or by a master, and may be made before or at the same time as a summary trial application.

Judge not seized of application

- (14) A judge who makes an order under subrule (11) or (12) in relation to a summary trial application is not seized of the summary trial application unless the judge otherwise orders.

Judgment

- (15) On the hearing of a summary trial application, the court may
- (a) grant judgment in favour of any party, either on an issue or generally, unless
 - (i) the court is unable, on the whole of the evidence before the court on the application, to find the facts necessary to decide the issues of fact or law, or
 - (ii) the court is of the opinion that it would be unjust to decide the issues on the application,
 - (b) impose terms respecting enforcement of the judgment, including a stay of execution, and
 - (c) award costs.

No further application without leave

- (16) If the court does not grant judgment under subrule (15), the applicant may not apply again under subrule (2) without leave of the court.

Orders

- (17) If the court is unable to grant judgment under subrule (15) and considers that the proceeding ought to be expedited, the court may order the trial of a proceeding generally or on an issue and may
- (a) order that the parties attend a case planning conference,
 - (b) make any order that may be made under Rule 5-3 (1), or
 - (c) make any other order the court considers will further the object of these Supreme Court Civil Rules.

Right to vary or set aside order

- (18) A court may, before or at trial, vary or set aside an order made under subrules (12) and (17) of this rule.

Order if jury notice filed

- (19) A party may apply to the court for judgment under subrule (2) even though a party may have filed a notice under Rule 12-6 (3) requiring that the trial of the action be heard with a jury.

RULE 9-8 – DISCONTINUANCE AND WITHDRAWAL

Discontinuance before action set for trial

- (1) At any time before a notice of trial is filed in an action, a plaintiff may discontinue it in whole or in part against a defendant by filing a notice of discontinuance in Form 36 and serving a filed copy of the notice of discontinuance on all parties of record.

Discontinuance after action set for trial

- (2) After a notice of trial is filed in an action, a plaintiff may discontinue the action in whole or in part against a defendant with the consent of all parties of record or by leave of the court.

Withdrawal by defendant

- (3) A defendant may withdraw his or her response to civil claim or any part of it with respect to any plaintiff at any time by filing a notice of withdrawal in Form 37 and serving a filed copy of the notice of withdrawal on all parties of record.

Costs and default procedure on discontinuance or withdrawal

- (4) Subject to subrule (2), a person wholly discontinuing an action against a party or wholly withdrawing his or her response to civil claim filed in response to a notice of civil claim of a party must pay the costs of that party to the date of service of the notice of discontinuance or the notice of withdrawal, as the case may be, and if a plaintiff who is liable for costs under this subrule subsequently brings a proceeding for the same or substantially the same claim before paying those costs, the court may order the proceeding to be stayed until the costs are paid.

Third party entitled to costs

- (5) If a plaintiff discontinues the whole or any part of an action in which a person has been joined as a third party, the third party, if the discontinuance disposes of the claim against the third party, is entitled to costs and may apply to the court for a direction as to who should pay them.

Some costs remain recoverable

- (6) A plaintiff's right to recover costs from a defendant under subrule (4) does not preclude the plaintiff recovering other costs properly incurred.

Proceeding after response is withdrawn

- (7) If a defendant wholly or partly withdraws his or her response under this rule, the plaintiff may proceed under Rule 3-8 as if the defendant had served no response or only a partial response.

SUPREME COURT CIVIL RULES

Rule 9-8 – Discontinuance and Withdrawal

Discontinuance not a defence

- (8) Unless the court otherwise orders, the discontinuance of an action in whole or in part is not a defence to a subsequent proceeding for the same or substantially the same cause of action.

Application to counterclaim, third party proceeding and petition.

- (9) This rule applies to a counterclaim, a third party proceeding and a petition.

PART 10 – PROPERTY AND INJUNCTIONS

RULE 10-1 – DETENTION, PRESERVATION AND RECOVERY OF PROPERTY

Property that is the subject matter of a proceeding

- (1) The court may make an order for the detention, custody or preservation of any property that is the subject matter of a proceeding or as to which a question may arise and, for the purpose of enabling an order under this rule to be carried out, the court may authorize a person to enter on any land or building.

Fund that is the subject matter of a proceeding

- (2) If the right of a party to a specific fund is in dispute in a proceeding, the court may order the fund to be paid into court or otherwise secured.

Allowance of income from property

- (3) If property is the subject matter of a proceeding and the court is satisfied that the property will be more than sufficient to answer all claims on it, the court at any time
 - (a) may allow the whole or part of the income of the property to be paid, during such period as the court may direct, to a party who has an interest in it, or
 - (b) in the case of personal property, may order that part of the personal property be delivered or transferred to a party.

Recovery of specific property

- (4) If a party claims the recovery of specific property other than land, the court may order that the property claimed be given up to the party, pending the outcome of the proceeding, either unconditionally or on terms and conditions, if any, relating to giving security, time, mode of trial or otherwise.

Compensation for wrongful recovery

- (5) Unless the court otherwise orders, if an order is made under subrule (4) in favour of a party, the order must contain the party's undertaking to abide by any order that the court may make as to damages arising out of delivery of the property to the party or compliance with any other order.

RULE 10-2 – RECEIVERS

Appointment of receiver

- (1) The court may appoint a receiver in any proceeding either unconditionally or on terms, whether or not the appointment of a receiver was included in the relief claimed by the applicant.

SUPREME COURT CIVIL RULESRule 10-3 – Interpleader

Form of security

- (2) Unless the court otherwise orders, a receiver must give security as the court may direct in either Form 38 or Form 39 and, until that security is given, the order appointing the receiver must not be presented for entry.

Remuneration of receiver

- (3) The court must fix any remuneration to be paid to a receiver.

Accounts of receiver

- (4) Unless the court otherwise orders, a receiver must file and deliver his or her accounts annually.

RULE 10-3 – INTERPLEADER**Entitlement to relief by way of interpleader**

- (1) If
- (a) a person (in this rule called the “applicant”)
 - (i) is sued or expects to be sued in respect of property in the person’s possession or under the person’s control or in respect of the proceeds from a disposition of the property, or
 - (ii) receives a claim in respect of
 - (A) the property, or
 - (B) the proceedsby or from 2 or more persons (in this rule called the “property claimants”) making adverse claims, and
 - (b) the applicant claims no beneficial interest in the property,
- the applicant may apply to the court for interpleader relief.

Claim to real or personal property taken by sheriff

- (2) A person who makes a claim to or in respect of property taken or intended to be taken by a sheriff in the execution of any writ of execution, or to the proceeds from a disposition of the property, must deliver to the sheriff written notice of the person’s claim and the person’s address.

Sheriff to deliver notice

- (3) On receipt of a notice of claim under subrule (2), a sheriff must promptly deliver a copy of the notice to the person who caused the writ of execution to issue, and that person must, within 7 days after receiving the copy, deliver to the sheriff a written notice stating whether that person admits or disputes the claim.

If claim admitted

- (4) Promptly after receiving under subrule (3) a notice admitting a claim,

- (a) a sheriff must release any property the claim to which is admitted, and
- (b) the court may restrain the bringing of a proceeding against the sheriff for or in respect of having taken possession of the property, and

unless the court otherwise orders, the person who admitted the claim is only liable to the sheriff for any costs, fees and expenses incurred by the sheriff before receipt of the notice admitting the claim.

Sheriff may apply for interpleader relief

- (5) A sheriff who receives a notice of claim under subrule (2) may apply for interpleader relief if
 - (a) the sheriff receives a notice under subrule (3) disputing the claim, or
 - (b) the person who caused the writ of execution to issue fails to give the sheriff the notice required under subrule (3) within the time required by that subrule.

Mode of application

- (6) An application for interpleader relief must be made by petition, unless it is made in a proceeding that has already been started, in which case it may be made by notice of application.

Affidavit

- (7) An application for interpleader relief must be supported by an affidavit stating the names and addresses of the property claimants of whom the applicant has knowledge and that the applicant
 - (a) claims no beneficial interest in the property in dispute, other than for costs, fees or expenses,
 - (b) does not collude with any property claimant, and
 - (c) is willing to deliver the property to the court or to dispose of it as the court may direct.

Application for interpleader relief

- (8) An application for interpleader relief may be made without notice, and the court may deal with the application summarily or may give directions for service.

Powers of court on hearing application

- (9) On the hearing of an application for interpleader relief, the court may
 - (a) order a property claimant to be made a party to a proceeding that has already been started in substitution for or in addition to the applicant,
 - (b) order an issue between the property claimants to be stated and tried in an action and direct which property claimant is to be the plaintiff in the action and which property claimant is to be the defendant,

SUPREME COURT CIVIL RULESRule 10-4 – Injunctions

- (c) on the request of the applicant or a property claimant, determine the rights of the property claimants summarily,
- (d) if a property claimant fails to attend, or attends and fails or refuses to comply with an order made in the proceeding, make an order declaring that the property claimant and all persons claiming under the property claimant be forever barred from prosecuting the claim against the applicant, without affecting the rights of the property claimants as between themselves,
- (e) stay any further step in a proceeding,
- (f) if there are interpleader applications pending in several proceedings, make an order that is binding on all the parties to the various proceedings,
- (g) order the costs of the applicant to be paid out of the property or proceeds,
- (h) declare that the liability of the applicant with respect to the property or the proceeds is extinguished, and
- (i) make any other order the court considers will further the object of these Supreme Court Civil Rules.

RULE 10-4 – INJUNCTIONS**Applications for pre-trial injunctions**

- (1) An application for a pre-trial injunction may be made by a party whether or not a claim for an injunction is included in the relief claimed.

Applications for pre-trial injunctions before proceeding started

- (2) An application for a pre-trial injunction may be made before the start of a proceeding and the injunction may be granted on terms providing for the start of the proceeding.

Applications for interim injunctions without notice

- (3) If an application for a pre-trial injunction is made without notice, the court may grant an interim injunction.

Injunction by court order

- (4) An injunction must be imposed by order of the court.

Undertaking as to damages

- (5) Unless the court otherwise orders, an order for a pre-trial or interim injunction must contain the applicant's undertaking to abide by any order that the court may make as to damages.

Application for injunction after judgment

- (6) In a proceeding in which an injunction has been or might have been claimed, a party may apply by petition after judgment to restrain another party from the repetition or

continuance of the wrongful act or breach of contract established by the judgment or from the commission of any act or breach of a like kind.

PART 11 – EXPERTS

RULE 11-1 – APPLICATION OF PART 11

Application of this Part

- (1) This Part does not apply to
 - (a) summary trials under Rule 9-7, except as provided in that rule, or
 - (b) a witness giving evidence in an action in relation to a matter if that witness is an individual whose conduct is in issue in the action in relation to that matter.

Case plan order

- (2) Unless the court otherwise orders, if a case planning conference has been held in an action, expert opinion evidence must not be tendered to the court at trial unless provided for in the case plan order applicable to the action.

RULE 11-2 – DUTY OF EXPERT WITNESSES

Duty of expert witness

- (1) In giving an opinion to the court, an expert appointed under this Part by one or more parties or by the court has a duty to assist the court and is not to be an advocate for any party.

Advice and certification

- (2) If an expert is appointed under this Part by one or more parties or by the court, the expert must, in any report he or she prepares under this Part, certify that he or she
 - (a) is aware of the duty referred to in subrule (1),
 - (b) has made the report in conformity with that duty, and
 - (c) will, if called on to give oral or written testimony, give that testimony in conformity with that duty.

RULE 11-3 – APPOINTMENT OF JOINT EXPERTS

Appointment agreement

- (1) If 2 or more parties who are adverse in interest wish to or are ordered under Rule 5-3 (1) (k) to jointly appoint an expert, the following must be settled before the expert is appointed:
 - (a) the identity of the expert;
 - (b) the issue in the action the expert opinion evidence may help to resolve;
 - (c) any facts or assumptions of fact agreed to by the parties;

- (d) for each party, any assumptions of fact not included under paragraph (c) of this subrule that the party wishes the expert to consider;
- (e) the questions to be considered by the expert;
- (f) when the report must be prepared by the expert and given to the parties;
- (g) responsibility for fees and expenses payable to the expert.

[am. B.C. Regs. 18/2019, Sch. 1, s. 2; 207/2020, s. 2.]

Appointment by parties

- (2) If the parties agree on the matters referred to in subrule (1), they and the expert must enter into an agreement under subrule (6).

Application to court

- (3) If the parties referred to in subrule (1) are unable to agree on the matters referred to in subrule (1), any party may apply, on an application under Part 8, at a case planning conference or at an application to amend the case plan order, to settle the terms of the expert's appointment.

Application materials

- (4) Each of the parties referred to in subrule (1) must submit to the court, on any application for an order referred to in subrule (3), material that
 - (a) identifies the matters referred to in subrule (1) (a) to (h) that are in dispute and states his or her position on those matters,
 - (b) if the parties are unable to agree on the identity of the expert, names one or more persons who
 - (i) are qualified to give expert opinion evidence on the issue, and
 - (ii) have been made aware of the content of this Part and consent to being appointed as expert, and
 - (c) states any connection known to the party between a person named under paragraph (b) and a party to the action.

Powers of court

- (5) On an application under subrule (3), the court may do one or more of the following:
 - (a) settle the terms of the appointment referred to in subrule (1) (a) to (h);
 - (b) if the parties are unable to agree on the identity of the expert, identify the person to be appointed as expert, whether or not that expert is named under subrule (4) (b);
 - (c) if the application is made at a case planning conference or at an application to amend a case plan order, make or amend a case plan order to reflect the orders made under paragraphs (a) and (b) of this subrule.

SUPREME COURT CIVIL RULESRule 11-4 – Appointment of Own Experts

Agreement

- (6) The parties referred to in subrule (1) must enter into an agreement that reflects the terms agreed on under subrule (2) or ordered under subrule (5), and
- (a) the agreement must be signed by each party to the agreement,
 - (b) the agreement must be signed by the expert to signify that he or she
 - (i) has been made aware of the content of this Part, and
 - (ii) consents to the appointment reflected in the agreement, and
 - (c) a copy of the agreement must be served, promptly after signing, on every party of record who is not a party to the agreement.

Role of expert appointed under this rule

- (7) Unless the court otherwise orders on an application referred to in subrule (8), if an agreement is made under this rule for a joint expert to give expert opinion evidence on an issue, the joint expert is the only expert who, in relation to the parties to the agreement, may give expert opinion evidence in the action on the issue.

Notice of application

- (8) A party wishing to apply under subrule (7) for leave to tender the evidence of an additional expert at trial must, within 21 days after receipt of the joint expert's report, serve on all parties of record the documents that under Rule 8-1 (7) are required for the application.

Additional experts

- (9) The court may, on an application referred to in subrule (8) of this rule, grant leave for the evidence of an additional expert to be tendered at trial if the court is satisfied that the evidence of that additional expert is necessary to ensure a fair trial.

Cross examination

- (10) Each party of record, including each of the appointing parties, has the right to cross-examine at trial a joint expert appointed under this rule.

Common experts

- (11) Nothing in this rule prevents parties who are not adverse in interest from appointing a common expert.

RULE 11-4 – APPOINTMENT OF OWN EXPERTS**When each party may retain their own experts**

- (1) Subject to Rule 11-1 (2), parties to an action may each appoint their own experts to tender expert opinion evidence to the court on an issue.

RULE 11-5 – APPOINTMENT OF COURT'S OWN EXPERT

Appointment of experts by court

- (1) Subject to this rule, the court may, on its own initiative at any stage of an action, appoint an expert if it considers that expert opinion evidence may help the court in resolving an issue in the action.

Materials required by court

- (2) In deciding whether to appoint an expert under this rule in relation to an issue in an action, the court may
 - (a) ask each party of record to name one or more persons who
 - (i) are qualified to give expert opinion evidence on the issue, and
 - (ii) have been made aware of the content of this Part and consent to being appointed,
 - (b) require each party of record to state any connection between an expert named under paragraph (a) and a party to the action, and
 - (c) receive other material and make other inquiries to help decide which expert to appoint.

Court may name different expert

- (3) The court may appoint an expert under this rule whether or not that expert was named by a party under subrule (2) (a).

Expert must consent

- (4) The court may appoint an expert under this rule if the expert consents to the appointment after he or she has been made aware of the content of this Part.

Previous report not a bar

- (5) The court may appoint an expert under this rule in relation to an issue even if that expert has already given a report to a party on the issue or on another issue in the action.

Consequences of court appointment

- (6) Unless the court otherwise orders, if an expert is appointed under this rule to give expert opinion evidence on an issue, each party of record has the right to cross-examine the expert.

Directions to expert

- (7) The court, after consultation with the parties of record, must
 - (a) settle the questions to be submitted to any expert appointed by the court under this rule,
 - (b) give the expert any directions the court considers appropriate, and

SUPREME COURT CIVIL RULESRule 11-5 – Appointment of Court's Own Expert

- (c) give the parties of record any directions the court considers appropriate to facilitate the expert's ability to provide the required opinion.

Contents of order appointing expert

- (8) The order appointing an expert under this rule must contain the directions referred to in subrule (7) and the court may make additional orders to enable the expert to carry out the directions applicable to him or her, including, on application by a party, an order under Rule 7-6 for
 - (a) an examination with respect to the physical or mental condition of a party, or
 - (b) inspection of property.

Remuneration of expert

- (9) The remuneration of an expert appointed under this rule
 - (a) must be fixed by the court and consented to by the expert, and
 - (b) may include
 - (i) a fee for the report, and any supplementary reports, required under Rule 11-6, and
 - (ii) an appropriate sum for each day that the expert's attendance in court is required.

Security for remuneration

- (10) The court may make one or both of the following orders without prejudice to any party's right to costs:
 - (a) an order directing that the expert's remuneration be paid by the persons and at the time ordered by the court;
 - (b) an order for security for the expert's remuneration.

Reports

- (11) An expert appointed under this rule must
 - (a) prepare a report that complies with Rule 11-6 and send it to the registry, with a copy to each party of record, within such time as the court directs, and
 - (b) if the expert's opinion changes in a material way after an expert's report is sent to the registry under paragraph (a), prepare a supplementary report that complies with Rule 11-6 and send it to the registry, with a copy to each party of record, within such time as the court directs.

Report must be tendered as evidence

- (12) Each report and supplementary report of an expert appointed by the court under this rule must be tendered as evidence at the trial of the action, unless the trial judge otherwise orders.

RULE 11-6 – EXPERT REPORTS**Requirements for report**

- (1) An expert's report that is to be tendered as evidence at the trial must be signed by the expert, must include the certification required under Rule 11-2 (2) and must set out the following:
- (a) the expert's name, address and area of expertise;
 - (b) the expert's qualifications and employment and educational experience in his or her area of expertise;
 - (c) the instructions provided to the expert in relation to the proceeding;
 - (d) the nature of the opinion being sought and the issues in the proceeding to which the opinion relates;
 - (e) the expert's opinion respecting those issues;
 - (f) the expert's reasons for his or her opinion, including
 - (i) a description of the factual assumptions on which the opinion is based,
 - (ii) a description of any research conducted by the expert that led him or her to form the opinion, and
 - (iii) a list of every document, if any, relied on by the expert in forming the opinion.

[am. B.C. Reg. 119/2010, Sch. A, s. 24.]

Proof of qualifications

- (2) The assertion of qualifications of an expert is evidence of them.

Service of report

- (3) Unless the court otherwise orders, at least 84 days before the scheduled trial date, an expert's report, other than the report of an expert appointed by the court under Rule 11-5, must be served on every party of record, along with written notice that the report is being served under this rule,
- (a) by the party who intends, with leave of the court under Rule 11-3 (9) or otherwise, to tender the expert's report at trial, or
 - (b) if 2 or more parties jointly appointed the expert, by each party who intends to tender the expert's report at trial.

Service of responding report

- (4) Unless the court otherwise orders, if a party intends to tender an expert's report at trial to respond to an expert witness whose report is served under subrule (3), the party must serve on every party of record, at least 42 days before the scheduled trial date,
- (a) the responding report, and
 - (b) notice that the responding report is being served under this rule.

SUPREME COURT CIVIL RULESRule 11-6 – Expert Reports

Supplementary report of joint or court-appointed expert

- (5) If, after an expert's report is served under subrule (3) (b), the expert's opinion changes in a material way,
- (a) the expert must, as soon as practicable, prepare a supplementary report and ensure that that supplementary report is provided to the party who served the report under subrule (3), and
 - (b) the party to whom the supplementary report is provided under paragraph (a) of this subrule must promptly serve that supplementary report on every other party of record.

Supplementary report of own expert

- (6) If, after an expert's report is served under subrule (3) (a) or (4), the expert's opinion changes in a material way and the party who served the report intends to tender that expert's report at trial despite the change,
- (a) the expert must, as soon as practicable, prepare a supplementary report and ensure that that supplementary report is provided to the party, and
 - (b) the party must promptly serve that supplementary report on every other party of record.

Requirements for supplementary report

- (7) A supplementary report under Rule 11-5 (11) or under subrule (5) (a) or (6) (a) of this rule must
- (a) be identified as a supplementary report,
 - (b) be signed by the expert,
 - (c) include the certification required under Rule 11-2 (2), and
 - (d) set out the change in the expert's opinion and the reason for it.

Production of documents

- (8) Unless the court otherwise orders, if a report of a party's own expert appointed under Rule 11-3 (9) or 11-4 is served under this rule, the party who served the report must,
- (a) promptly after being asked to do so by a party of record, serve on the requesting party whichever one or more of the following has been requested:
 - (i) any written statement or statements of facts on which the expert's opinion is based;
 - (ii) a record of any independent observations made by the expert in relation to the report;
 - (iii) any data compiled by the expert in relation to the report;
 - (iv) the results of any test conducted by or for the expert, or of any inspection conducted by the expert, if the expert has relied on that test or inspection in forming his or her opinion, and

- (b) if asked to do so by a party of record, make available to the requesting party for review and copying the contents of the expert's file relating to the preparation of the opinion set out in the expert's report,
 - (i) if the request is made within 14 days before the scheduled trial date, promptly after receipt of that request, or
 - (ii) in any other case, at least 14 days before the scheduled trial date.

Notice of trial date to expert

- (9) The person who is required to serve the report or supplementary report of an expert under this rule must, promptly after the appointment of the expert or promptly after a trial date has been obtained, whichever is later, inform the expert of the scheduled trial date and that the expert may be required to attend at trial for cross-examination.

Notice of objection to expert opinion evidence

- (10) A party who receives an expert report or supplementary report under this Part must, on the earlier of the date of the trial management conference and the date that is 21 days before the scheduled trial date, serve on every party of record a notice of any objection to the admissibility of the expert's evidence that the party receiving the report or supplementary report intends to raise at trial.

When objection not permitted

- (11) Unless the court otherwise orders, if reasonable notice of an objection could have been given under subrule (10), the objection must not be permitted at trial if that notice was not given.

RULE 11-7 – EXPERT OPINION EVIDENCE AT TRIAL**Reports must be prepared and served in accordance with rules**

- (1) Unless the court otherwise orders, opinion evidence of an expert, other than an expert appointed by the court under Rule 11-5, must not be tendered at trial unless
 - (a) that evidence is included in a report of that expert that has been prepared and served in accordance with Rule 11-6, and
 - (b) any supplementary reports required under Rule 11-5 (11) or 11-6 (5) or (6) have been prepared and served in accordance with Rule 11-6 (5) to (7).

When report stands as evidence

- (2) Unless the court otherwise orders, the following apply to a report or supplementary report of an expert:
 - (a) if, within 21 days after service of the report or within such other period as the court may order, a demand is made under subrule (3) of this rule that the expert who made the report attend at trial for cross-examination, the report must not be tendered or accepted as evidence at the trial unless the

SUPREME COURT CIVIL RULESRule 11-7 – Expert Opinion Evidence at Trial

appointing party calls the expert at trial to be cross-examined in compliance with the demand;

- (b) if no such demand is made under subrule (3) within the demand period referred to in paragraph (a) of this subrule,
 - (i) the expert whose report has been served under this Part need not attend at trial to give oral testimony, and
 - (ii) the report, if admissible, may be tendered and accepted as evidence at the trial.

Cross-examination of expert

- (3) A party of record may demand that an expert whose report has been served on the parties of record under Rule 11-6 attend at the trial for cross-examination as follows:
 - (a) if the expert was jointly appointed under Rule 11-3 or was appointed by the court under Rule 11-5, any party of record may, within the demand period referred to in subrule (2) (a) of this rule, demand the attendance of the expert for cross-examination by that party or by any of the other parties of record;
 - (b) if the expert was appointed by a party under Rule 11-4 or by a party with leave of the court granted under Rule 11-3 (9), any party of record who is adverse in interest to the party who appointed that expert may, within the demand period referred to in subrule (2) (a) of this rule, demand the attendance of the expert for cross-examination.

Costs of cross-examination

- (4) If an expert has been required to attend at trial for cross-examination by a demand under subrule (3) and the court is of the opinion that the cross-examination was not of assistance, the court may order the party who demanded the attendance of the expert to pay to the other party or to the expert costs in an amount the court considers appropriate.

Restrictions on calling expert as witness at trial

- (5) Unless the court otherwise orders, if a party appoints an expert under Rule 11-3 (9) or 11-4,
 - (a) the party must not call the expert to give oral evidence at trial unless
 - (i) the expert's attendance has been demanded under subrule (3) of this rule, or
 - (ii) the expert's report has been served in accordance with Rule 11-6, the party believes direct examination of the expert is necessary to clarify terminology in the report or to otherwise make the report more understandable and any direct examination of that expert is limited to those matters, and
 - (b) the party must not cross-examine the expert at trial.

When court may dispense with requirement of this Part

- (6) At trial, the court may allow an expert to provide evidence, on terms and conditions, if any, even though one or more requirements of this Part have not been complied with, if
- (a) facts have come to the knowledge of one or more of the parties and those facts could not, with due diligence, have been learned in time to be included in a report or supplementary report and served within the time required by this Part,
 - (b) the non-compliance is unlikely to cause prejudice
 - (i) by reason of an inability to prepare for cross-examination, or
 - (ii) by depriving the party against whom the evidence is tendered of a reasonable opportunity to tender evidence in response, or
 - (c) the interests of justice require it.

[am. B.C. Regs. 18/2019, Sch. 1, s. 3; 207/2020, s. 3.]

RULE 11-8

Repealed. [B.C. Reg. 207/2020, s. 4.]

SUPREME COURT CIVIL RULESRule 12-1 – How to Set Trial for Hearing

PART 12 – TRIAL**RULE 12-1 – HOW TO SET TRIAL FOR HEARING****Application**

- (1) This rule applies to
- (a) an action, and
 - (b) a proceeding that is transferred to the trial list under Rule 22-1 (7) (d).

Notice of trial

- (2) To set a proceeding for trial, a party must file a notice of trial in Form 40.

[Special rules apply to fast track actions in relation to the setting of trials – see Rule 15-1 (13) and (14).]

Content of notice of trial

- (3) A notice of trial filed under subrule (2) must include the date set out in a case plan order for the trial or, if no trial date is set out in a case plan order, the trial date obtained from the registry.

[en. B.C. Reg. 119/2010, Sch. A, s. 25.]

Registry

- (4) The notice of trial must be filed in
- (a) the registry where the notice of civil claim was filed unless paragraph (b) applies, or
 - (b) the registry to which the proceeding has been transferred if the proceeding has been transferred for all purposes to another registry.

Place of trial

- (5) The place of trial must be the place named in the notice of civil claim, but the court may order that the place of trial be changed or that the trial be heard partly in one place and partly in another.

When notice of trial must be served

- (6) Promptly after filing a notice of trial, the filing party must serve a copy of the filed notice of trial on all parties of record.

[am. B.C. Reg. 65/2013, Sch. A, s. 1.]

If trial date unacceptable

- (7) If a party on whom a notice of trial is served under subrule (6) objects to the trial date set out in that notice of trial, the party must, within 21 days after service of the notice of trial,
- (a) request a case planning conference, or

- (b) make an application to the court to have the trial rescheduled.

Time of trial

- (8) The trial is to be heard on the day appointed by the notice of trial or so soon after that day as may be convenient to the court.

Court may make orders respecting trial dates

- (9) The court may
 - (a) order the adjournment of a trial,
 - (b) fix the date of trial of a proceeding,
 - (c) fix the date of trial of an issue in a proceeding, or
 - (d) order that a trial take precedence over another trial.

Duty to inform registry

- (10) Each party to a proceeding that has been set for trial must advise the registry without delay
 - (a) if the proceeding settles, and
 - (b) of any circumstances affecting the estimated length of the trial.

RULE 12-2 – TRIAL MANAGEMENT CONFERENCE

Date for trial management conference

- (1) Unless the court otherwise orders, a trial management conference must take place at least 28 days and not more than 120 days before the scheduled trial date, at a time and place to be fixed by a registrar.
[am. B.C. Reg. 104/2019, s. 3 (a).]

Trial management conference must be conducted by judge

- (2) A trial management conference must be conducted by a judge or master and, if reasonably practicable, is to be conducted by the judge who will preside at the trial.
[am. B.C. Reg. 58/2012, Sch. A, s. 1.]

Trial brief required

- (3) Unless the court otherwise orders, the plaintiff must, at least 28 days before the date set for the trial management conference,
 - (a) file a trial brief in Form 41, and
 - (b) serve a copy of the filed trial brief on all other parties of record.
[en. B.C. Reg. 3/2016, s. 1 (a).]

Trial brief – other parties of record

- (3.1) Unless the court otherwise orders, each party of record, other than the plaintiff, must, at least 21 days before the date set for the trial management conference,

SUPREME COURT CIVIL RULESRule 12-2 – Trial Management Conference

- (a) file a trial brief in Form 41, and
 - (b) serve a copy of the filed trial brief on all other parties of record.
- [en. B.C. Reg. 3/2016, s. 1 (a); am. B.C. Reg. 104/2019, s. 3 (b).]

Failure to serve trial brief

- (3.2) If a party of record has failed to comply with subrule (3) (b) or (3.1) (b), the judge or master at a trial management conference may order costs against that party.
- [en. B.C. Reg. 3/2016, s. 1 (a).]

Trial removed from trial list

- (3.3) Unless the court otherwise orders, a trial must be removed from the trial list if no trial brief has been filed under subrule (3) or (3.1).
- [en. B.C. Reg. 3/2016, s. 1 (a).]

Application for consent order

- (3.4) Despite subrule (1), the parties of record may, no later than 14 days before the date set for a trial management conference, apply under Rule 8-3 (1) for an order by consent dispensing with the need for a trial management conference.
- [en. B.C. Reg. 3/2016, s. 1 (a).]

Application materials

- (3.5) In addition to the materials required under Rule 8-3 (1), an application referred to in subrule (3.4) of this rule must include a copy of each filed trial brief.
- [en. B.C. Reg. 3/2016, s. 1 (a), as am. by B.C. Reg. 162/2016.]

Consent order

- (3.6) A judge or master may make the order referred to in subrule (3.4) if satisfied that the matter is ready to proceed to trial and can be completed within the time reserved for it.
- [en. B.C. Reg. 3/2016, s. 1 (a).]

Who must attend the trial management conference

- (4) Unless the court otherwise orders, the following persons must attend a trial management conference in person:
- (a) each lawyer representing a party of record;
 - (b) subject to the exception set out in subrule (5), each party of record.

Absent parties must be available and accessible by telephone or other means

- (5) A party of record need not attend the trial management conference in person if the party is represented by a lawyer and one of the following is readily available for consultation during the trial management conference, either in person or by telephone:
- (a) the party;
 - (b) an individual who
 - (i) has full authority to make decisions for that party concerning the action, or

- (ii) has ready access to a person who has, or to a group of persons who collectively have, full authority to make decisions for that party concerning the action.

Application must be made by requisition

- (6) An application under subrule (4) for an order respecting the manner in which a person is to attend a trial management conference or exempting a person from attending a trial management conference
 - (a) must be made by requisition in Form 17, and
 - (b) must be supported by a letter signed by the person or the person's lawyer setting out the reasons why the order is sought.
 - (c) Repealed. [B.C. Reg. 3/2016, s. 1 (b).]
[am. B.C. Reg. 3/2016, s. 1 (b).]

Non-attendance at trial management conference

- (7) If a person who, under subrule (4), is required to attend a trial management conference fails to attend at that trial management conference, the trial management conference judge or master may do one or more of the following:
 - (a) proceed in the absence of the person who failed to attend;
 - (b) adjourn the trial management conference;
 - (c) order that the person, or the party on whose behalf the person was to attend, pay costs to one or more other parties.
[am. B.C. Reg. 58/2012, Sch. A, s. 1.]

Proceedings must be recorded

- (8) Proceedings at a trial management conference must be recorded, but no part of that recording may be made available to or used by any person without court order.

Orders at a trial management conference

- (9) The judge or master presiding at a trial management conference may consider the following and, without limiting the ability of the trial judge or master to make other orders at trial, may, whether or not on the application of a party, make orders respecting one or more of the following:
 - (a) a plan for how the trial should be conducted;
 - (b) whether or not the trial or any part of it is to be heard without a jury, on any of the grounds set out in Rule 12-6 (5);
 - (c) amendment of pleadings within a fixed time;
 - (d) admissions of fact at trial;
 - (e) admission of documents at trial, including
 - (i) agreements as to the purposes for which documents may be admitted, and

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- (ii) the preparation of common books of documents and document agreements;
- (f) imposing time limits for the direct examination or cross-examination of witnesses, opening statements and final submissions;
- (g) directing that a party provide a summary of the evidence that the party expects one or more of the party's witnesses will give at trial;
- (h) directing that evidence of witnesses be presented at trial by way of affidavit;
- (i) respecting experts, including, without limitation, orders that the parties' experts must, before the service of their respective reports, confer to determine and report on those matters on which they agree and those matters on which they do not agree;
- (j) directing that the parties present opening statements and final submissions in writing;
- (k) respecting when and how an issue between the party filing a third party notice and the third party may be tried;
- (l) adjournment of the trial;
- (m) directing that the number of days reserved for the trial be changed;
- (n) directing the parties to attend a settlement conference;
- (o) adjourning the trial management conference;
- (p) directing the parties to attend a further trial management conference at a specified date and time;
- (q) any other matter that may assist in making the trial more efficient;
- (r) any other matter that may aid in the resolution of the proceeding;
- (s) any orders the judge or master considers will further the object of these Supreme Court Civil Rules.

[am. B.C. Reg. 58/2012, Sch. A, s. 1.]

When approval in writing by lawyer not required

- (10) Without limiting Rule 13-1 (2), if an order under subrule (9) of this rule is signed or initialled by the trial management conference judge or master, that order need not be approved in writing by a lawyer or by a party.

[am. B.C. Reg. 58/2012, Sch. A, s. 1.]

Prohibited orders

- (11) A trial management conference judge or master must not, at a trial management conference,
- (a) hear any application for which affidavit evidence is required, or
 - (b) make an order for final judgment, except by consent.

[am. B.C. Reg. 58/2012, Sch. A, s. 1.]

RULE 12-3 – TRIAL RECORD

Trial record for the court

- (1) The party who files a notice of trial must file a trial record for the court, which trial record must contain
 - (a) the pleadings,
 - (b) particulars served under a demand, together with the demand made,
 - (c) the case plan order, if any,
 - (d) any order relating to the conduct of the trial, and
 - (e) any document required by a registrar under subrule (2).

[am. B.C. Reg. 119/2010, Sch. A, s. 26.]

Powers of registrar respecting trial records

- (2) A registrar may direct inclusion in the trial record of any document the registrar thinks necessary or may reject a trial record that, in the registrar's opinion,
 - (a) does not contain all the documents required under subrule (1),
 - (b) contains a document that is not a document required under subrule (1), or
 - (c) is illegible.

Filing and service of trial record

- (3) The party referred to in subrule (1) must
 - (a) file the trial record at least 14 days before but not more than 28 days before the scheduled trial date, and
 - (b) promptly after filing, serve a copy of the filed trial record on the other parties of record.

Amended trial record

- (4) If the whole or any part of a pleading is amended after service of the trial record, the party who filed the notice of trial must
 - (a) amend the trial record by substituting the amended pleading for the version of the pleading that had previously been included, and
 - (b) at least one day before the trial,
 - (i) file the amended trial record, and
 - (ii) serve a copy on all parties of record.

Direction as to trial record

- (5) If the court directs that a proceeding be set down for trial, it may also direct one of the parties to prepare, file and serve a trial record.

RULE 12-4 – TRIAL CERTIFICATE

Trial certificate

- (1) Each party of record must file a trial certificate in Form 42 in the registry where the trial is to be held.

When trial certificate must be filed

- (2) A trial certificate must be filed at least 14 days before but not more than 28 days before the scheduled trial date.

What trial certificate must contain

- (3) A trial certificate must contain the following:
 - (a) a statement that the party filing the trial certificate will be ready to proceed on the scheduled trial date;
 - (b) a statement certifying that the party filing the trial certificate has completed all examinations for discovery that the party intends to conduct;
 - (c) the party's current estimate of the length of the trial;
 - (d) a statement that a trial management conference has been conducted in the action.

[am. B.C. Reg. 119/2010, Sch. A, s. 27.]

Service

- (4) Promptly after filing a trial certificate, the filing party must serve a copy of the filed trial certificate on all parties of record.

Failure to file

- (5) Unless the court otherwise orders, if no party of record files a trial certificate, the trial must be removed from the trial list.

[am. B.C. Reg. 95/2011, Sch. A, s. 4.]

Applications prohibited

- (6) A party who fails to file a trial certificate under subrule (1) is not, without leave of the court, entitled to make further applications.

RULE 12-5 – EVIDENCE AND PROCEDURE AT TRIAL

Application

- (1) This rule does not apply to summary trials under Rule 9-7, except as provided in that rule.

Proof of Facts and Documents

Court may vary order

- (2) An order made under this rule concerning the mode of proving a fact or document or of tendering evidence may be revoked or varied by a subsequent order made at or before the trial.

Failure to prove a material fact

- (3) If a party omits or fails to prove some fact material to the party's case, the court may proceed with the trial, subject to that fact being afterwards proved as the court directs, and,
 - (a) if the case is being tried by a jury, the court may direct the jury to find a verdict as if that fact had been proved, and
 - (b) unless the court otherwise orders, judgment must be entered according to whether or not that fact is or is not afterwards proved as directed.

No Evidence and Insufficient Evidence Applications

No evidence application

- (4) At the close of the plaintiff's case, the defendant may apply to have the action dismissed on the ground that there is no evidence to support the plaintiff's case.

Defendant need not elect whether to call evidence

- (5) A defendant is entitled to apply under subrule (4) without being called on to elect whether or not to call evidence.

Insufficient evidence application

- (6) At the close of the plaintiff's case, the defendant may apply to have the action dismissed on the ground that the evidence is insufficient to make out the plaintiff's case.

Defendant must elect not to call evidence

- (7) Unless the court otherwise orders, an application under subrule (6) may be made only after the defendant has elected not to call evidence.

Documentary and Other Exhibits

Notice to produce

- (8) By serving a notice in Form 43 at least 2 days before a trial, a party of record may require any other party of record to bring to the trial
 - (a) any document listed by the other party in a list of documents prepared under Rule 7-1, and

SUPREME COURT CIVIL RULESRule 12-5 – Evidence and Procedure at Trial

- (b) any physical object in the other party's possession or control that the party serving the notice contemplates tendering at the trial as an exhibit, but the notice must identify the object.

Numbering exhibit pages

- (9) If a copy of a document is tendered as an exhibit,
 - (a) each page of the exhibit must be numbered sequentially, beginning with the first page of the exhibit and ending with the last page of the exhibit, or
 - (b) if the exhibit is divided by tabs,
 - (i) each page of the exhibit that is not behind a tab must be numbered sequentially, beginning with the first of those pages and ending with the last of those pages, and
 - (ii) each page of the exhibit that is behind a tab must be numbered sequentially, beginning with the first page behind the tab and ending with the last page behind the tab.

Opportunity to inspect exhibit

- (10) Unless the court otherwise orders or the parties of record otherwise agree, no plan, photograph or object may be received in evidence at the trial of an action unless, at least 7 days before the start of the trial, the parties of record have been given an opportunity to inspect it.

Registrar to take charge of exhibits

- (11) A registrar must
 - (a) take charge of each document or object put in as an exhibit,
 - (b) mark or label each exhibit with a number, and
 - (c) make a list of the exhibits, giving a short description of each and stating by whom it was tendered.

Return of exhibits

- (12) Subject to subrule (13), after the time for appeal from judgment has expired or after the disposition of an appeal, new trial or further appeal, whichever is latest, a registrar may return an exhibit to the party who tendered it.

Other returns

- (13) The parties of record may agree or the court may order that an exhibit be returned at an earlier time or to a person other than the party who tendered it.

Disposal of exhibits after final disposition

- (14) A registrar may, with the approval of the Deputy Attorney General, destroy or otherwise dispose of an exhibit tendered in evidence in a proceeding if the return of the exhibit has not been applied for within one year after the later of

- (a) the date of the judgment at trial in, or any other final disposition of, the proceeding, and
- (b) the date of the judgment on, or any other final disposition of, any appeal, new trial or further appeal.

Notice respecting disposal of exhibits before final disposition

- (15) If an exhibit is tendered in evidence in a proceeding and nothing is filed in that proceeding for a period of 2 years, a registrar may notify the parties of record that the registrar intends to destroy or otherwise dispose of the exhibit unless, within 30 days after the date of the notice,
 - (a) an application is made for the return of the exhibit, or
 - (b) a notice of intention to proceed in Form 44 is served on all parties of record and a copy of the notice and proof of its service is filed in the proceeding.

Disposal of exhibits before final disposition

- (16) After giving notice of the intended destruction or disposition of an exhibit under subrule (15), a registrar may,
 - (a) if, within 30 days after the date of the notice, a person applies to the registrar for a return of the exhibit, return the exhibit to the party who tendered it or to such other person as the parties of record may agree or the court may order, or
 - (b) if no such application is made and if none of the parties comply with subrule (15) (b) within 30 days after the date of the notice, destroy or otherwise dispose of the exhibit with the approval of the Deputy Attorney General.

If exhibit disposed of

- (17) If an exhibit is disposed of under subrule (14) or (16) (b),
 - (a) any money received as a result of the disposition must be paid to the Minister of Finance, and
 - (b) the exhibit list must be endorsed to indicate the date and method of disposition and the amount of any money recovered.

If exhibit destroyed

- (18) If an exhibit is destroyed under subrule (14) or (16) (b), the exhibit list must be endorsed to indicate the date and method of destruction.

Adverse Witnesses**“Adverse party” defined**

- (19) For the purpose of subrules (20) to (23), “**adverse party**” means a party who is adverse in interest.

SUPREME COURT CIVIL RULESRule 12-5 – Evidence and Procedure at Trial

Adverse witness

- (20) Subrules (21) to (24) apply if a party wishes to call as a witness at the trial
- (a) an adverse party, or
 - (b) a person who, at the time the notice referred to in subrule (21) is served, is a director, officer, partner, employee or agent of an adverse party.

Notice to call adverse witness

- (21) If a party wishes to call as a witness a person referred to in subrule (20) (a) or (b), the party must serve on the adverse party a notice in Form 45 together with proper witness fees at least 7 days before the date on which the attendance of the intended witness is required.

Exceptions

- (22) Despite subrule (21), a party may
- (a) call as a witness, without payment of witness fees or previous notice, a person referred to in subrule (20) (a) or (b) if the person called is in attendance at the trial, or
 - (b) subpoena a person referred to in subrule (20) (a) or (b).

Application to set notice aside

- (23) The court may set aside a notice served under subrule (21) on the grounds that
- (a) the adverse party is unable to procure the attendance of the person named in the notice,
 - (b) the evidence of the person is unnecessary,
 - (c) it would work a hardship on the person or the adverse party to require the person to attend the trial, or
 - (d) the person named in the notice is not a person referred to in subrule (20) (a) or (b).

Court may make order

- (24) On an application under subrule (23), the court may make any order it considers will further the object of these Supreme Court Civil Rules, including, without limitation, an order adjourning the trial.

Refusal to comply with notice

- (25) If a person called as a witness in accordance with subrule (21) or (22) refuses or neglects to attend at the trial, to be sworn or to affirm, to answer a proper question put to the person or to produce a document that the person is required to produce, the court may do one or more of the following:
- (a) grant judgment in favour of the party who called the witness;
 - (b) adjourn the trial;
 - (c) make an order as to costs;

- (d) make any other order it considers will further the object of these Supreme Court Civil Rules.

Adverse party as witness may be cross-examined

- (26) If, in accordance with subrule (21) or (22), a party calls as a witness a person referred to in subrule (20) (a) or (b), the following apply:
 - (a) the party calling the witness is entitled to cross-examine the witness generally on one or more issues;
 - (b) the adverse party must not cross-examine the witness except to obtain an explanation of matters brought out in the examination-in-chief;
 - (c) other parties may cross-examine the witness generally on one or more issues, as the court may direct;
 - (d) the party calling the witness must not re-examine the witness except in relation to new matters brought out in cross-examination.

Rules Applicable to All Witnesses

Witness to testify orally

- (27) Subject to any enactment and these Supreme Court Civil Rules,
 - (a) a witness at a trial of an action must testify in open court, and
 - (b) unless the parties otherwise agree, the witness must testify orally.

Witness must be listed in witness list

- (28) Unless the court otherwise orders, a party must not, at trial, lead evidence from a witness unless that witness is listed in a witness list.

Examination of witnesses

- (29) The court may permit a party
 - (a) to examine a witness, either generally or with respect to one or more issues,
 - (i) by the use of leading questions,
 - (ii) by referring the witness to a prior statement made by the witness, whether or not made under oath,
 - (iii) respecting the interest of the witness, if any, in the outcome of the proceeding, or
 - (iv) respecting any relationship or connection between the witness and a party, or
 - (b) to cross-examine a witness, either generally or with respect to one or more issues.

Any party may contradict testimony

- (30) A party may contradict or impeach the testimony of any witness.

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Party may prepare and serve subpoena

- (31) A party of record may prepare a subpoena and serve it on any person.

Form of subpoena

- (32) A subpoena must be in Form 25 and may contain any number of names.

Subpoena not to be filed or sealed

- (33) A subpoena need not be filed in or bear the seal of the court.

Service of subpoena

- (34) A subpoena must be served and, if an affidavit is filed for the purpose of proving the service, the affidavit must state when, where, how and by whom service was effected.

Fees to accompany subpoena

- (35) A person served with a subpoena is entitled to tender of the proper fees at the time of service.

Production of documents and physical objects

- (36) A party of record, by subpoena in Form 25, may require any person other than a party of record or a representative of a party of record to bring to the trial
- (a) any document in the person's possession or control relating to the matters in question in the action, without the necessity of identifying the document, and
 - (b) any physical object in the person's possession or control that the party contemplates tendering at the trial as an exhibit, but the subpoena must identify the object to be brought.

Order for attendance of witness in custody

- (37) The court may order the attendance of a witness who is in the lawful custody of another person, including the custodian of a penal institution.

Failure of witness to attend, etc.

- (38) On proof
- (a) of the service of a subpoena on a witness who fails to attend or to remain in attendance in accordance with the requirements of the subpoena,
 - (b) that proper witness fees have been paid or tendered to that witness, and
 - (c) that the presence of that witness is material to the ends of justice,
- the court, by its warrant in Form 46 directed to a sheriff or other officer of the court or to a peace officer, may cause that witness to be apprehended and promptly brought before the court and to be detained in custody or released on terms the court may order, and the court may order that witness to pay the costs arising from his or her failure to attend or to remain in attendance.

Order setting aside subpoena

- (39) A person who has been served with a subpoena may apply to the court for an order setting aside the subpoena on the grounds that compliance with it is unnecessary or that it would work a hardship on the person, and the court may make any order, as to postponement of the trial or otherwise, it considers will further the object of these Supreme Court Civil Rules.

Deposition Evidence

Use of deposition evidence

- (40) A transcript or video recording of a deposition under Rule 7-8 may be given in evidence at the trial by any party and, even though the deposition of a witness has or may be given in evidence, the witness may be called to testify orally at the trial.

Use of videotape or film

- (41) If a video recording of a deposition is given in evidence under subrule (40) of this rule, a transcript of the deposition may also be given.

Certified transcript

- (42) If a transcript of a deposition is certified as an accurate transcription by the person taking the deposition, the transcript may be tendered in evidence without proof of the signature of that person.

Video recording of deposition evidence

- (43) A video recording of a deposition may be tendered in evidence without proof of its accuracy or completeness, but the court may order an investigation to verify the accuracy or completeness of the video recording.

Video recording of evidence becomes exhibit

- (44) A video recording of a deposition tendered in evidence becomes an exhibit at the trial.

Deposition to be given in full

- (45) If a transcript or video recording of a deposition is given in evidence,
- (a) subrule (56) applies, and
 - (b) the deposition must be presented in full, unless otherwise agreed by the parties or ordered by the court.

Evidence from Examinations for Discovery

Persons against whom discovery evidence is admissible

- (46) If otherwise admissible, the evidence given on an examination for discovery by a party or by a person examined under Rule 7-2 (5) to (10) may be tendered in evidence at

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trial by any party adverse in interest, unless the court otherwise orders, but the evidence is admissible against the following persons only:

- (a) the adverse party who was examined;
- (b) the adverse party whose status as a party entitled the examining party to conduct the examination under Rule 7-2 (5) to (10);
- (c) if the person was examined under section 17 of the *Class Proceedings Act* as a member of a class, the members of that class.

Notice required of evidence

- (47) If a person examined for discovery was, at the time of the examination, a former director, officer, employee, agent or external auditor of a party, any part of his or her evidence may be tendered at trial if notice has been served on all parties of record at least 14 days before trial specifying the part of the evidence intended to be given at trial.

Attendance at trial may be required

- (48) Any party of record may require the attendance at trial of a person whose evidence taken on examination for discovery is intended to be tendered under subrule (47), and, if the evidence is tendered, all parties of record may cross-examine that person.

Court may consider whole examination

- (49) If part of an examination for discovery is tendered in evidence, the court may review the whole of that examination and if, following the review, the court considers that another part of the examination is closely connected with the part tendered in evidence, it may direct that the other part be tendered as evidence.

Discovery evidence of person under disability

- (50) If, at the time of an examination for discovery, the person examined was an infant or a mentally incompetent person, the examination must not be tendered in evidence unless the trial judge, at the time the evidence is tendered, determines that the person, at the time of the examination, was competent to give evidence.

Transcripts of discovery evidence

- (51) If a transcript of an examination for discovery is certified as an accurate transcription by the official reporter, the transcript may be tendered in evidence without proof of the reporter's signature.

Pre-trial Examinations

Use of pre-trial examination of a witness

- (52) A party may tender in evidence at the trial all or part of the examination of a person taken under Rule 7-5
 - (a) to contradict or impeach the testimony of the person at trial, or

- (b) if it is necessary in the interests of justice and
 - (i) the person is dead,
 - (ii) the person is unable to attend and testify because of age, infirmity, sickness or imprisonment,
 - (iii) the person is out of the jurisdiction, or
 - (iv) the person's attendance cannot be secured by subpoena.

Court may consider whole pre-trial examination

- (53) If part of an examination of a person taken under Rule 7-5 is tendered in evidence, the court may review the whole of that examination and if, following the review, the court considers that another part of the examination is so closely connected with the part tendered in evidence that the last mentioned part ought not to be used without the other part, it may direct that the other part be tendered as evidence.

Transcripts and Interrogatories**Use of transcript of other proceedings**

- (54) If a witness is dead, or is unable to attend and testify because of age, infirmity, sickness or imprisonment or is out of the jurisdiction or his or her attendance cannot be secured by subpoena, the court may permit a transcript of any evidence of that witness taken in any proceeding, hearing or inquiry at which the evidence was taken under oath, whether or not involving the same parties, to be put in as evidence, but reasonable notice must be given of the intention to give that evidence.

Transcript for the court

- (55) In an action in which evidence or argument is taken down by an official reporter or is recorded digitally or on audio tape, it is the duty of the plaintiff, if required by the court, to furnish the court with a certified transcript of the evidence or argument or any portion of it, the costs of which form part of the costs of the action, but if payment of the costs of providing a transcript would be a hardship on a party, the court may order that the transcript be prepared at the expense of the government.

Objection to transcript evidence at trial

- (56) At a trial, a party may object to the admissibility of any question and answer in a transcript or video recording tendered in evidence, although no objection was taken at the examination.

Custody of transcripts

- (57) If a transcript is made of a deposition examination, examination for discovery or pre-trial examination of a witness, the party at whose instance the examination was held must keep the original transcript unmarked and must have it available at the trial.

SUPREME COURT CIVIL RULESRule 12-5 – Evidence and Procedure at Trial

Use of interrogatories at trial

- (58) At the trial of an action, a party may give in evidence an answer, or part of an answer, to interrogatories, but the court may look at the whole of the answers and, if it is of the opinion that any other answer or part of an answer is so connected with an answer or part of it given in evidence that the one ought not to be used without the other, it may direct that the other answer or part of it be put in as evidence.

Evidence Given by Affidavit**Affidavit evidence**

- (59) On the application of a party of record at or before trial, a judge or master may order that the evidence in chief of a witness may be given by affidavit.

Copy of affidavit must be furnished

- (60) A party seeking to tender evidence by affidavit must serve a copy of the affidavit on all parties of record at least 28 days, or such lesser period as may be ordered by the court, before the application referred to in subrule (59).

Cross-examination

- (61) If a copy of an affidavit of a witness is served under subrule (60), any party may, unless the court otherwise orders, require the witness to be called for cross-examination at trial, provided that that party gives to the party seeking to tender the evidence by affidavit notice of the requirement within 14 days after receiving the affidavit.

Court may extend or abridge time to require witness attendance

- (62) If a copy of an affidavit is served under subrule (60) less than 28 days before the application referred to in subrule (59), the court may extend or abridge the time referred to in subrule (61) within which parties may require the attendance of the witness at trial for cross-examination.

Contents

- (63) The person swearing or affirming an affidavit referred to in subrule (59) may state only what he or she would be permitted to state were the evidence to be given orally.

Cross-examination not limited

- (64) Cross-examination under subrule (61) or (62) is not confined to matters contained in the affidavit.

Costs where attendance unnecessary

- (65) If a witness has been required to give evidence under subrule (61) or (62), and the court is of the opinion that the evidence obtained does not materially add to the information in the affidavit furnished under subrule (60), the court may order the party

that required the attendance of the witness to pay, as costs, an amount the court considers appropriate.

Trial Procedures

Trial with assessor

- (66) The court may at any time order a trial to be heard wholly or partially by the court sitting with an assessor, and the court may fix the remuneration for the assessor and the remuneration forms part of the costs of the action.

Trial of one question before others

- (67) The court may order that one or more questions of fact or law arising in an action be tried and determined before the others.

Trial by different modes of trial

- (68) The court may order that different questions of fact arising in an action be tried by different modes of trial.

Calculation of amount by officer of the court

- (69) In an action in which it appears that the amount to be recovered is substantially a matter of calculation, the court may direct an inquiry, assessment or accounting under Rule 18-1.

Use of recording device

- (70) If authorized by the court to do so, a party may use a recording device to record evidence.

Evidence of particular facts

- (71) At or before a trial, the court may order that evidence of a fact or document may be presented at the trial in any manner, including
- (a) by statement on oath of information and belief,
 - (b) by documents or entries in books,
 - (c) by copies of documents or entries in books, or
 - (d) by a specified publication that contains a statement of that fact.

Order of speeches

- (72) Addresses to the jury or the court must be as follows:
- (a) the party on whom the onus of proof lies may open his or her case before giving evidence;
 - (b) at the close of the case of the party who began, the opposite party, if that party announces his or her intention to give evidence, may open his or her case;

SUPREME COURT CIVIL RULESRule 12-5 – Evidence and Procedure at Trial

- (c) at the close of all of the evidence, the party who began may address the jury or the court, and the opposite party may then address the jury or the court and the party who began may then reply and the court may allow the opposite party to be heard in response to a point raised in the reply;
- (d) if a defendant claims relief against another defendant, the defendant claiming relief may address the jury after the defendant against whom relief is claimed;
- (e) if a party is represented by a lawyer, the rights conferred by this rule must be exercised by the party's lawyer.

Court may make order respecting submissions

- (73) At or before a trial, the court may make one or both of the following orders in respect of a party's submissions to the court at the trial:
 - (a) an order that all or any part of the submissions be in writing;
 - (b) an order that all or any part of the submissions be of limited length.

Clerk to note time of trial

- (74) On each day of a trial, the clerk must record the following:
 - (a) the time the trial begins and ends;
 - (b) the name of each witness;
 - (c) the time the witness' evidence begins and ends.

Failure to Attend**Failure of all parties to appear at trial**

- (75) Without limiting any other power of the court under these Supreme Court Civil Rules, if no party is in attendance when the trial of an action is called, the action must be struck off the trial list unless the court otherwise orders.

Failure of one party to appear at trial

- (76) If a party is not in attendance when the trial of an action is called, the court may proceed with the trial, including hearing a counterclaim, in the absence of that party.

Court may set aside judgment

- (77) The court may set aside a verdict or judgment obtained if a party does not attend the trial.

RULE 12-6 – JURY TRIALS**Application of Rule 12-6**

- (0.1) Subrules (1) to (12) of this Rule do not apply during the period starting on September 28, 2020 and ending on October 3, 2021.

[en. B.C. Reg. 232/2020, Sch. 1.]

Rules during specified period

- (0.2) During the period referred to in subrule (0.1),
- (a) a trial must be heard by the court without a jury regardless of whether a party filed or served a notice, or paid any sum for the jury and the jury process, under this Rule,
 - (b) the court may transfer a proceeding to the Provincial Court of British Columbia under section 15 of the *Supreme Court Act* even though a party has filed a notice requiring a jury trial under this Rule, and
 - (c) a party may not apply for an adjournment of a trial because the party may want to require that the trial be heard by the court with a jury, unless the court otherwise orders.

[en. B.C. Reg. 232/2020, Sch. 1.]

Trial without jury generally

- (1) Subject to subrule (3), a trial must be heard by the court without a jury.

Trial without jury in certain proceedings

- (2) A trial must be heard by the court without a jury if the trial relates to
- (a) the administration of the estate of a deceased person,
 - (b) the dissolution of a partnership or the taking of partnership or other accounts,
 - (c) the redemption or foreclosure of a mortgage,
 - (d) the sale and distribution of the proceeds of property subject to any lien or charge,
 - (e) the execution of trusts,
 - (f) the rectification, setting aside or cancellation of a deed or other written instrument,
 - (g) the specific performance of a contract,
 - (h) the partition or sale of real estate,
 - (i) the custody or guardianship of an infant or the care of an infant's estate, or
 - (j) a proceeding referred to in Rule 2-1 (2).

SUPREME COURT CIVIL RULES

Rule 12-6 – Jury Trials

Notice requiring jury trial

- (3) Subject to Rule 15-1 (10) and subrules (2) and (4) of this rule, a party may require that the trial of an action be heard by the court with a jury by doing the following:
- (a) within 21 days after service of the notice of trial but at least 45 days before trial,
 - (i) filing a notice in Form 47, and
 - (ii) serving a copy of the filed notice on all parties of record;
 - (b) at least 45 days before trial, paying to the sheriff a sum sufficient to pay for the jury and the jury process.
- [am. B.C. Regs. 95/2011, Sch. A, s. 5; 65/2013, Sch. A, s. 2.]

Jury notice not to prevent transfer of proceeding

- (4) The court may transfer a proceeding to the Provincial Court of British Columbia under section 15 of the *Supreme Court Act* even though a party has filed a notice under subrule (3).

Court may refuse jury trial

- (5) Except in cases of defamation, false imprisonment and malicious prosecution, a party on whom a notice under subrule (3) has been served may apply
- (a) within 7 days after service for an order that the trial or part of it be heard by the court without a jury on the ground that
 - (i) the issues require prolonged examination of documents or accounts or a scientific or local investigation that cannot be made conveniently with a jury,
 - (ii) the issues are of an intricate or complex character, or
 - (iii) the extra time and cost involved in requiring that the trial be heard by the court with a jury would be disproportionate to the amount involved in the action, or
 - (b) at any time for an order that the trial be heard by the court without a jury on the ground that the trial relates to a fast track action or to one of the proceedings referred to in subrule (2).

No application for judgment necessary

- (6) An application for judgment is not necessary unless an enactment or these Supreme Court Civil Rules otherwise provides.

Judgment impossible on jury findings

- (7) If, after any redirection the court considers appropriate, a jury answers some but not all of the questions directed to it, or if the answers are conflicting, so that judgment cannot be pronounced on the findings, the action must be retried.

Only partial judgment possible on jury findings

- (8) If the answers of the jury entitle either party to judgment in respect of some but not all of the claims for relief in the notice of civil claim, the court may pronounce judgment on those claims and the remaining claims must be retried.

Jury failing to reach verdict

- (9) If the jury fails to reach a verdict in accordance with the *Jury Act*, the action must be retried.

Retrial

- (10) A retrial under subrules (7) to (9) may take place at the same or subsequent sittings as the court may direct.

Continuing trial without jury

- (11) If, for any reason other than the misconduct of a party or the party's lawyer, a trial with a jury would be retried, the court, with the consent of the party who required a jury trial, may continue the trial without a jury.

Trial may continue without jury

- (12) If, by reason of the misconduct of a party or the party's lawyer, a trial with a jury would be retried, the court, with the consent of all parties adverse in interest to the party whose conduct, or whose lawyer's conduct, is complained of, may continue the trial without a jury.

PART 13 – ORDERS

RULE 13-1 – ORDERS

Drawing and approving orders

- (1) An order of the court
 - (a) subject to subrule (15), may be drawn up by any party,
 - (b) subject to subrule (2) and paragraph (c) of this subrule, must, unless the court otherwise orders, be approved in writing by all parties of record or their lawyers,
 - (c) need not be approved by a party who has not consented to it and who did not attend or was not represented at the trial or hearing following which the order was made, and
 - (d) after approval under this rule, must be left with a registrar to have the seal of the court affixed.

When approval in writing not required

- (2) If an order is signed or initialled by the presiding judge or master, that order need not be approved in writing by a lawyer or by a party.

Form of order

- (3) Unless these Supreme Court Civil Rules otherwise provide,
 - (a) an order made without a hearing and by consent must be in Form 34,
 - (b) an order made after a trial must be in Form 48, and
 - (c) any other order must be in Form 35.

Endorsement of order on application sufficient in certain cases

- (4) If an order has been made substantially in the same terms as requested, and if the court endorses the notice of application, petition or other document to show that the order has been made or made with any variations or additional terms shown in the endorsement, it is not necessary to draw up the order, but the endorsed document must be filed.

Order granted conditionally on document to be filed

- (5) If an order may be entered on the filing of a document, the party seeking entry of the order must file the document when leaving the draft order with a registrar, and the registrar must examine the document and, if satisfied that it is sufficient, must enter the order accordingly.

Waiver of order obtained on condition

- (6) If a person who has obtained an order on condition does not comply with the condition, the person is deemed to have abandoned the order so far as it is beneficial to the person and, unless the court otherwise orders, any other person interested in the proceeding may take either the steps the order may warrant or the steps that might have been taken if the order had not been made.

Order of judge or master

- (7) An order of a single judge or master is an order of the court.

Date of order

- (8) An order
- (a) must be dated as of the date on which it was pronounced or, if made by a registrar, as of the date on which it is signed by the registrar, and
 - (b) unless the court otherwise orders, takes effect on the day of its date.

Approval of order

- (9) An order may be approved by any judge.

Requirement of consent order

- (10) A consent order must not be entered unless the consent of each party of record affected by the order is signified as follows:
- (a) if the party is represented by a lawyer, by the signature of the lawyer;
 - (b) if the party is not represented by a lawyer,
 - (i) by the oral consent of the party who attends before the court or a registrar, or
 - (ii) by the written consent of the party.

Settlement of orders

- (11) An order must be settled, when necessary, by a registrar, who may refer the draft to the judge or master who made the order.

Appointment to settle

- (12) A party may file an appointment in Form 49 to settle an order and must serve a copy of the filed appointment and a draft order on all parties whose approval of the order is required under subrule (1) at least one day before the time fixed by the appointment.

Party failing to attend on appointment to settle

- (13) If a party fails to attend at the time appointed for the settlement of an order, a registrar may settle the order in the party's absence.

SUPREME COURT CIVIL RULESRule 13-2 – Enforcement of Orders

Review of settlement

- (14) The court may review and vary the order as settled.

Registrar may draw order

- (15) The court may direct a registrar to draw up and enter an order.

Special directions for entry or service

- (16) The court may give special directions respecting the entry or service of an order.

Correction of orders

- (17) The court may at any time correct a clerical mistake in an order or an error arising in an order from an accidental slip or omission, or may amend an order to provide for any matter that should have been but was not adjudicated on.

Opinions, advice and directions of the court

- (18) The opinion, advice or direction of the court must be entered in the same manner as an order of the court and is to be termed a “judicial opinion”, “judicial advice” or “judicial direction”, as the case may require.

Orders on terms and conditions

- (19) When making an order under these Supreme Court Civil Rules, the court may impose terms and conditions and give directions it considers will further the object of these Supreme Court Civil Rules.

RULE 13-2 – ENFORCEMENT OF ORDERS**Order to pay money to a person**

- (1) An order for the payment of money to a person may be enforced by writ of seizure and sale in Form 50.

Order to pay money into court

- (2) An order for the payment of money into court may be enforced by writ of sequestration in Form 51.

Order for recovery or delivery of land

- (3) An order for the recovery or the delivery of the possession of land may be enforced by writ of possession in Form 52.

Order for recovery or delivery of property other than land

- (4) An order for the recovery or the delivery of the possession of any property other than land or money may be enforced by writ of delivery in Form 53 or 54 or by writ of sequestration in Form 51.

Appointment of receiver

- (5) An order may be enforced by the appointment of a receiver under Rule 10-2.

Execution by or against person not a party

- (6) A person not a party to a proceeding, who obtains an order or in whose favour an order is made, may enforce the order in the same manner as if the person were a party to the proceeding, and an order that may be enforced against a person not a party to a proceeding may be enforced against that person as if he or she were a party to the proceeding.

Remedy on non-compliance with mandatory order

- (7) If a mandatory order or an order for the specific performance of a contract is not obeyed, the court, in addition to or instead of proceeding against the disobedient person for contempt, may direct that the act required to be done may be done so far as is practicable by the person who obtained the order, or by some other person appointed by the court, at the expense of the disobedient person, and on the act being done, the expenses incurred may be ascertained in such manner as the court may direct, and execution may issue for the amount so ascertained and costs.

Issue of execution on conditional order

- (8) If an order is to the effect that a person is entitled to relief subject to or on compliance with a condition or the happening of a contingency, the person so entitled, after compliance with the condition or the happening of the contingency, and after demand is made on the person against whom he or she is entitled to relief, may apply to the court for leave to issue execution.

Order when right to relief has arisen

- (9) The court, if satisfied that the right to relief referred to in subrule (8) has arisen, may
- (a) order that execution issue, or
 - (b) direct that any issue or question necessary for the determination of the rights of the persons be tried.

Issue of execution on change of parties

- (10) If a change has taken place, by death or otherwise, in the persons entitled or liable to execution, the person claiming to be entitled to execution may apply to the court for leave to issue execution, and the court may order
- (a) that execution may issue, or
 - (b) that any issue or question necessary to determine the rights of the person be tried.

Production of order before execution

- (11) A writ of execution must not issue without the production to the registry of a copy of the order on which the writ is to issue.

SUPREME COURT CIVIL RULESRule 13-2 – Enforcement of Orders

Endorsement of writ

- (12) A writ of execution must be endorsed with the name and address of the lawyer or person causing it to be issued.

Issue of writ of sequestration, possession or delivery

- (13) A writ of sequestration, a writ of possession or a writ of delivery must not be issued unless there has been filed proof satisfactory to a registrar that,
- (a) in the case of an order, the order sought to be enforced
 - (i) has been served on the person against whom the order is sought to be enforced, and
 - (ii) has not been complied with, or
 - (b) in the case of a document, issued under an enactment, that on being filed in the court may be enforced as if it were an order of the court, the document
 - (i) has been filed in the court,
 - (ii) has, before or after being filed in the court, been served in accordance with the enactment or these Supreme Court Civil Rules on the person against whom the order is sought to be enforced, and
 - (iii) has not been complied with.

Issue of writ of execution if order to pay money within a period

- (14) If the order sought to be enforced is for the payment of money within a specified period, a writ of execution must not be issued until the expiration of the period.

Issue of writ of execution

- (15) Subject to these Supreme Court Civil Rules or an order of the court, a writ of execution may be issued by a registrar at any time during the lifetime of the order sought to be enforced.

When writ of execution is issued

- (16) A writ of execution must be prepared by the person seeking to enforce the order or by the person's lawyer, must be sealed by a registrar and is, after that, deemed to be issued.

Copy of writ of execution must be left with registry

- (17) The person seeking to enforce the order or the person's lawyer, on presenting a writ of execution for sealing, must provide a copy of the writ of execution to the registry.

Term of writ of execution

- (18) A writ of execution, if unexecuted, remains in force for one year only, unless renewed.

Renewal of writ of execution

- (19) At any time before the expiration of a writ of execution, or a renewed writ of execution, the writ of execution may, on the application of the party issuing the writ of execution, be renewed for a one year period beginning on the date of the renewal.

Hearing of writ of execution

- (20) An application to renew a writ of execution may be heard by
- (a) the court, or
 - (b) a registrar designated by the Chief Justice.

Writ of execution to be endorsed

- (21) A renewed writ of execution must be endorsed, by the court or a registrar, with the date of the order granting renewal and the date of the renewal.

Enforcement costs

- (22) Unless the court otherwise orders, a party who is entitled to enforce an order is entitled to the costs, fees and expenses of enforcement including proceedings under the *Court Order Enforcement Act*, this rule and Rules 13-3 and 13-4.

Registrar may fix amount

- (23) Subject to subrule (24) of this rule, if these Supreme Court Civil Rules provide or some other enactment provides that enforcement costs may be included in the amount endorsed on any writ of execution, a registrar may fix the amount to be endorsed on the writ of execution.

Assessments and accounting

- (24) If a judgment debtor alleges that he or she has satisfied an order for the payment of money or otherwise, whether or not the costs of enforcement and interest on those costs have been paid,
- (a) either the judgment creditor or the judgment debtor may apply to have the costs of enforcement assessed before a registrar, and Rule 14-1 applies, or
 - (b) the judgment debtor may apply to the registrar for an accounting.

Registrar may certify on accounting

- (25) On an accounting referred to in subrule (24) (b) of this rule, Rule 18-1 applies and a registrar may certify one or more of the following:
- (a) the amount, if any, then due to the judgment creditor;
 - (b) the amount, if any, then due to the judgment debtor as a result of an overpayment;
 - (c) that the judgment has been paid.

SUPREME COURT CIVIL RULESRule 13-2 – Enforcement of Orders

Certificate of same effect as order

- (26) A certificate under subrule (25) (c) of this rule has the same effect as if it were an order under subrule (30).

Separate writs for costs

- (27) On an order granting relief and costs, there may be, at the election of the person entitled, either one writ of execution or separate writs of execution for the relief granted and for the recovery of the costs.

Judgment for recovery of property other than land

- (28) If an order for the recovery of property other than land or money is to be enforced by writ of delivery, the court may, on the application of the judgment holder,
- (a) order that execution issue for the delivery of the property without giving the other party the option of retaining the property on paying the assessed value, and
 - (b) if the property cannot be found, and unless the court otherwise orders, order that the sheriff take possession of all the other party's lands, goods and chattels
 - (i) until the other party delivers the property, or
 - (ii) at the option of the judgment holder, until the sheriff realizes from the other party's goods and chattels the assessed value of the property.

Acknowledgment of payment

- (29) A debtor may require, as a condition of paying a money judgment, that the judgment creditor promptly execute, file and serve an acknowledgment of payment in Form 55.

Order that judgment has been paid

- (30) If a judgment debtor claims to have paid the judgment but has not obtained an acknowledgment of payment from the judgment creditor, the debtor may apply to the court for an order certifying that the judgment has been paid.

Stay of execution

- (31) The court may, at or after the time of making an order,
- (a) stay the execution of the order until such time as it thinks fit, or
 - (b) provide that an order for the payment of money be payable by instalments.

Balance becomes payable if instalment not paid when due

- (32) Unless the court in an order under subrule (31) (b) otherwise provides, if an instalment is not paid by the time fixed for payment, the balance of the money remaining unpaid under the order is, at that time, due and payable without notice being given to the judgment debtor.

Application for relief

- (33) Without limiting subrule (31), a party against whom an order has been made may apply to the court for a stay of execution or other relief on grounds with respect to which the supporting facts arose too late for them to be pleaded, and the court may give relief it considers will further the object of these Supreme Court Civil Rules.

Application for directions

- (34) A sheriff, judgment creditor or judgment debtor may apply to the court for directions under Rule 13-5 concerning the sale of any property taken in execution.

Enforcement of certificate

- (35) If a certificate under Rule 14-1 (27) or 18-1 (2) has been filed, it may be enforced as if it were an order of the court.

[en. B.C. Reg. 119/2010, Sch. A, s. 28.]

RULE 13-3 – SUBPOENA TO DEBTOR

Subpoena to debtor

- (1) A creditor who has obtained an order of the court for the recovery or payment of money or costs or both may issue out of the registry a subpoena in Form 56 on filing an affidavit showing that the order is not satisfied and that no writ of execution issued by the creditor is outstanding against the debtor.

To whom subpoena must be directed

- (2) A subpoena issued under subrule (1) must be directed,
- (a) if the debtor is an individual, to the debtor,
 - (b) if the debtor is a corporation, to an officer or director of the debtor, or
 - (c) if the debtor is a partnership or firm, to a person liable to execution on an order against the debtor.

Service of subpoena

- (3) A subpoena issued under subrule (1) must be served at least 7 days before the date of the examination under subrule (4), and with the subpoena must be tendered any expenses the person served would be entitled to were he or she required to attend the court as a witness.

Examination of debtor

- (4) The examination referred to in a subpoena issued under subrule (1) must take place before an examiner and must be on oath as to the following matters:
- (a) the income and property of the debtor;
 - (b) the debts owed to and by the debtor;
 - (c) the disposal the debtor has made of any property;

SUPREME COURT CIVIL RULESRule 13-3 – Subpoena to Debtor

- (d) the means the debtor has, or has had, or in future may have, of satisfying the order.

Examiner

- (5) The examiner must be
 - (a) the court,
 - (b) a master, or
 - (c) a registrar designated as an examiner by the Chief Justice.

Examination

- (6) At an examination under this rule, the creditor and the person subpoenaed may, with leave of the examiner, call witnesses who may be cross-examined.

Adjournment

- (7) The examiner may adjourn an examination under this rule from time to time.

Debtor refusing to attend or respond

- (8) If the person subpoenaed under subrule (1)
 - (a) does not attend as required at the examination under subrule (4) or an adjournment of it,
 - (b) refuses to be sworn or to affirm, or to answer one or more of the questions put to the person,
 - (c) after an order to that effect, refuses or neglects to produce or permit to be inspected any document or property, or
 - (d) does not give answers that are to the satisfaction of the examiner,then
 - (e) if the examiner is a master or registrar,
 - (i) in the case of default under paragraph (a), the examiner must make a report in Form 57 and fix a time and place at which the creditor may attend before the court, and at that time and place the court may, at the request of the creditor and without notice to the person subpoenaed, order
 - (A) committal, or
 - (B) apprehension under Rule 22-8 (5), and
 - (ii) in the case of default under paragraph (b), (c) or (d) of this subrule, the examiner must make a report in Form 57 and fix a time and place for the person subpoenaed to attend before the court, and at that time and place the court may, at the request of the creditor and without further notice to the person subpoenaed, order
 - (A) committal, or
 - (B) apprehension under Rule 22-8 (5), or

- (f) if the examiner is the court, the examiner may order committal.

Creditor failing to attend, etc.

- (9) If the creditor who issued a subpoena under subrule (1) fails to attend at the examination under subrule (4), or if the examiner is of the opinion that the proceedings are unnecessary or vexatious, the examiner may order the creditor to pay to the person subpoenaed a sum of money by way of compensation and may order that sum to be paid promptly or to be set off against the debt.

Debtor unreasonably refusing to pay

- (10) If it appears to the examiner that
- (a) the debtor has, with intent to defraud the creditor, made or caused to be made any gift, delivery or transfer of property, or has removed or concealed property,
 - (b) the debtor has unreasonably neglected or refused to pay the debt in whole or in part or to pay any instalment ordered to be paid, or
 - (c) the debtor is a corporation and the person subpoenaed has done, authorized, permitted or acquiesced in an act or omission described in paragraph (a) or (b),
- then
- (d) if the examiner is a master or registrar, he or she may make a report of his or her findings and fix a time and place for the person subpoenaed to attend before the court, and at that time and place the creditor may apply without notice for committal, or
 - (e) if the examiner is the court, the examiner may order committal.

Order for payment

- (11) At an examination under this rule, the examiner may make one or more of the following orders:
- (a) for the payment of the debt by instalments;
 - (b) for the payment of the debt on or before a fixed date;
 - (c) varying or rescinding any previous order;
 - (d) for payment to be made to a registrar, to the creditor or to the creditor's lawyer;
 - (e) fixing the costs payable by the debtor without assessment,
- and if the examiner is a master or registrar, the order has the effect of an order made by the court and must be entered accordingly.

Notice of application for committal

- (12) If a debtor fails to pay in accordance with an order made under subrule (11) by an examiner, the creditor may file a notice of application for committal in Form 58 on

SUPREME COURT CIVIL RULESRule 13-3 – Subpoena to Debtor

filing an affidavit showing that the default has occurred, and subrules (2) and (3) apply.

Order for committal

- (13) The court may order committal of a debtor if satisfied that
- (a) the order to pay has not been obeyed,
 - (b) the person knew of the order, and
 - (c) the person has not shown good cause why an order of committal should not be made against him or her.

Costs payable by debtor

- (14) The court may fix the costs payable by the debtor without assessment.

Form of order

- (15) An order of committal must be in Form 59 and must commit the person named in it to prison for a term not exceeding 40 days.

Term of order

- (16) An order of committal must not be enforced after the expiration of one year after the date the order was made.

Payment to sheriff

- (17) A creditor seeking to enforce an order of committal must pay to the sheriff for the maintenance of the person committed the sum of \$10 per day for each day of imprisonment by weekly payments of \$70 in advance.

Maintenance money recoverable

- (18) The maintenance money paid by a creditor under subrule (17) is a disbursement recoverable by the creditor from the debtor as costs of execution, without order.

Debtor to be brought before court

- (19) Subject to subrule (21), a sheriff or peace officer executing an order of committal must promptly bring the person arrested before the court, and the person arrested may be examined by the court, and if the court considers that imprisonment is not appropriate, the court may stay execution of the order of committal and, in that event, must
- (a) fix a time and place for a hearing to determine whether or not the order of committal should be set aside or varied, and
 - (b) give directions for notice of that hearing to be given to the creditor.

Application to set aside or vary order

- (20) A person who is the subject of an order of committal may apply to the court to set aside or vary the order, and the court may order a stay of execution of the order pending the hearing of the application and give directions for service of notice of the hearing.

Payment of debt

- (21) A person who is the subject of an order of committal may pay the amount payable endorsed on the order either to a registrar or to the sheriff, peace officer or warden in whose custody he or she is.

Receipt for payment

- (22) On payment under subrule (21) to a registrar of the amount payable, the registrar must issue a receipt to that effect.

Release from custody

- (23) On payment under subrule (21) to any of them of the amount payable or on being shown a registrar's receipt to that effect, a sheriff, peace officer or warden must release the person committed from custody and must endorse the order accordingly and return it to the registry.

Payment to creditor

- (24) All money received under this rule must be paid promptly to the creditor.

Requisition for discharge

- (25) A creditor who has obtained an order of committal may file in the registry a requisition in Form 17 requesting discharge of the person committed, and a registrar must endorse the requisition and a copy with the words "This is your authority to discharge[name]..... from custody" above the registrar's signature, and, on being shown the copy of the requisition, a sheriff, peace officer or warden must release the person committed from custody and must endorse the order accordingly and return it to the registry.

Failure to pay sheriff

- (26) A sheriff who has not received maintenance money as provided in subrule (17) must,
- (a) if the person committed is in the sheriff's custody, release the person committed, or
 - (b) if the person committed is in the warden's custody, must notify the warden, who must release the person committed,
- and each must endorse the order accordingly and return it to the registry.

Liability imposed by order

- (27) Imprisonment under these Supreme Court Civil Rules does not extinguish the liability imposed by an order.
- (28) Repealed. [B.C. Reg. 119/2010, Sch. A, s. 29.]

SUPREME COURT CIVIL RULESRule 13-4 – Examinations in Aid of Execution

RULE 13-4 – EXAMINATIONS IN AID OF EXECUTION**Definitions**

- (1) In this rule:

“**judgment creditor**” means a person entitled to enforce an order of the court, whether for payment of money or otherwise;

“**judgment debtor**” means a person against whom the order may be enforced.

Examination of judgment debtor

- (2) If a judgment creditor is entitled to issue execution on or otherwise enforce an order of the court, the judgment creditor may examine the judgment debtor for discovery as to
- (a) any matter pertinent to the enforcement of the order,
 - (b) the reason for nonpayment or nonperformance of the order,
 - (c) the income and property of the judgment debtor,
 - (d) the debts owed to and by the judgment debtor,
 - (e) the disposal the judgment debtor has made of any property either before or after the making of the order,
 - (f) the means the judgment debtor has, had or may have of satisfying the order, and
 - (g) whether the judgment debtor intends to obey the order or has any reason for not doing so.

Examination of corporate, partnership or firm judgment debtor

- (3) An officer or director of a corporate judgment debtor, or a person liable to execution on the order in the case of a partnership or firm judgment debtor, may, without an order, be examined for discovery on the matters set out in subrule (2).

Limitation

- (4) Unless the court otherwise orders, a person examined under subrule (2) or (3) must not be further examined in the same proceeding for a year.

Examination of person other than judgment debtor

- (5) On being satisfied that any other person may have knowledge of the matters set out in subrule (2), the court may order that other person to be examined for discovery concerning the person’s knowledge.

[am. B.C. Reg. 119/2010, Sch. A, s. 30.]

Order in certain cases

- (6) If a difficulty arises in or about the execution or enforcement of an order, the court may make any order for the attendance and examination of a party or person it considers will further the object of these Supreme Court Civil Rules.

Application of examination for discovery rules

- (7) Rule 7-2 (4), (5), (11), (12), (14), (17), (18), (22) to (28) applies to an examination under this rule.

[am. B.C. Reg. 95/2011, Sch. A, s. 6 (a).]

Use of examination

- (8) Any part of an examination for discovery under this rule may be given in evidence in the same or any subsequent proceeding between the parties to the proceeding or between the judgment creditor and the person examined for discovery.

Costs

- (9) Unless the court otherwise orders, the party conducting an examination under this rule is entitled to recover the costs of the examination from the judgment debtor.

Service of notice

- (10) Before conducting an examination for discovery under this rule, the party wishing to conduct that examination must do the following:
- (a) if the person to be examined is a party of record to, and has a lawyer in, the action, ensure that, at least 7 days before the examination,
 - (i) an appointment in Form 59.1 is served on that lawyer, and
 - (ii) witness fees in the amount required under Schedule 3 of Appendix C are tendered to that lawyer;
 - (b) in any other case, ensure that, at least 7 days before the examination,
 - (i) an appointment in Form 59.1 is served on the person to be examined, and
 - (ii) witness fees in the amount required under Schedule 3 of Appendix C are tendered to the person to be examined.

[en. B.C. Reg. 95/2011, Sch. A, s. 6 (b).]

Production of documents

- (11) Unless the court otherwise orders, the person to be examined for discovery under this rule must produce for inspection on the examination all documents in his or her possession or control, not privileged, relating to the matters referred to in subrule (2).

[en. B.C. Reg. 95/2011, Sch. A, s. 6 (b).]

RULE 13-5 – SALES BY THE COURT

Court may order sale

- (1) If in a proceeding it appears necessary or expedient that property be sold, the court may order the sale and may order a person in possession of the property or in receipt of the rents, profits or income from it to join in the sale and transfer of the property and deliver up the possession or receipt to the purchaser or person designated by the court.

SUPREME COURT CIVIL RULESRule 13-5 – Sales by the Court

Sale in debenture holder's proceeding

- (2) In a debenture holder's proceeding in which the debenture holder is entitled to a charge on any property, the court, if it is of the opinion that eventually there must be a sale of the property, may order the sale before or after judgment, whether or not all interested persons are ascertained or served.

Conduct of sale

- (3) If an order is made directing property to be sold, the court may permit any person having the conduct of the sale to sell the property in the manner the person considers appropriate or as the court directs.

Directions for sale

- (4) The court may give directions for the purpose of effecting a sale, including directions
- (a) appointing the person who is to have conduct of the sale,
 - (b) fixing the manner of sale, whether by contract conditional on the approval of the court, private negotiation, public auction, sheriff's sale, tender or some other manner,
 - (c) fixing a reserve or minimum price,
 - (d) defining the rights of a person to bid, make offers or meet bids,
 - (e) requiring payment of the purchase price into court or to trustees or to other persons,
 - (f) settling the particulars or conditions of sale,
 - (g) obtaining evidence of the value of the property,
 - (h) fixing the remuneration to be paid to the person having conduct of the sale and any commission, costs or expenses resulting from the sale,
 - (i) that any conveyance or other document necessary to complete the sale be executed on behalf of any person by a person designated by the court, and
 - (j) authorizing a person to enter on any land or building.

Application for directions

- (5) A person having conduct of a sale may apply to the court for further directions.

Certificate of sale

- (6) The result of a sale by order of the court must be certified in Form 60 by the person having conduct of the sale and that certificate must be filed promptly after completion of the sale.

Vesting order

- (7) The person having conduct of the sale may apply to the court for a vesting order in favour of a purchaser.

PART 14 – COSTS

[Special rules apply to costs in fast track actions – see Rule 15-1 (15) to (17).]

RULE 14-1 – COSTS**How costs assessed generally**

- (1) If costs are payable to a party under these Supreme Court Civil Rules or by order, those costs must be assessed as party and party costs in accordance with Appendix B unless any of the following circumstances exist:
 - (a) the parties consent to the amount of costs and file a certificate of costs setting out that amount;
 - (b) the court orders that
 - (i) the costs of the proceeding be assessed as special costs, or
 - (ii) the costs of an application, a step or any other matter in the proceeding be assessed as special costs in which event, subject to subrule (10), costs in relation to all other applications, steps and matters in the proceeding must be determined and assessed under this rule in accordance with this subrule;
 - (c) the court awards lump sum costs for the proceeding and fixes those costs under subrule (15) in an amount the court considers appropriate;
 - (d) the court awards lump sum costs in relation to an application, a step or any other matter in the proceeding and fixes those costs under subrule (15), in which event, subject to subrule (10), costs in relation to all other applications, steps and matters in the proceeding must be determined and assessed under this rule in accordance with this subrule;
 - (e) a notice of fast track action in Form 61 has been filed in relation to the action under Rule 15-1, in which event Rule 15-1 (15) to (17) applies;
 - (f) subject to subrule (10) of this rule,
 - (i) the only relief granted in the action is one or more of money, real property, a builder's lien and personal property and the plaintiff recovers a judgment in which the total value of the relief granted is \$100 000 or less, exclusive of interest and costs, or
 - (ii) the trial of the action was completed within 3 days or less, in which event, Rule 15-1 (15) to (17) applies to the action unless the court orders otherwise.

Assessment of party and party costs

- (2) On an assessment of party and party costs under Appendix B, a registrar must
 - (a) allow those fees under Appendix B that were proper or reasonably necessary to conduct the proceeding, and

- (b) consider Rule 1-3 and any case plan order.

Assessment of special costs

- (3) On an assessment of special costs, a registrar must
 - (a) allow those fees that were proper or reasonably necessary to conduct the proceeding, and
 - (b) consider all of the circumstances, including the following:
 - (i) the complexity of the proceeding and the difficulty or the novelty of the issues involved;
 - (ii) the skill, specialized knowledge and responsibility required of the lawyer;
 - (iii) the amount involved in the proceeding;
 - (iv) the time reasonably spent in conducting the proceeding;
 - (v) the conduct of any party that tended to shorten, or to unnecessarily lengthen, the duration of the proceeding;
 - (vi) the importance of the proceeding to the party whose bill is being assessed, and the result obtained;
 - (vii) the benefit to the party whose bill is being assessed of the services rendered by the lawyer;
 - (viii) Rule 1-3 and any case plan order.

Assessment officer

- (4) The officer before whom costs are assessed is a registrar.

Disbursements

- (5) When assessing costs under subrule (2) or (3) of this rule, a registrar must
 - (a) determine which disbursements have been necessarily or properly incurred in the conduct of the proceeding, and
 - (b) allow a reasonable amount for those disbursements.

- (6) Repealed. [B.C. Reg. 44/2014, Sch. 2, s. 2.]

Directions

- (7) If the court has made an order for costs,
 - (a) any party may, at any time before a registrar issues a certificate under subrule (27), apply for directions to the judge or master who made the order for costs,
 - (b) the judge or master may direct that any item of costs, including any item of disbursements, be allowed or disallowed, and
 - (c) the registrar is bound by any direction given by the judge or master.

Tax in respect of legal services and disbursements

- (8) If tax is payable by a party in respect of legal services or disbursements, a registrar must, on an assessment under subrule (2) or (3), allow an additional amount to compensate for that tax as follows:
- (a) if the tax is payable in respect of legal services, the additional amount to compensate for the tax must be determined by multiplying the percentage rate of the tax by,
 - (i) in the case of a judgment entered on default of response to civil claim, the costs allowed under Item 1 or 2, as the case may be, of Schedule 1 of Appendix B,
 - (ii) in the case of a writ of execution, a garnishing order, a subpoena to debtor in Form 56, a notice of application for committal in Form 58 or an order of committal in Form 59, the costs allowed under Item 1 or 2, as the case may be, of Schedule 2 of Appendix B, or
 - (iii) in any other case, the monetary value of the units assessed;
 - (b) if the tax is payable in respect of disbursements, the additional amount to compensate for the tax must be determined by multiplying the percentage rate of the tax by the monetary value of the disbursements as assessed.

Costs to follow event

- (9) Subject to subrule (12), costs of a proceeding must be awarded to the successful party unless the court otherwise orders.

Costs in cases within small claims jurisdiction

- (10) A plaintiff who recovers a sum within the jurisdiction of the Provincial Court under the *Small Claims Act* is not entitled to costs, other than disbursements, unless the court finds that there was sufficient reason for bringing the proceeding in the Supreme Court and so orders.

Costs where party represented by an employee

- (11) A party is not disentitled to costs merely because the party's lawyer is an employee of the party.

Costs of applications

- (12) Unless the court hearing an application otherwise orders,
- (a) if the application is granted, the party who brought the application is entitled to costs of the application if that party is awarded costs at trial or at the hearing of the petition, but the party opposing the application, if any, is not entitled to costs even though that party is awarded costs at trial or at the hearing of the petition, and
 - (b) if the application is refused, the party who brought the application is not entitled to costs of the application even though that party is awarded costs at trial or at the hearing of the petition, but the party opposing the appli-

cation, if any, is entitled to costs if that party is awarded costs at trial or at the hearing of the petition.

When costs payable

- (13) If an entitlement to costs arises during a proceeding, whether as a result of an order or otherwise, those costs are payable on the conclusion of the proceeding unless the court otherwise orders.

Costs arising from improper act or omission

- (14) If anything is done or omitted improperly or unnecessarily, by or on behalf of a party, the court or a registrar may order
- (a) that any costs arising from or associated with any matter related to the act or omission not be allowed to the party, or
 - (b) that the party pay the costs incurred by any other party by reason of the act or omission.

Costs of whole or part of proceeding

- (15) The court may award costs
- (a) of a proceeding,
 - (b) that relate to some particular application, step or matter in or related to the proceeding, or
 - (c) except so far as they relate to some particular application, step or matter in or related to the proceeding
- and in awarding those costs the court may fix the amount of costs, including the amount of disbursements.

Costs payable from estate or property

- (16) If it is ordered that any costs are to be paid out of an estate or property, the court may direct out of what portion of the estate or property the costs are to be paid.

Set-off of costs

- (17) If a party entitled to receive costs is liable to pay costs to another party, a registrar may assess the costs the party is liable to pay and may adjust them by way of deduction or set-off or may delay the allowance of the costs the party is entitled to receive until the party has paid or tendered the costs the party is liable to pay.

Costs of one defendant payable by another

- (18) If the costs of one defendant against a plaintiff ought to be paid by another defendant, the court may order payment to be made by one defendant to the other directly, or may order the plaintiff to pay the costs of the successful defendant and allow the plaintiff to include those costs as a disbursement in the costs payable to the plaintiff by the unsuccessful defendant.

Unnecessary expense after judgment

- (19) If after pronouncement of judgment a party puts another party to unnecessary proceedings or expense, a registrar may award costs as the registrar considers appropriate against the offending party.

Form of bill of costs

- (20) A bill of costs must be in Form 62 or, if the bill of costs pertains to a judgment under Rule 3-8, Form 63.

Appointment to review a bill, examine an agreement or assess costs

- (21) Except as provided in subrule (26), a person who seeks a review of a bill or an examination of an agreement under the *Legal Profession Act* or who seeks to have costs assessed must
- (a) obtain a date for an appointment before a registrar,
 - (b) file an appointment in Form 49 to which is attached
 - (i) the bill to be reviewed,
 - (ii) the agreement to be examined, or
 - (iii) the bill of costs to be assessed, and
 - (c) at least 5 days before the date of the appointment, serve a copy of the filed Form 49 appointment and any affidavit in support,
 - (i) in the case of a bill to be reviewed, on the lawyer whose bill is to be reviewed, on the person who is charged with the bill or on the person who has agreed to indemnify the person charged, as the case may be,
 - (ii) in the case of an agreement to be examined, on the lawyer who is a party to the agreement to be examined, or
 - (iii) in the case of a bill of costs to be assessed, in accordance with subrule (25).

Place for review or examination

- (22) An appointment for review of a bill, examination of an agreement or assessment of costs must be taken out,
- (a) in the case of a bill to be reviewed or an agreement to be examined,
 - (i) if the bill or agreement relates to a court proceeding, at the registry at which the proceeding is being conducted, or
 - (ii) if the bill or agreement does not relate to a court proceeding, at the registry nearest to the place of business of the lawyer concerned,
 - (b) in the case of a bill of costs to be assessed, at the registry at which the proceeding is being conducted, or
 - (c) at any other registry to which the parties to the appointment may agree.

Further particulars

- (23) A registrar may order further particulars or details of
- (a) a bill under review,
 - (b) an agreement under examination, or
 - (c) a bill of costs being assessed.

Assessment of sheriff's fees

- (24) If a sheriff who has charged fees for services set out in Schedule 2 of Appendix C or a person affected by those fees wishes to have those fees assessed, the person seeking the assessment must
- (a) obtain an appointment from a registrar in Form 49 and attach to that appointment a copy of the bill to be assessed, if available, and
 - (b) at least 5 days before the assessment, serve a copy of the filed appointment and any filed affidavit in support on all persons affected by the fees.

Service of appointment

- (25) A person seeking an assessment of costs must serve an appointment in Form 49, to which is attached the bill of costs, and any affidavit in support on
- (a) the person against whom costs are to be assessed, and
 - (b) every other person whose interest, whether in a fund or estate or otherwise, may be affected.

Costs on default judgment

- (26) On signing a default judgment, a registrar may, without an appointment, fix the costs to which the plaintiff is entitled against the defendant in default, and set out the amount allowed in
- (a) the judgment, or
 - (b) a separate certificate.

Certificate of costs

- (27) On the conclusion of an assessment of costs, or if the party charged has consented to the amount, a registrar must, either by endorsing the original bill or by issuing a certificate of costs in Form 64, certify the amount of costs awarded, and the party assessing costs must file the certificate.

Certificate of fees

- (28) On the conclusion of a review of a bill under the *Legal Profession Act*, or if the parties to the review have consented to the amount due under the bill, a registrar must, by issuing a certificate of fees in Form 65, certify the amount due, and either party to the review may file the certificate.

Review of an assessment

- (29) A party who is dissatisfied with a decision of a registrar on an assessment of costs may, within 14 days after the registrar has certified the costs, apply to the court for a review of the assessment.

Form of bill in certain cases

- (30) A bill for special costs or a bill under the *Legal Profession Act* may be rendered on a lump sum basis.

Description of services

- (31) A lump sum bill must contain a description of the nature of the services and of the matter involved as would, in the opinion of a registrar, afford any lawyer sufficient information to advise a client on the reasonableness of the charge made.

Evidence of lawyer

- (32) A party to an assessment of costs or a review of a lump sum bill may put in evidence the opinion of a lawyer as to the nature and importance of the services rendered and of the matter involved and the reasonableness of the charges made, but a party must not put in evidence the opinions of more than 2 lawyers, and a lawyer giving an opinion may be required to attend for examination and cross-examination.

Disallowance of fees and costs

- (33) If the court considers that a party's lawyer has caused costs to be incurred without reasonable cause, or has caused costs to be wasted through delay, neglect or some other fault, the court may do any one or more of the following:
- (a) disallow any fees and disbursements between the lawyer and the lawyer's client or, if those fees or disbursements have been paid, order that the lawyer repay some or all of them to the client;
 - (b) order that the lawyer indemnify his or her client for all or part of any costs that the client has been ordered to pay to another party;
 - (c) order that the lawyer be personally liable for all or part of any costs that his or her client has been ordered to pay to another party;
 - (d) make any other order that the court considers will further the object of these Supreme Court Civil Rules.

Costs may be ordered without assessment

- (34) If the court makes an order under subrule (33), the court may
- (a) direct a registrar to conduct an inquiry and file a report with recommendations as to the amount of costs, or
 - (b) subject to subrule (37), fix the costs with or without reference to the tariff in Appendix B.

Notice

- (35) An order against a lawyer under subrule (33) or (34) must not be made unless the lawyer is present or has been given notice.

Order to be served

- (36) A lawyer against whom an order under subrule (33) or (34) has been made must promptly serve a copy of the entered order on his or her client.

Limitation

- (37) An order by the court under subrule (34) (b) in respect of the costs of an application must not exceed \$1 000.

Refusal or neglect to procure assessment

- (38) If a party entitled to costs fails to assess costs and prejudices another party by failing to do so, a registrar may certify the costs of the other party and certify the failure and disallow all costs of the party in default.

Referrals

- (39) Unless the court otherwise orders, fees to lawyers, accountants, engineers, actuaries, valuers, merchants and other scientific persons to whom any matter or question is referred by the court must be determined by a registrar, subject to an appeal to the court.

PART 15 – FAST TRACK LITIGATION PROCEEDINGS**RULE 15-1 – FAST TRACK LITIGATION****When rule applies**

- (1) Subject to subrule (4) and unless the court otherwise orders, this rule applies to an action if
- (a) the only claims in the action are for one or more of money, real property, a builder's lien and personal property and the total of the following amounts is \$100 000 or less, exclusive of interest and costs:
 - (i) the amount of any money claimed in the action by the plaintiff for pecuniary loss;
 - (ii) the amount of any money to be claimed in the action by the plaintiff for non-pecuniary loss;
 - (iii) the fair market value, as at the date the action is commenced, of
 - (A) all real property and all interests in real property, and
 - (B) all personal property and all interests in personal property claimed in the action by the plaintiff,
 - (b) the trial of the action can be completed within 3 days,
 - (c) the parties to the action consent, or
 - (d) the court, on its own motion or on the application of any party, so orders.

Subsequent filings

- (2) If this rule applies to an action,
- (a) any party may file a notice of fast track action in Form 61,
 - (a.1) the filing party must serve a copy of the filed notice of fast track action on each of the other parties of record, and
 - (b) the words "Subject to Rule 15-1" must be added to the style of proceeding, immediately below the listed parties, for all documents filed after the notice of fast track action is filed under paragraph (a) or the court order is made under subrule (1) (d), as the case may be.
- [am. B.C. Reg. 119/2010, Sch. A, s. 31.]

Damages not limited

- (3) Nothing in this rule prevents a court from awarding damages to a plaintiff in a fast track action for an amount in excess of \$100 000.

Rule does not apply to class proceedings

- (4) This rule does not apply to a class proceeding within the meaning of the *Class Proceedings Act*.

SUPREME COURT CIVIL RULESRule 15-1 – Fast Track Litigation

Conflict

- (5) These Supreme Court Civil Rules apply to a fast track action but in the event of a conflict between this rule and another rule, this rule applies.

When rule ceases to apply

- (6) This rule ceases to apply to a fast track action if the court, on its own motion or on the application of any party, so orders.

Case planning conference required

- (7) Subject to subrule (8), a party to a fast track action must not serve on another party a notice of application or an affidavit in support of an application unless a case planning conference or a trial management conference has been conducted in relation to the action.

Exception

- (8) Subrule (7) does not apply to an application made
- (a) for an order under subrule (6) that this rule cease to apply to the action,
 - (b) to obtain leave to bring an application referred to in subrule (9),
 - (c) under Rule 9-5, 9-6 or 9-7,
 - (d) to add, remove or substitute a party, or
 - (e) by consent.

Court may relieve

- (9) On application by a party, a judge or master may relieve a party from the requirements of subrule (7) if
- (a) it is impracticable or unfair to require the party to comply with the requirements of subrule (7), or
 - (b) the application referred to in subrule (7) is urgent.

Trial to be without jury

- (10) A trial of a fast track action must be heard by the court without a jury.

Oral discovery

- (11) Unless the court otherwise orders, in a fast track action the examinations for discovery of a party of record, including any person referred to in Rule 7-2 (1) (b) who is examined in relation to that party of record, by all parties of record who are adverse in interest must not, in total, exceed in duration
- (a) 2 hours, or
 - (b) any greater period to which the person to be examined consents.

When discoveries must be completed

- (12) Unless the court otherwise orders or the parties to the examination consent, all examinations for discovery in a fast track action must be completed at least 14 days before the scheduled trial date.

(12.1) Repealed. [B.C. Reg. 207/2020, s. 4.]

Setting of trial date

- (13) If a party to a fast track action applies for a trial date within 4 months after the date on which this rule becomes applicable to the action, the registrar must set a date for the trial that is not later than 4 months after the application for the trial date.

If trial will require more than 3 days

- (14) If, as a result of the trial management conference in a fast track action, the trial management conference judge or master considers that the trial will likely require more than 3 days, the trial management conference judge or master

- (a) may adjourn the trial to a date to be fixed as if the action were not subject to this rule, and
- (b) is not seized of the action.

[am. B.C. Reg. 58/2012, Sch. A, s. 2.]

Costs

- (15) Unless the court otherwise orders or the parties consent, and subject to Rule 14-1 (10), the amount of costs, exclusive of disbursements, to which a party to a fast track action is entitled is as follows:
- (a) if the time spent on the hearing of the trial is one day or less, \$8 000;
 - (b) if the time spent on the hearing of the trial is 2 days or less but more than one day, \$9 500;
 - (c) if the time spent on the hearing of the trial is more than 2 days, \$11 000.

Settlement offers

- (16) In exercising its discretion under subrule (15), the court may consider an offer to settle as defined in Rule 9-1.

Taxes to be added to costs

- (17) If tax is payable by a party to a fast track action in respect of legal services, an additional amount to compensate for that tax must be added to the costs to which the party is entitled under subrule (15), which additional amount must be determined by multiplying the amount of costs to which the party is entitled under subrule (15) by the percentage rate of the tax.

PART 16 – PETITION PROCEEDINGS

RULE 16-1 – PETITIONS

Definitions

- (1) In this rule, “**petition respondent**” means a person who files a response to petition under subrule (4).

Petitions

- (2) A person wishing to bring a proceeding referred to in Rule 2-1 (2) by filing a petition must file a petition in Form 66 and each affidavit in support.

Service

- (3) Unless these Supreme Court Civil Rules otherwise provide or the court otherwise orders, a copy of the filed petition and of each filed affidavit in support must be served by personal service on all persons whose interests may be affected by the order sought.

Response to petition

- (4) A person who has been served with a copy of a filed petition under subrule (3) of this rule must, if the person wishes to receive notice of the time and date of the hearing of the petition, do the following:
- (a) file a response to petition in accordance with subrule (5);
 - (b) file, with the response to petition, all affidavits that have not already been filed and on which the person intends to rely at the hearing of the petition;
 - (c) unless the court otherwise orders, serve on the petitioner 2 copies and on every other party of record one copy of each document filed under paragraph (a) or (b) as follows:
 - (i) if the petition respondent was served with the petition anywhere in Canada, within 21 days after that service;
 - (ii) if the petition respondent was served with the petition anywhere in the United States of America, within 35 days after that service;
 - (iii) if the petition respondent was served with the petition anywhere else, within 49 days after that service.

[am. B.C. Reg. 95/2011, Sch. A, s. 7 (a).]

Contents of response to petition

- (5) A response to petition must be in Form 67 and must
- (a) indicate, for each order sought, whether the petition respondent consents to, opposes or takes no position on the order, and
 - (b) if the petition respondent wishes to oppose any of the relief sought in the petition,

- (i) briefly summarize the factual and legal bases on which the orders sought should not be granted,
- (ii) list the affidavits and other documents on which the petition respondent intends to rely at the hearing of the petition, and
- (iii) set out the petition respondent's estimate of the time the petition will take for hearing.

Petitioner may respond

- (6) A petitioner may file affidavits in response to any document served on the petitioner under subrule (4) (c) and, in that event, must serve copies of those filed responding affidavits on each petition respondent no later than the date on which the notice of hearing is served on that petition respondent under subrule (8) (b).

No additional affidavits

- (7) Unless all parties of record consent or the court otherwise orders, a party must not serve any affidavits additional to those served under subrules (3), (4) and (6).

Setting application for hearing

- (8) A petitioner wishing to set a petition down for hearing must,
 - (a) in the case of a petition to which no response to petition has been served under subrule (4) (c), file a notice of hearing in Form 68 at any time before the hearing of the petition, or
 - (b) in the case of a petition to which a response to petition has been filed and served under subrule (4) (c), file a notice of hearing in Form 68, and serve a copy of the filed notice of hearing on each petition respondent, at least 7 days before the date set for the hearing of the petition.

Date and time of hearing

- (9) The hearing of a petition must be set for 9:45 a.m. on a date on which the court hears petitions or at such other time or date as has been fixed by the court or a registrar.

Date and time if hearing time more than 2 hours

- (10) If the estimate, set out in the petition, of the time that the hearing of the petition will take is more than 2 hours, the date and time of hearing must be fixed by a registrar.

[am. B.C. Reg. 119/2010, Sch. A, s. 32 (a).]

Petition record

- (11) Subject to subrule (13), the petitioner must provide to the registry where the hearing is to take place, no later than 4 p.m. on the day that is one full day before the date set for the hearing, a petition record as follows:
 - (a) the petition record must be in a ring binder or in some other form of secure binding;

- (b) the petition record must contain, in consecutively numbered pages, or separated by tabs, the following documents in the following order:
 - (i) a title page bearing the style of proceeding and the names of the lawyers, if any, for the petitioner and the petition respondents;
 - (ii) an index;
 - (iii) a copy of the filed petition;
 - (iv) a copy of each filed response to petition;
 - (v) a copy of each filed affidavit that is to be referred to at the hearing;
- (c) the petition record may contain
 - (i) a draft of the proposed order,
 - (ii) a written argument,
 - (iii) a list of authorities, and
 - (iv) a draft bill of costs;
- (d) the petition record must not contain
 - (i) affidavits of service,
 - (ii) copies of authorities, including case law, legislation, legal articles or excerpts from text books, or
 - (iii) any other documents unless they are included with the consent of all the parties.

[am. B.C. Reg. 119/2010, Sch. A, s. 32 (b) and (c).]

Service of petition record

- (12) The petitioner must serve a copy of the petition record index on each petition respondent no later than 4 p.m. on the day that is one full day before the date set for the hearing.

[am. B.C. Reg. 119/2010, Sch. A, s. 32 (d).]

If petition respondent's application is to be heard at the hearing

- (13) If a petition respondent intends to set an application for hearing at the same time as the hearing of the petition, the parties must, so far as is possible, prepare and file a joint petition record and agree to a date for the hearing of both applications.

Petition record to be returned

- (14) Unless the court otherwise orders, the applicant must retrieve the petition record
 - (a) at the conclusion of the hearing, or
 - (b) if the hearing of the petition is adjourned to a date later than the following court day, after the hearing is adjourned.

[am. B.C. Reg. 119/2010, Sch. A, s. 32 (e).]

Petition record to be returned to registry

- (15) If the petition record has been retrieved by the petitioner under subrule (14) (b), the petitioner must return the petition record to the registry between 9:00 a.m. on the second court day before, and 4 p.m. on the day that is one full day before, the new date set for the hearing of the petition.

[am. B.C. Reg. 119/2010, Sch. A, s. 18.]

Provision of amended petition record

- (16) If any additional affidavits are filed and served under subrule (7), the petitioner must provide to the registry an amended petition record containing those affidavits.

Resetting adjourned hearings

- (16.1) To reset the hearing of a petition that has been adjourned without a date being set for it to be heard (“adjourned generally”), the petitioner must
- (a) file a requisition in Form 17 setting out the date and time of the hearing, and
 - (b) serve a copy of the filed requisition on the petition respondents at least 2 days before the date set for the hearing.

[en. B.C. Reg. 119/2010, Sch. A, s. 32 (f).]

Petition respondent may apply for directions

- (17) If the petitioner does not
- (a) set the petition for hearing within a reasonable time after being requested to do so by a petition respondent, or
 - (b) after the hearing of the petition has been adjourned generally, reset the petition for hearing within a reasonable time after being requested to do so by a petition respondent,
- a petition respondent may apply, by requisition in Form 17 on 2 days’ notice, for directions.

[en. B.C. Reg. 95/2011, Sch. A, s. 7 (b).]

Powers of court

- (18) Without limiting the court’s right under Rule 22-1 (7) (d) to transfer the proceeding referred to in this rule to the trial list, the court may, whether or not on the application of a party, apply any other of these Supreme Court Civil Rules to a proceeding referred to in this rule.

Amendment of petition or response to petition

- (19) A party may amend a petition or response to petition filed by the party
- (a) at any time with leave of the court, and
 - (b) subject to Rules 6-2 (7) and (10) and 7-7 (5),
 - (i) once without leave of the court, at any time before service of the notice of hearing, and

- (ii) at any time with the written consent of all the parties,
and for that purpose Rule 6-1 (2) to (7) applies.
[am. B.C. Reg. 119/2010, Sch. A, s. 10.]

Renewal of original petition

- (20) An original petition does not remain in force for more than 12 months, but if a respondent named in a petition has not been served, the court, on the application of the petitioner made before or after the expiration of the 12 months, may order that the original petition be renewed for a period of not more than 12 months.

Further renewal of petition

- (21) If a renewed petition has not been served on a respondent named in the petition, the court, on the application of the petitioner made during the currency of the renewed petition, may order the renewal of the petition for a further period of not more than 12 months.

When renewal period begins

- (22) Unless the court otherwise orders, a renewal period ordered under subrule (20) or (21) begins on the date of the order.

After renewal of petition

- (23) Unless the court otherwise orders, a copy of each entered order granting renewal of a petition must be served with the renewed petition, and the renewed petition remains in force and is available to prevent the operation of any statutory limitation and for all other purposes.

PART 17 – REQUISITION PROCEEDINGS**RULE 17-1 – REQUISITIONS****Proceedings to which this rule applies**

- (1) A proceeding referred to in Rule 2-1 (2) may be brought under this rule if
- (a) all persons affected by the orders sought within the proceeding consent, or
 - (b) the proceeding is one of which notice need not be given.

Filings required

- (2) A proceeding referred to in subrule (1) may be brought by filing
- (a) a requisition in Form 31,
 - (b) a draft of the proposed order
 - (i) if the order is by consent, in Form 34, or
 - (ii) in any other case, in Form 35,
 - (c) in the case of a proceeding referred to in subrule (1) (a),
 - (i) evidence that the order sought is consented to, and
 - (ii) any consent or comments of the Public Guardian and Trustee required under section 40 of the *Infants Act*, and
 - (d) in the case of a proceeding referred to in subrule (1) (b), evidence in support of the order sought.

If proceeding is by consent

- (3) On being satisfied that a proceeding referred to in subrule (1) (a) is consented to and that the materials appropriate for the order sought have been filed in accordance with subrule (2), a registrar may,
- (a) if the registrar is satisfied that none of the parties applying for or consenting to the order sought is under a legal disability or that, if a party is under a legal disability, section 40 (7) of the *Infants Act* applies,
 - (i) enter the order, or
 - (ii) refer the documents filed under subrule (2) to a judge or, if the order sought is within the jurisdiction of a master, to a judge or master, or
 - (b) in any other case, refer the documents filed under subrule (2) to a judge, or, if the order sought is within the jurisdiction of a master, to a judge or master.

If no notice is required

- (4) On being satisfied that the documents appropriate for a proceeding referred to in subrule (1) (b) have been filed in accordance with subrule (2), a registrar may refer those documents to a judge, or, if the order sought is within the jurisdiction of a master, to a judge or master.

Disposition of referred documents

- (5) If documents filed under subrule (2) are referred by a registrar to a judge or master under subrule (3) or (4), the judge or master to whom the documents are referred may
 - (a) make the order sought, or
 - (b) give directions respecting the proceeding.

PART 18 – OTHER COURT PROCEEDINGS

RULE 18-1 – INQUIRIES, ASSESSMENTS AND ACCOUNTS

Direction for inquiries, assessments or accounts

- (1) At any stage of a proceeding, the court may direct that an inquiry, assessment or accounting be held by a master, registrar or special referee.

Certificate as to result

- (2) The court may direct that the result of an inquiry, assessment or accounting be certified by the master, registrar or special referee and, in that event, the certificate, if filed under subrule (9), is binding on the parties to the proceeding.

Report and recommendation

- (3) If the court does not direct that the result of an inquiry, assessment or accounting be certified, the result of the inquiry, assessment or accounting must be stated in the form of a report and recommendation to the court.

Application to vary or confirm recommendation

- (4) On application by a party, the court may
 - (a) vary or confirm the recommendation contained in the report and recommendation referred to in subrule (3),
 - (b) remit the inquiry, assessment or accounting with directions, or
 - (c) order that the subject matter of the inquiry, assessment or accounting be determined as directed by the court.

Time and place of hearing

- (5) A master, registrar or special referee may hold a hearing in relation to an inquiry, assessment or accounting and, in that event, may
 - (a) hold the hearing at a convenient time and place,
 - (b) adjourn the hearing from time to time, and
 - (c) administer oaths, take evidence, direct production of documents and give general directions for the conduct of the hearing.

Appointment

- (6) If a party wishes to proceed with an inquiry, assessment or accounting directed by the court under subrule (1), the party must
 - (a) take out an appointment in Form 49, and
 - (b) serve notice of the appointment on all parties of record or as directed by the court.

SUPREME COURT CIVIL RULESRule 18-1 – Inquiries, Assessments and Accounts

Witnesses

- (7) A party of record to a proceeding in which an inquiry, assessment or accounting is held may subpoena any person, including a party, to give evidence at the hearing of the inquiry, assessment or accounting and to produce documents.

Certificate or recommendation to be filed and served

- (8) A master, registrar or special referee must state the result of an inquiry, assessment or accounting in the form of a certificate or a report and recommendation as directed under subrule (2) or (3) respectively, with or without reasons, and must
- (a) provide the certificate to the party requesting the certificate, or
 - (b) file the report and recommendation and provide a copy to all persons who appeared at the hearing.

Party may file certificate

- (9) A party to whom a certificate is provided under subrule (8) (a) may file that certificate.

Opinion of the court

- (10) Before the master, registrar or special referee has concluded a hearing of an inquiry, assessment or accounting, he or she may, in a summary or other manner, ask the opinion of the court on any matter arising in the hearing.

Accounts of executor, trustee, etc.

- (11) A person may apply by petition for the furnishing of accounts by the executor or administrator of an estate, a trustee, a receiver, a liquidator, a guardian or a partner.

Special directions

- (12) The court may give special directions as to the manner in which an inquiry, assessment or accounting is to be taken or made, and the directions may include
- (a) the manner in which the inquiry, assessment or accounting is to be prosecuted,
 - (b) the evidence to be tendered in support,
 - (c) the parties required to attend all or any part of the proceedings,
 - (d) the time within which each proceeding is to be taken, and
 - (e) a direction that persons whose interest can be classified constitute a class and are to be represented by the same lawyer,
- and the court may fix a time for the further attendance of the parties.

Court may appoint lawyer

- (13) If the court makes a direction under subrule (12) (e) and the persons cannot agree on the lawyer to represent them, the court may appoint the lawyer to represent them.

Varying directions

- (14) The court may vary or rescind a direction given under subrule (12).

Account to be verified by affidavit

- (15) If an accounting is directed to be held, unless the court otherwise orders, the party required to account must make out that party's account and verify it by an affidavit to which the account must be exhibited.

Form of account

- (16) If an account is made out under subrule (15), the items on each side of the account must be numbered consecutively, and the party required to account must file the affidavit and the account referred to in that subrule and serve copies of those filed documents on all parties of record.

Particulars of errors in account

- (17) A party who alleges that there are errors or omissions in an account must file and serve on all parties of record a notice of those errors with brief particulars.

Notice of order

- (18) If the court makes an order directing that an inquiry, assessment or accounting be held in a proceeding relating to
- (a) the administration of the estate of a deceased person,
 - (b) the execution of a trust, or
 - (c) the sale of any property,
- the court may direct that notice of the order in Form 69 be served on any person interested
- (d) in the estate,
 - (e) under the trust, or
 - (f) in the property.

Person bound as if party

- (19) Any person served with notice of an order in accordance with subrule (18) is, subject to subrule (21), bound by the order to the same extent as the person would have been if the person had originally been made a party to the action.

Dispensing with service

- (20) In any case in which it appears that it is impracticable for any reason to serve a person with a notice of order under subrule (18),
- (a) the court may dispense with service on the person,
 - (b) the court may order that that person be bound by any order made to the same extent as if the person had been served with notice of the order, and

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Rule 18-2 – Stated Cases

- (c) the person referred to in an order under paragraph (b) is bound by the order to the same extent as if the person had been served with notice of the order unless the order was obtained by fraud or non-disclosure of material facts.

Person may apply to vary or rescind

- (21) Within 28 days after service of a notice of order under subrule (18) on a person, the person may, without becoming a party of record to the proceeding, apply to the court to vary or rescind the order.

Person may file a notice of interest

- (22) A person served with a notice of order under subrule (18) may, after filing a notice of interest in Form 70, take part in the proceeding.

RULE 18-2 – STATED CASES**Definitions**

- (1) In this rule:
- “**applicant**” means the person identified as the applicant under subrule (4) (a);
 - “**authorizing enactment**”, in relation to a stated case, means the enactment under which the stated case is referred to the court;
 - “**deliver**” means
 - (a) mail or deliver to the recipient’s address for service,
 - (b) if the recipient is the original tribunal, mail or deliver to the address for that entity, or
 - (c) if the recipient is a person, other than the original tribunal, for whom an address for service has not been given, mail or deliver to the address for that person included in the latest materials filed by that person with, or submitted by that person to, the original tribunal in relation to the original proceeding;
 - “**original proceeding**”, in relation to a stated case, means the tribunal proceeding from which the stated case is brought;
 - “**original tribunal**”, in relation to a stated case, means the entity by which the original proceeding is heard;
 - “**person**” has the same meaning as in the *Interpretation Act*, and includes an entity by which a tribunal proceeding is heard;
 - “**respondent**” means a person identified as a respondent under subrule (4) (b);
 - “**stated case**” means a reference to the court of a question that arises in or as a result of a tribunal proceeding, if an enactment provides that that reference be made by way of stated case, and includes a question of law submitted to the court under section 34 of the *Commercial Arbitration Act*;

“tribunal proceeding” means any judicial or quasi-judicial proceeding conducted by an entity other than the court.

Application

- (2) A stated case is governed by these Supreme Court Civil Rules but, in the event of a conflict between this rule and
- (a) the authorizing enactment, the authorizing enactment prevails, and
 - (b) another rule, this rule prevails.

Material to be filed

- (3) To start a stated case, the original tribunal must file in a registry
- (a) a notice of stated case in Form 71, and
 - (b) any material that, under the authorizing enactment, is required to start a stated case.

Identification of parties and others

- (4) A notice of stated case must
- (a) identify as the applicant the person requesting the stated case,
 - (b) identify as respondents all other parties to the original proceeding, including the original tribunal if that entity is not the applicant, and
 - (c) set out the names of
 - (i) any persons who are identified in, or identified in the manner provided for under, the authorizing enactment or the *Constitutional Question Act* as being persons to whom notice of the stated case must be provided,
 - (ii) any intervenor in the original proceeding, and
 - (iii) any other person to whom the original tribunal considers the notice of stated case should be delivered.

Contents

- (5) In addition to including the information required by subrule (4), a notice of stated case must set out the following:
- (a) a statement of the relevant facts and evidence;
 - (b) the questions to be determined by the court;
 - (c) the applicant’s address for service, the most recent address provided to the original tribunal by each of the respondents and the most recent address known to the original tribunal for each of the persons referred to in subrule (4) (c).

Delivery of notice of stated case

- (6) After a notice of stated case and any material required under subrule (3) (b) is filed under subrule (3),
 - (a) the original tribunal, if not the applicant, must deliver a copy of the filed notice of stated case and material to the applicant, and
 - (b) the applicant must deliver a copy of the filed notice of stated case and material to
 - (i) the respondents, and
 - (ii) all other persons named in the notice of stated case under subrule (4) (c).

Powers of court

- (7) The court may
 - (a) give directions for the proper hearing and determination of the stated case,
 - (b) without limiting paragraph (a), make one or more of the following orders:
 - (i) that documents, including transcripts and minutes, or other things be produced;
 - (ii) that evidence be tendered by way of affidavit, or that it be given orally;
 - (iii) that sets time limits for taking steps in, and for the hearing of, the stated case;
 - (iv) that the stated case be disposed of summarily, and
 - (c) exercise any of the powers of the court exercisable in a petition proceeding.

Requirement for notice of interest

- (8) The original tribunal, if it is not the applicant, and any person who has received a notice of stated case under subrule (6), must, if that tribunal or person wishes to be heard on the hearing of the stated case, file a notice of interest in Form 70.

Notice of hearing of stated case

- (9) The applicant or a respondent must, if that person wishes to proceed with the stated case, set it for hearing by
 - (a) filing a notice of hearing of stated case in Form 72, and
 - (b) delivering a copy of the filed notice of hearing of stated case, at least 14 days before the date set for hearing, to
 - (i) each other party of record, and
 - (ii) the original tribunal, unless that entity filed or received a copy under this subrule.

RULE 18-3 – APPEALS**Application**

- (1) If an appeal or an application in the nature of an appeal from a decision, direction or order of any person or body, including the Provincial Court, is authorized by an enactment to be made to the court or to a judge, the appeal is governed by this rule to the extent that this rule is not inconsistent with any procedure provided for in the enactment.

Form

- (2) An appeal is to be started by filing in a registry a notice of appeal in Form 73 or 74.

Directions

- (3) A notice of appeal must include
- (a) the standard set of directions, in the form directed by the Chief Justice, governing the conduct of the appeal, or
 - (b) an application for directions as to the conduct of the appeal.

Conduct of appeal

- (4) If the notice of appeal includes a standard set of directions under subrule (3) (a), the appeal must be conducted in accordance with those directions unless the court otherwise orders.

Application for directions

- (5) Unless the court otherwise orders, an application for directions under subrule (3) (b) must be set for hearing on a date that is at least 7 days after the date on which the notice of appeal is served in accordance with subrule (6).

Service of notice of appeal

- (6) Unless the court otherwise orders, a notice of appeal must be served on
- (a) the person or body that gave the decision or direction, or made the order, being appealed, and
 - (b) all other persons who may be affected by the order sought.

Powers of court

- (7) The court may give directions for the proper hearing and determination of an appeal and, without limiting this, may make an order
- (a) that documents, transcripts or minutes be produced,
 - (b) that evidence be tendered by way of affidavit, or that it be given orally,
 - (c) that the appeal be determined by way of stated case or argument on a point of law,

- (d) prescribing time limits for taking steps in and for the hearing of the appeal, or
 - (e) that the appeal be disposed of summarily,
- and may exercise any of the powers of the court exercisable in a petition proceeding.

Filing notice of interest

- (8) A person who intends to oppose an appeal must,
 - (a) file a notice of interest in Form 70 within the following period:
 - (i) if the person was served with the notice of appeal anywhere in Canada, within 14 days after that service;
 - (ii) if the person was served with the notice of appeal anywhere in the United States of America, within 28 days after that service;
 - (iii) if the person was served with the notice of appeal anywhere else, within 42 days after that service, and
 - (b) promptly after filing the notice of interest, serve a copy of the filed notice of interest on the appellant.
- [am. B.C. Reg. 95/2011, Sch. A, s. 8.]

Notice of hearing of appeal

- (9) After obtaining from a registrar a date for the hearing of the appeal, the appellant must, if the appellant wishes to proceed with the appeal, set the appeal for hearing on that date by
 - (a) filing a notice of hearing of appeal in Form 75, and
 - (b) serving a copy of the filed notice of hearing of appeal on all parties of record.

Notice of abandonment of appeal

- (10) An appellant may abandon an appeal by
 - (a) filing a notice of abandonment of appeal in Form 76, and
 - (b) serving a copy of the filed notice of abandonment of appeal on all parties of record.

PART 19 – JUDGMENTS FROM OTHER COURTS**RULE 19-1 – TRANSFER OF PROCEEDINGS FROM PROVINCIAL COURT****Definition**

- (1) In this rule, “**transfer order**” means the order of the Provincial Court referred to in subrule (2).

These Supreme Court Civil Rules apply to transferred proceedings

- (2) If a proceeding has been started in the Provincial Court and a judge of that court orders that the proceeding be transferred to the Supreme Court, these Supreme Court Civil Rules apply to the proceeding as if it had been started in the Supreme Court.
- (3) Repealed. [B.C. Reg. 95/2011, Sch. A, s. 9.]

Pleadings

- (4) If a proceeding is transferred to the Supreme Court in the manner referred to in subrule (2),
- (a) the notice of claim filed in the Provincial Court is deemed to be the notice of civil claim filed in the proceeding in the Supreme Court,
 - (b) the reply filed in the Provincial Court is deemed to be the response to civil claim filed in the proceeding in the Supreme Court, and
 - (c) a counterclaim filed in the Provincial Court is deemed to be a counterclaim filed in the proceeding in the Supreme Court.

[en. B.C. Reg. 95/2011, Sch. A, s. 9.]

Plaintiff must file and serve amended notice of civil claim

- (5) If the claimant in the Provincial Court proceeding wishes to continue with that proceeding after its transfer to the Supreme Court, the claimant must, as plaintiff in the Supreme Court action,
- (a) amend the notice of claim that is, under subrule (4) (a), deemed to be the notice of civil claim filed in the proceeding in the Supreme Court
 - (i) by adding “Transferred Proceeding” above the style of proceeding, and
 - (ii) by otherwise making the notice of claim accord with Rule 3-1,
 - (b) within 21 days after the transfer order, file, in the Supreme Court registry nearest to the Provincial Court registry in which the Provincial Court proceeding was started, that notice of civil claim as it has been amended by the amendment referred to in paragraph (a) of this subrule, and
 - (c) serve a copy of that filed notice of civil claim in accordance with Rule 3-2.

[en. B.C. Reg. 95/2011, Sch. A, s. 9.]

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Amended reply and counterclaim

- (6) A defendant must, within 14 days after the date of service of the amended notice of claim under subrule (5) (c) of this rule,
- (a) amend the reply that is, under subrule (4) (b), deemed to be the response to civil claim filed in the proceeding in the Supreme Court
 - (i) by adding “Transferred Proceeding” above the style of proceeding, and
 - (ii) by otherwise making the reply accord with Rule 3-3,
 - (b) amend the counterclaim, if any, that is, under subrule (4) (c) of this rule, deemed to be a counterclaim filed in the proceeding in the Supreme Court
 - (i) by adding “Transferred Proceeding” above the style of proceeding, and
 - (ii) by otherwise making the counterclaim accord with Rule 3-4,
 - (c) file in the Supreme Court registry referred to in subrule (5) (b) of this rule
 - (i) that response to civil claim as it has been amended by the amendment referred to in paragraph (a) of this subrule, and
 - (ii) that counterclaim, if any, as it has been amended by the amendment referred to in paragraph (b) of this subrule, and
 - (d) serve in accordance with Part 3
 - (i) a copy of that filed response to civil claim, and
 - (ii) a copy of that filed counterclaim, if any.

[en. B.C. Reg. 95/2011, Sch. A, s. 9.]

Application of Rule 6-1

- (6.1) Rule 6-1 does not apply to an amendment under subrule (5) (a) or (6) (a) or (b) of this rule, and, for greater certainty, an amendment under subrule (5) (a) or (6) (a) or (b) of this rule does not constitute an amendment for the purposes of Rule 6-1 (1).

[en. B.C. Reg. 95/2011, Sch. A, s. 9.]

Previous address for service

- (7) For the purposes of Rule 4-2 and subrules (3) to (6) of this rule, a party who filed a document under subrule (5) or (6) is deemed to have, as an address for service,
- (a) the address for service set out in the filed document, or
 - (b) if the filed document does not contain an address for service, the address set out for that party on the latest document, filed by that party in the Provincial Court proceeding, that contains an address for that party.

Filing fees

- (8) Despite any other provision of these Supreme Court Civil Rules, the following apply:
- (a) Repealed. [B.C. Reg. 112/2012, Sch. A, s. 3.]

- (b) the fee for filing an amended notice of claim under subrule (5) is the fee payable under Appendix C for commencing a proceeding in the Supreme Court less any amount that the person filing the amended notice of claim paid for filing the notice of claim in the Provincial Court proceeding;
- (c) the fee for filing an amended reply or an amended counterclaim referred to in subrule (6) is the fee payable under Appendix C for filing a response to civil claim or a counterclaim, respectively, in the Supreme Court less any amount that the person filing the amended reply or amended counterclaim paid for filing the reply or counterclaim in the Provincial Court proceeding.

[am. B.C. Reg. 112/2012, Sch. A, s. 3.]

RULE 19-2 – CANADIAN JUDGMENTS

Definition

- (1) In this rule, “**Canadian judgment**” has the same meaning as in the *Enforcement of Canadian Judgments and Decrees Act*.

Registration requirements for Canadian judgments

- (2) A person wishing to register a Canadian judgment under the *Enforcement of Canadian Judgments and Decrees Act* must, for the purposes of section 3 (1) (b) of that Act, file a certified English translation of the Canadian judgment if the judgment was made in a language other than English.

RULE 19-3 – FOREIGN JUDGMENTS

Definitions

- (1) In this rule:
 - “**convention**” means the Convention for the Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters, the English language version of which is set out in Schedule 4 of the *Court Order Enforcement Act*;
 - “**reciprocally enforceable judgment**” means a judgment that may be registered under Part 2 or 4 of the *Court Order Enforcement Act*.

Application under *Court Order Enforcement Act*

- (2) A proceeding to register a reciprocally enforceable judgment must be started by petition or, if Rule 17-1 (1) applies, by requisition.

Affidavit in support

- (3) The application for registration of a reciprocally enforceable judgment must be supported by an affidavit
 - (a) exhibiting

SUPREME COURT CIVIL RULESRule 19-3 – Foreign Judgments

- (i) a certified copy of the judgment under the seal of the original court,
 - (ii) if section 29 (2) of the *Court Order Enforcement Act* applies to the application, the certificate referred to in section 29 (3) of that Act, and
 - (iii) a certified translation of the judgment or certificate if made in a language other than English, and
- (b) stating, to the best of the information and belief of the person swearing or affirming the affidavit,
 - (i) that the judgment creditor is entitled to enforce the judgment,
 - (ii) the amount presently owing on the judgment,
 - (iii) the full name, occupation and usual or last known residence or place of business of the judgment creditor and judgment debtor respectively,
 - (iv) whether the judgment debtor
 - (A) was personally served with the process of the original court,
 - (B) was served with the process of the original court other than by personal service, or
 - (C) participated in the proceeding or otherwise submitted to the jurisdiction of the original court, and
 - (v) that the judgment is not one that is disqualified from registration either under section 29 (6) of the *Court Order Enforcement Act* or under Article II, paragraph 2, or Article IV, paragraph 1, of the convention, whichever is applicable.

Applications for reciprocal enforcement of judgment

- (4) Notice of an application to register a reciprocally enforceable judgment need not be given to the judgment debtor if
 - (a) the application is made under Part 4 of the *Court Order Enforcement Act*, or
 - (b) the application is made under Part 2 of the *Court Order Enforcement Act* and section 29 (2) of that Act applies to the application.

Form of order to register

- (5) The order to register the judgment must be in Form 77.

Notice of registration

- (6) If a reciprocally enforceable judgment is registered, and the judgment debtor had no notice of the application for registration, notice of the registration must be given to the judgment debtor within one month after the registration.

Setting aside registration of judgment under convention

- (7) The court may order that the registration of a judgment under Part 4 of the *Court Order Enforcement Act* be set aside if the judgment debtor was not duly served with the process of the original court, unless the judgment debtor participated in the proceeding or otherwise submitted to the jurisdiction of the original court.

Stay of enforcement

- (8) The court may make an order staying or limiting the enforcement of a judgment registered under Part 4 of the *Court Order Enforcement Act*, subject to any terms and for any period the court considers appropriate, if
- (a) the judgment is not final,
 - (b) an appeal is pending, or
 - (c) the time for appeal has not expired.

Stay of proceeding in action on foreign judgment

- (9) A defendant in an action on a foreign judgment, whether or not it is a reciprocally enforceable judgment, on proof that an appeal or other proceeding in the nature of an appeal is pending or the time for appeal has not expired, may apply for an order staying the proceeding until the determination of the appeal or other proceeding on terms that the court may impose.

RULE 19-4 – TRANSFER OF PROCEEDINGS FROM FOREIGN COURTS**Court may require translation for transferred proceeding**

- (1) On an application under the *Court Jurisdiction and Proceedings Transfer Act* for an order that the court accept a transfer to it of a proceeding within the meaning of that Act, the court may order that the person applying for that order do one or both of the following:
- (a) pay any expenses that have been or may be incurred by the court in having the documents in the transferring court's file relating to the proceeding translated into English by a person satisfactory to the court;
 - (b) pending the payment required under paragraph (a), give security in the form and manner the court may direct for payment of the expenses referred to in that paragraph.

Entry prohibited until security given

- (2) If the court requires the provision of security under subrule (1) (b) in relation to the transfer of a proceeding, any order to accept the transfer
- (a) is of no force or effect until that security is given, and
 - (b) must not be presented for entry until that security is given.

SUPREME COURT CIVIL RULESRule 19-5 – Documents Required by Judicial Authority of Other Jurisdictions

Translation and security expenses may be claimed as disbursements

- (3) Nothing in subrule (1) or (2) precludes a party from claiming either or both of the following as disbursements in conjunction with any costs the party may be awarded in the transferred proceeding:
- (a) the expenses referred to in subrule (1) (a) that have been paid for by the party;
 - (b) the expenses incurred by the party in obtaining the security required under subrule (1) (b).

**RULE 19-5 – DOCUMENTS REQUIRED BY
JUDICIAL AUTHORITY OF OTHER JURISDICTIONS**

**Request for certified copy with
additional formalities**

- (1) A person may request a certified copy of a document with formalities that are in addition to those used by the court by filing a request in Form 30.1, if the additional formalities are required by a judicial authority of another jurisdiction.
- [en. B.C. Reg. 115/2019, s. 2.]

Required supplies

- (2) A request under subrule (1) must include any supplies required under the other jurisdiction, other than blue or black ink, a Supreme Court adhesive seal, a Supreme Court impression seal or an ink stamp certifying a document to be a true copy.
- [en. B.C. Reg. 115/2019, s. 2.]

**Request for production of certification or
formal documentation**

- (3) A person may request production of certification or other formal documentation that is not otherwise contemplated in these Supreme Court Civil Rules by filing a request in Form 30.1, if the certification or other formal documentation is required by a judicial authority of another jurisdiction.
- [en. B.C. Reg. 115/2019, s. 2.]

Request must include document

- (4) A request under subrule (3) must include the document the person wishes to be certified or issued under this rule.
- [en. B.C. Reg. 115/2019, s. 2.]

Filing request

- (5) The registrar may provide a certified copy of a document requested under subrule (1) or production of certification or other formal documentation under subrule (3) on receipt of satisfactory information and, if required by the registrar, additional materials in respect of the requirements of a judicial authority of another jurisdiction.
- [en. B.C. Reg. 115/2019, s. 2.]

PART 20 – SPECIAL RULES FOR CERTAIN PARTIES

RULE 20-1 – PARTNERSHIPS

Partners may sue or be sued in firm name

- (1) Two or more persons claiming to be entitled, or alleged to be liable, as partners may sue or be sued in the name of the firm in which they were partners at the time when the alleged right or liability arose.

Service on firm

- (2) Service is effected on a firm by leaving a copy of the document to be served with
 - (a) a person who was a partner at the time the alleged right or liability arose, or
 - (b) a person at a place of business of the firm who appears to manage or control the partnership business there.

Responding pleading

- (3) A responding pleading or a response to petition by a partnership must be in the name of the firm, but a partner or a person served as a partner may file a responding pleading or a response to petition and defend in the person's own name, whether or not named in the originating pleading or petition.

Affidavit naming partners

- (4) If a firm is a party to a proceeding, any other party may serve a notice requiring one of the partners to serve, within 10 days, an affidavit setting out the names and addresses of all persons who were partners when the alleged right or liability arose.

Court may order service

- (5) If the affidavit requested under subrule (4) is not served, the court may order service.

Execution against partnership property

- (6) If an order is made against a firm, execution to enforce the order may issue against any property of the firm.

Execution against partners

- (7) Without limiting subrule (8), if an order is made against a firm, execution to enforce the order may issue against any person who
 - (a) filed a responding pleading or response to petition in the proceeding in the person's own name as a partner,
 - (b) having been served with the originating pleading or petition as a partner, failed to file a responding pleading or response to petition in the proceeding,
 - (c) admitted in a pleading or affidavit that the person is a partner, or
 - (d) was adjudged to be a partner.

SUPREME COURT CIVIL RULESRule 20-2 – Persons under Disability

Execution against other persons

- (8) If a party who has obtained an order against a firm claims that a person who is not a person described in subrule (7) is liable to satisfy the order as being a member of the firm, the party may apply to the court for leave to issue execution against that person.

Liability may be determined

- (9) If the person against whom an application under subrule (8) is made disputes liability, the court may order that the liability of the person be determined in any manner in which an issue or question in an action may be determined.

**Action against person carrying on business
in a name other than the person's own**

- (10) A person carrying on business in a name or style other than the person's own name may be sued in that name or style as if it were the name of a firm, and this rule applies as if the person were a partner and the name in which the person carries on business were the name of that firm.

RULE 20-2 – PERSONS UNDER DISABILITY**Interpretation**

- (1) In this rule, “**committee**” means the committee, appointed under the *Patients Property Act*, of the estate of a patient.

Start of proceedings by person under disability

- (2) A proceeding brought by or against a person under legal disability must be started or defended by his or her litigation guardian.

Role of litigation guardian

- (3) Unless a rule otherwise provides, anything that is required or authorized by these Supreme Court Civil Rules to be done by or invoked against a party under disability must
- (a) be done on the party's behalf by his or her litigation guardian, or
 - (b) be invoked against the party by invoking the same against the party's litigation guardian.

Lawyer must be involved

- (4) A litigation guardian must act by a lawyer unless the litigation guardian is the Public Guardian and Trustee.

Litigation guardian

- (5) Unless the court otherwise orders or an enactment otherwise provides, a person ordinarily resident in British Columbia may be a litigation guardian of a person under disability without being appointed by the court.

Committee as litigation guardian

- (6) If a person is appointed committee, that person must be the litigation guardian of the patient in any proceeding unless the court otherwise orders.

Consent of litigation guardian

- (7) Before the name of a person is used in a proceeding as a litigation guardian, that person's consent, signed by the person or his or her lawyer, must be filed, unless the person
- (a) has been appointed by the court, or
 - (b) is the litigation guardian under section 35 (1) of the *Representation Agreement Act* of a party to that proceeding.

Certificate of fitness

- (8) Unless a committee has been appointed, the lawyer for a person under disability, before acting in a proceeding, must, unless subrule (9) applies, file a certificate that he or she knows or believes that
- (a) the person to whom the certificate relates is an infant or mentally incompetent person, giving the grounds of that knowledge or belief, and if the person to whom the certificate relates is a mentally incompetent person, that a committee has not been appointed for the person, and
 - (b) the proposed litigation guardian of the person under disability has no interest in the proceeding adverse to that person.

Certificate for a litigation guardian

- (9) The lawyer for a person who, under section 35 (1) of the *Representation Agreement Act*, has a litigation guardian must, before acting in a proceeding to which the person is a party, file a certificate certifying that the lawyer knows or believes that
- (a) the person has entered into a representation agreement,
 - (b) the litigation guardian is a representative under that representation agreement and is authorized under section 7 (1) (d) of the *Representation Agreement Act* in relation to the proceeding, and
 - (c) the litigation guardian has no interest in the proceeding adverse to the person.

Party becoming incompetent

- (10) If a party to a proceeding becomes a mentally incompetent person, the court must appoint a litigation guardian for him or her unless
- (a) a committee has been appointed for the party, or
 - (b) the party has a litigation guardian under section 35 (1) of the *Representation Agreement Act*.

SUPREME COURT CIVIL RULESRule 20-2 – Persons under Disability

Removal of litigation guardian

- (11) If it is in the interest of a party who is under disability, the court may remove, appoint or substitute a litigation guardian.

Party attaining age of majority

- (12) A party to a proceeding who attains the age of majority may, if the party is then under no legal disability,
- (a) file an affidavit, in Form 78, confirming the attainment of the age of majority, and
 - (b) serve a copy of the filed affidavit on all parties of record.

Effect of filing affidavit

- (13) After an affidavit is filed under subrule (12) (a),
- (a) the party on whose behalf the affidavit was filed assumes conduct of that party's claim or defence in the proceeding, and
 - (b) the style of proceeding must no longer refer to a litigation guardian for that party.

Step in default

- (14) A party must not take a step in default against a person under disability without leave of the court.

Service

- (15) Unless the court otherwise orders, notice of an application for leave under subrule (14) must be served, in the manner provided by Part 4, on the person under disability at least 10 days before the hearing of the application.

Litigation guardian must be appointed

- (16) If no response to civil claim, response to counterclaim, response to third party notice or response to petition has been filed to an originating pleading or petition on behalf of a person under disability, the person who started the proceeding, before continuing the proceeding against the person under disability, must obtain an order from the court appointing a litigation guardian for the person under disability.

[am. B.C. Reg. 119/2010, Sch. A, s. 33.]

Compromise by person under disability

- (17) Unless an enactment otherwise provides, if a claim is made by or on behalf of a person under disability, no settlement, compromise, payment or acceptance of money paid into court, whenever entered into or made, so far as it relates to that person's claim, is binding without the approval of the court.

Approval of compromise

- (18) If, before a proceeding is started, an agreement is reached for the settlement or compromise of a claim of a person under disability, whether alone or with others, and it is desired to obtain the court's approval, application may be made by petition or, if Rule 17-1 (1) applies, by requisition, and the court may make any order it considers will further the object of these Supreme Court Civil Rules.

RULE 20-3 – REPRESENTATIVE PROCEEDINGS**Representative proceeding**

- (1) If numerous persons have the same interest in a proceeding, other than a proceeding referred to in subrule (10), the proceeding may be started and, unless the court otherwise orders, continued by or against one or more of them as representing all or as representing one or more of them.

Court may appoint representative

- (2) At any stage of a proceeding referred to in subrule (1), the court, on the application of a party, may appoint one or more of the defendants or respondents or another person to represent one or more of the persons having the same interest in the proceeding, and if the court appoints a person not named as a defendant or a respondent, the court must make an order under Rule 6-2 adding that person as a defendant or respondent.

Enforcement of order made in representative proceeding

- (3) An order made in a proceeding referred to in subrule (1) of this rule is binding on all the persons represented in the proceeding as parties, but must not be enforced against a person not a party to the proceeding except with leave of the court.

Application for leave

- (4) An application for leave under subrule (3) must be served on the person against whom the applicant seeks to enforce the order, and the person served with the application for leave may dispute liability to have the order enforced against him or her.

Court order

- (5) On an application for leave under subrule (3), the court may order that the question of whether the order is enforceable against the person served with the application for leave be determined in the manner the court considers will further the object of these Supreme Court Civil Rules.

Representation of interested person who cannot be ascertained

- (6) In a proceeding concerning
- (a) the administration of the estate of a deceased person,
 - (b) property subject to a trust, or
 - (c) the construction of a written instrument, including an enactment,

SUPREME COURT CIVIL RULESRule 20-3 – Representative Proceedings

the court may appoint one or more persons to represent a person, including

- (d) an unborn or unascertained person, or
- (e) the members of a class of persons who have a present, future, contingent or unascertained interest in, or who may be affected by, the proceeding, and who, or some of whom, cannot readily be ascertained or found.

Appointment order binding

- (7) If an appointment of a representative is made under subrule (6), an order in the proceeding is binding on a person or class so represented.

Order affecting non-party

- (8) If, in a proceeding referred to in subrule (6), a compromise is proposed and a person who is interested in the compromise, either in his or her own right or as a member of a class, is not a party to the proceeding, the court may approve the compromise and order that it is binding on the interested person if
 - (a) the court is satisfied that the compromise will be for the benefit of the interested person, and
 - (b) one of the following applies:
 - (i) there is another person, with the same interest as the interested person, who is a party to the proceeding and who assents to the compromise;
 - (ii) the interested person is represented by a person appointed under subrule (6) who so assents.

Person bound

- (9) If the court makes an order under subrule (8), the interested person referred to in the order is bound by it unless the order has been obtained by fraud or non-disclosure of material facts.

Representation of beneficiaries by trustees

- (10) A proceeding may be brought by or against trustees or personal representatives without joining a person having a beneficial interest in the trust or estate and, unless the court otherwise orders on the ground that the trustees or personal representatives could not or did not represent the interest of the person having the beneficial interest, an order granted or made in the proceeding is binding on that person.

Additional powers of the court

- (11) Subrule (10) does not limit the power of the court to
 - (a) order a person having an interest to be made a party, or
 - (b) make an order under subrule (6).
- (12) and (13) Repealed. [B.C. Reg. 90/2014, Sch. 1, s. 1.]

Person as relator

- (14) Before the name of a person is used in a proceeding as a relator,
- (a) the person must give a written authorization to his or her lawyer authorizing use of the person's name, and
 - (b) that authorization must be filed.

Conduct of a proceeding

- (15) The court may give the conduct of a proceeding to any person the court considers appropriate.

RULE 20-4 – DECLARATORY RELIEF**Declaratory order**

- (1) A proceeding is not open to objection on the ground that only a declaratory order is sought, and the court may make binding declarations of right whether or not consequential relief is or could be claimed.

RULE 20-5 – PERSONS WHO ARE NOT REQUIRED TO PAY FEES**Court may order that no fees are payable**

- (1) If the court, on application made in accordance with subrule (3) before or after the start of a proceeding, finds that a person
- (a) receives benefits under the *Employment and Assistance Act* or the *Employment and Assistance for Persons with Disabilities Act*, or
 - (b) cannot, without undue hardship, afford to pay the fees under Schedule 1 of Appendix C in relation to the proceeding,
- the court may order that no fees are payable by the person to the government under Schedule 1 of Appendix C in relation to the proceeding unless the court considers that the claim or defence
- (c) discloses no reasonable claim or defence, as the case may be,
 - (d) is scandalous, frivolous or vexatious, or
 - (e) is otherwise an abuse of the process of the court.

[en. B.C. Reg. 103/2015, s. 2.]

Application of order

- (2) An order under subrule (1) may apply to one or more of the following:
- (a) a proceeding generally;
 - (b) any part of a proceeding;
 - (c) a specific period of time;
 - (d) one or more particular steps in a proceeding.

SUPREME COURT CIVIL RULESRule 20-6 – Litigation Representatives

How to apply

- (3) An application under subrule (1) may be made by filing
- (a) a requisition in Form 17,
 - (b) a draft of the proposed order in Form 79, and
 - (c) an affidavit in Form 80.

[am. B.C. Reg. 95/2011, Sch. A, s. 10.]

Review, variation or rescission of order

- (4) On application or on the court's own motion, the court may review, vary or rescind any order made under subrule (1) or (2).

No fee payable

- (5) Despite anything in this rule, if the court makes an order in relation to a person under this rule, no fee is payable by the person to the government under Schedule 1 of Appendix C in relation to

- (a) the proceeding,
- (b) the part of the proceeding,
- (c) the period of time, or
- (d) the steps

to which the order applies.

[am. B.C. Reg. 119/2010, Sch. A, s. 34 (b).]

RULE 20-6 – LITIGATION REPRESENTATIVES**Definition**

- (1) In this rule, “**litigation representative**”, in relation to the estate of a deceased, means a person referred to in subrule (3) (a) who is starting, conducting or defending a proceeding referred to in subrule (2) on behalf of the deceased's estate.

[en. B.C. Reg. 90/2014, Sch. 1, s. 2.]

Application of rule

- (2) This rule applies if
- (a) a person who has or may have a cause of action dies before starting a proceeding in relation to that cause of action,
 - (b) a person against whom a cause of action may be asserted dies before a proceeding is started in relation to that cause of action,
 - (c) a person who has started a proceeding dies before judgment is pronounced in that proceeding, or
 - (d) a person against whom a proceeding has been started dies before judgment is pronounced in that proceeding,

and the cause of action, in relation to which the proceeding may be or has been started, survives.

[en. B.C. Reg. 90/2014, Sch. 1, s. 2.]

**Starting, conducting or defending a proceeding
on behalf of deceased's estate**

- (3) If there is no personal representative for a deceased's estate, the court may,
- (a) on application brought in accordance with subrule (5), appoint a person as a litigation representative to start, conduct or defend a proceeding referred to in subrule (2) on behalf of the deceased's estate, or
 - (b) on application or otherwise, order that the matter proceed in the absence of a person representing the deceased's estate.

[en. B.C. Reg. 90/2014, Sch. 1, s. 2.]

Notice of application required

- (4) Before making an order under subrule (3), the court may require notice of the application to be given to a person having an interest in the deceased's estate.

[en. B.C. Reg. 90/2014, Sch. 1, s. 2.]

Procedure for application

- (5) An application under subrule (3) may be brought without notice under Rule 8-4 or, if there is no existing proceeding within which it is appropriate to bring that application, under Rule 17-1.

[en. B.C. Reg. 90/2014, Sch. 1, s. 2.]

No authorization to distribute proceeds

- (6) Nothing in this rule authorizes a person who is not the personal representative of the deceased to distribute proceeds of a proceeding that belong to the deceased's estate to anyone other than the personal representative.

[en. B.C. Reg. 90/2014, Sch. 1, s. 2.]

Substitution required

- (7) A litigation representative conducting or defending a proceeding referred to in subrule (2) (c) or (d) must, under Rule 6-2, be substituted for the deceased as a party in the proceeding.

[en. B.C. Reg. 90/2014, Sch. 1, s. 2.]

When personal representative is appointed

- (8) If
- (a) a person becomes a personal representative for a deceased's estate after a litigation representative is appointed, and
 - (b) a proceeding referred to in subrule (2) has been started in relation to the deceased,
- the personal representative must, on application under Rule 6-2,

SUPREME COURT CIVIL RULES

Rule 20-6 – Litigation Representatives

- (c) be substituted for the deceased as a party in the proceeding, or
 - (d) if a litigation representative is conducting or defending the proceeding, be substituted for the litigation representative as a party in the proceeding,
- unless an order is made in respect of the proceeding under section 151 of the *Wills, Estates and Succession Act*.

[en. B.C. Reg. 90/2014, Sch. 1, s. 2.]

PART 21 – SPECIAL RULES FOR CERTAIN PROCEEDINGS**RULE 21-1 – ADMIRALTY MATTERS****Actions to which rule applies**

- (1) This rule applies if an action may be brought in rem against a ship or other property.

What actions may be brought in rem

- (2) Except to the extent that jurisdiction has been otherwise specially assigned, an action may be brought in rem against a ship or other property that may be brought in rem in the Federal Court of Canada in all cases in which a claim for relief is made under or by virtue of Canadian maritime law or any other law of Canada relating to navigation and shipping.

Notice of civil claim – actions in rem

- (3) An action in rem must be started by issuing a notice of civil claim in Form 81.

Notice of civil claim – when started with action in personam

- (4) An action in rem may be started with an action in personam by the issuance of a notice of civil claim in Form 82 and may be joined with another proceeding in accordance with Rule 22-5.

Special service rules for notices of claim issued under subrule (3) or (4)

- (5) In an action in rem, the notice of civil claim may be served in British Columbia,
- (a) on a ship or other property on board a ship, by affixing a copy of the filed notice of civil claim to a conspicuous part of the ship that is protected from the elements to the extent practicable, and
 - (b) on property that is not on board a ship, by
 - (i) attaching a copy of the filed notice of civil claim to a conspicuous part of the property protected from the elements to the extent practicable, or
 - (ii) by personal service on the person having apparent custody of the property.

Response to civil claim may be filed in name of ship

- (6) In an action in rem, a response to civil claim may be filed in the name of the property named.

Response to civil claim

- (7) A person who files a response to civil claim to an action in rem must set out the nature of the interest that the person claims in the ship or other property.

SUPREME COURT CIVIL RULESRule 21-1 – Admiralty Matters

Arrest – “Affidavit to Lead Warrant”

- (8) A party may, at any time after an action in rem has been started, apply for a warrant for the arrest of the property named by filing with a registrar an “Affidavit to Lead Warrant” in Form 83.

Issue of warrant

- (9) If an affidavit to lead warrant is filed under subrule (8), a registrar may, after reading the affidavit,
- (a) issue the warrant, or
 - (b) refer the matter to the court and the court may issue the warrant, subject to any directions that the court may give.

Form of warrant

- (10) A warrant to arrest under this rule must be in Form 84.

Service of warrant

- (11) The warrant must be served in the manner provided by subrule (5) by a person authorized to serve a writ of execution.

Proof of service

- (12) The person who serves a warrant must file proof of service promptly after service is effected.

When arrest takes effect

- (13) The arrest of property that is authorized by the warrant to be arrested takes effect at the time the warrant is served.

Property not to be moved

- (14) After arrest, a person must not move the property that has been arrested, unless the court permits it or all parties interested in the action consent.

Order for safety and preservation

- (15) After property has been arrested, the court may make an order for the property’s safety and preservation on terms and conditions, if any, and, in particular, may
- (a) authorize the property to be moved, and
 - (b) order that perishable property be disposed of with the proceeds to be paid as directed by the court.

Possession of property arrested

- (16) The court may, on application of any interested party, authorize a person to take possession of, and assume responsibility for, property that has been arrested under this rule, but, if no such order is made, the possession and responsibility continues in the

person or persons who were in possession of the property immediately before the arrest.

Security

- (17) The court must not make an order under subrule (16) unless the court is satisfied that the applicant has paid or given adequate security for all fees, charges and expenses that will be incurred while the property is in the possession of the person authorized under subrule (16).

Caveats**Filing of caveat**

- (18) A person who wishes to prevent the release of any property that has been arrested under this rule or who wishes to prevent the payment out of court of proceeds of the disposition of property that has been arrested must file a caveat in Form 85 in the registry from which the warrant was issued.

Withdrawal of caveat

- (19) A person who has filed a caveat may withdraw it by filing a notice to that effect in Form 86.

Damages for wrongful filing of caveat

- (20) Any person who suffers damages or costs as a result of a caveat being filed without sufficient justification may apply to the court to have those damages and costs summarily determined.

Application for damages

- (21) An application under subrule (20) must be served on the caveator.

Summary determination of damages

- (22) If the court finds that the caveator cannot show that there was sufficient justification for the filing of the caveat, the court must summarily determine the amount of damages and costs suffered by the applicant and make an order for payment accordingly.

Release of Property**Release of property arrested**

- (23) The court may, on application of any person having an interest in property arrested under this rule, order the release of the property arrested on bail being posted.

Bail bond or guarantee

- (24) Bail to answer judgment and obtain the release of property arrested under this rule may be posted

SUPREME COURT CIVIL RULESRule 21-1 – Admiralty Matters

- (a) by making a payment into court as bail in Form 87,
- (b) by delivering to a registrar the guarantee of a chartered bank of Canada or the bond of any surety company licensed to do business in British Columbia in Form 88, or
- (c) in the manner the parties may agree or the court may order.

Amount of bail

- (25) The amount of bail to be posted must be the lesser of
- (a) an amount sufficient to answer judgment in the proceedings against the property arrested, and
 - (b) the appraised value of the property.

Service of the application

- (26) Unless the court otherwise orders, notice of an application for the release of property arrested under this rule must be served at least one day before the application is heard
- (a) on the party to the action at whose instance the arrest was made, and
 - (b) on any person having filed a caveat to prevent the property from being released from arrest.

Bail information required

- (27) Notice of an application for the release of property arrested under this rule must set out the amount of any bail to be posted and the name of the bank or surety company that will post the bail.

Release

- (28) A registrar must issue a release from arrest in Form 89 when
- (a) the court orders the release of the property arrested under this rule, or
 - (b) consent to the release of the property arrested under this rule is given by
 - (i) the party at whose instance the property was arrested, and
 - (ii) the persons who filed caveats to prevent the release of the property from arrest.

When release occurs

- (29) On delivery of the release from arrest to the person in possession and on payment to the person in possession of all fees and charges incurred in respect of the arrest and custody, if any, of the property arrested, the property is released from arrest.

Collisions at Sea – the “Preliminary Act”**Application of subrules (31) to (35)**

- (30) Unless the court otherwise orders, if there is an action arising out of a collision of ships at sea, subrules (31) to (35) apply.

Pleadings and particulars

- (31) If this rule applies, the notice of civil claim, response to civil claim, counterclaim and any other pleadings need not contain any particulars concerning the collision other than those particulars that are necessary to identify the collision to an opposing party.

The “preliminary act”

- (32) The notice of civil claim, response to civil claim and any counterclaim must be accompanied by a sealed envelope that bears the style of proceeding and in which has been enclosed a statement of particulars, to be known as a “preliminary act”, that contains the following particulars:
- (a) the names of the ships that came into collision and the names of their masters;
 - (b) the time of the collision;
 - (c) the place of the collision;
 - (d) the direction and force of the wind;
 - (e) the state of the weather;
 - (f) the state and force of the tide or, if the collision occurred in non-tidal waters, of the current;
 - (g) the course being steered and the speed through the water of the ship when the other ship was first seen or immediately before any measures were taken with reference to her presence, whichever was the earlier, and all subsequent alterations to the course or speed of the ship up to the time of the collision;
 - (h) the lights, if any, carried by the ship;
 - (i) the distance and bearing of the other ship if and when her echo was first observed by radar;
 - (j) the distance, bearing and approximate heading of the other ship when it was first seen;
 - (k) the lights, if any, of the other ship that were first seen;
 - (l) the lights, if any, of the other ship other than those first seen that came into view before the collision;
 - (m) the measures that were taken to avoid the collision and when they were taken;
 - (n) the parts of each ship that first came into contact and the approximate angle, as illustrated by an appropriate sketch annexed, between the two ships at the moment of contact;
 - (o) the sound signals that were given, if any, and when they were given;
 - (p) the fault or default, if any, attributed to the other ship;
 - (q) the sound signals, if any, that were heard from the other ship and when they were heard.

Form of preliminary act

- (33) The preliminary act must be in parallel columns such that the respective particulars referred to in subrule (32) (a) to (q) in respect of each ship can easily be compared.

Preliminary act not to be opened

- (34) A preliminary act must not be opened unless all parties consent or the court, on application of one of the parties, orders it to be opened.

Preliminary act to form part of pleading

- (35) After a preliminary act has been opened, it forms part of the appropriate pleadings of the party.

RULE 21-2 – CARRIAGE BY AIR ACT

Carriage by Air Act

- (1) In an action under the *Carriage by Air Act* (Canada) and the convention set out in that Act, a high contracting party to the convention who, for the purposes of that action and by virtue of that Act, is deemed to have submitted to the jurisdiction of the court may be made a defendant subject to these Supreme Court Civil Rules.

**RULE 21-3 – MANDAMUS, PROHIBITION, CERTIORARI
AND HABEAS CORPUS**

Proceeding to be started by petition

- (1) Applications for relief in the nature of mandamus, prohibition, certiorari or habeas corpus are governed by these Supreme Court Civil Rules and must be started by petition under Rule 16-1.

Writs abolished

- (2) Directions respecting applications referred to in subrule (1) must be made by order and no writ of mandamus, prohibition, certiorari or habeas corpus is to be issued.

Person affected may take part in proceeding

- (3) The court may order that a person who may be affected by a proceeding for an order in the nature of mandamus may take part in the proceeding to the same extent as if served with the petition.

RULE 21-4 AND RULE 21-5

Repealed. [B.C. Reg. 149/2013, s. 4.]

RULE 21-6 – WILLS, ESTATES AND SUCCESSION ACT
WILLS VARIATION PROCEEDINGS

Proceedings under the *Wills, Estates and Succession Act*

- (1) A proceeding under section 60 of the *Wills, Estates and Succession Act* must be started by a notice of civil claim.

[am. B.C. Reg. 149/2013, s. 5 (b).]

Parties

- (2) In a proceeding referred to in subrule (1),
- (a) the following persons must be parties to the proceeding:
 - (i) the surviving spouse and children of the will-maker;
 - (ii) all beneficiaries under the will-maker's will whose interest may be affected by the order sought;
 - (iii) the executor of the will, and
 - (b) the court may order that any other person be joined as a party.

[am. B.C. Reg. 149/2013, s. 5 (c) and (d).]

Response to civil claim

- (3) In a response to civil claim, a defendant may raise a claim under section 60 of the *Wills, Estates and Succession Act* on his or her own behalf, and any other party may serve a reply.

[am. B.C. Reg. 149/2013, s. 5 (b).]

These Supreme Court Civil Rules apply

- (4) A proceeding referred to in this rule is governed by these Supreme Court Civil Rules.

[am. B.C. Reg. 149/2013, s. 5 (e).]

RULE 21-7 – FORECLOSURE AND CANCELLATION

Starting the proceeding

- (1) A proceeding for foreclosure of the equitable right to redeem mortgaged property or for redemption must be started by petition.

Parties

- (2) In a proceeding referred to in subrule (1), all persons whose interest in or claim to the mortgaged property is sought to be extinguished and all persons against whom any relief is sought must be made respondents and, unless the court otherwise orders, it is not necessary to join any other person as a respondent.

SUPREME COURT CIVIL RULESRule 21-7 – Foreclosure and Cancellation

Joinder of claim or party

- (3) A petitioner under this rule may join in the proceeding any claim arising out of the mortgage or out of any bond or collateral security or obligation given for the mortgage debt and may join as a party any person who is liable to pay the mortgage debt.

Person filing interest after certificate of pending litigation

- (4) If a petitioner under this rule registers a certificate of pending litigation in respect of the proceeding against the mortgaged property, a person who subsequently registers or files in a land title office an interest, right or claim in or to the mortgaged property
- (a) need not be served with the petition,
 - (b) is bound by an order made in the proceeding, and
 - (c) may file a response to petition in the proceeding.

Powers of the court

- (5) The court may do one or more of the following in a proceeding under subrule (1):
- (a) make a final order of foreclosure;
 - (b) order that a respondent must, within a redemption period that the court may fix, pay to the petitioner what is due under the mortgage and for costs, and that, in default of payment, the respondent is to be foreclosed of his or her equity of redemption;
 - (c) determine summarily, or order that an account be taken of and that a registrar certify, the amount that is due to the petitioner or to any person on the date of the hearing of the petition or on the date of the accounting, as the case may be;
 - (d) determine summarily, or order that an account be taken of and that the registrar certify, in relation to the amount determined under paragraph (c),
 - (i) the daily amount of interest from the date of the hearing of the petition or from the date of the accounting, as the case may be, to the expiration of the period of redemption, or
 - (ii) if the daily amount of interest referred to in subparagraph (i) may fluctuate over the period referred to in that subparagraph, the method for calculating such interest;
 - (e) pronounce judgment for any amount determined to be due or for any amount that has been certified to be due on an accounting;
 - (f) determine summarily, or order an inquiry to determine, any issues raised between respondents, including priorities;
 - (g) determine summarily, or order an inquiry to determine, whether a person should be served with the petition;
 - (h) order at what times, on what terms and in what order of priority respondents may redeem the mortgaged property and that in default they are to be foreclosed of any interest, right or claim in or to the mortgaged property;

- (i) order a sale of the mortgaged property;
- (j) grant further or corollary relief;
- (k) make an order under Rule 22-1 (7).

Final order

- (6) In default of payment in accordance with an order made under subrule (5), a final order of foreclosure may be granted against a respondent on application by the petitioner.

Order for sale

- (7) A party of record may apply at any time for an order that the mortgaged property be sold or be put up for sale.

Inquiry to settle terms of sale

- (8) The court may order an inquiry to settle the terms of a sale.

Order confirming sale

- (9) Even though the time for redemption has not expired, the person having conduct of a sale may apply to the court for an order confirming the sale, directing the disposition of the proceeds and vesting title in the purchaser.

Notice to assess costs

- (10) A respondent wishing to redeem may, on paying to the petitioner the amount due under the mortgage, serve notice on the petitioner to assess costs, and if, within 14 days after service of the notice, the petitioner has not filed a bill of costs for assessment, the petitioner is not entitled to costs.

Agreement for sale

- (11) This rule applies to a proceeding by a vendor on an agreement for sale of land in which a claim is made for specific performance of an agreement for sale and for its cancellation on failure to perform.

RULE 21-8 – JURISDICTIONAL DISPUTES

Disputed jurisdiction

- (1) A party who has been served with an originating pleading or petition in a proceeding, whether that service was effected in or outside British Columbia, may, after filing a jurisdictional response in Form 108,
 - (a) apply to strike out the notice of civil claim, counterclaim, third party notice or petition or to dismiss or stay the proceeding on the ground that the notice of civil claim, counterclaim, third party notice or petition does not allege facts that, if true, would establish that the court has jurisdiction over that party in respect of the claim made against that party in the proceeding,

SUPREME COURT CIVIL RULESRule 21-8 – Jurisdictional Disputes

- (b) apply to dismiss or stay the proceeding on the ground that the court does not have jurisdiction over that party in respect of the claim made against that party in the proceeding, or
- (c) allege in a pleading or in a response to petition that the court does not have jurisdiction over that party in respect of the claim made against that party in the proceeding.

[am. B.C. Reg. 119/2010, Sch. A, s. 35.]

Order declining jurisdiction may be sought

- (2) Whether or not a party referred to in subrule (1) applies or makes an allegation under that subrule, the party may apply to court for a stay of the proceeding on the ground that the court ought to decline to exercise jurisdiction over that party in respect of the claim made against that party in the proceeding.

Disputed pleading or service

- (3) If a party who has been served with an originating pleading or petition in a proceeding, whether served in or outside British Columbia, alleges that the notice of civil claim, counterclaim, third party notice or petition is invalid or has expired or that the purported service of the notice of civil claim, counterclaim, third party notice or petition was invalid, the party may, after filing a jurisdictional response in Form 108, apply for one or both of the following:
 - (a) an order setting aside the notice of civil claim, counterclaim, third party notice or petition;
 - (b) an order setting aside service of the notice of civil claim, counterclaim, third party notice or petition.

[am. B.C. Reg. 119/2010, Sch. A, s. 35.]

Powers of court pending resolution

- (4) If an application is brought under subrule (1) (a) or (b) or (3) or an issue is raised by an allegation in a pleading or a response to petition referred to in subrule (1) (c), the court may, on the application of a party of record, before deciding the first-mentioned application or issue,
 - (a) stay the proceeding,
 - (b) give directions for the conduct of the first-mentioned application,
 - (c) give directions for the conduct of the proceeding, and
 - (d) discharge any order previously made in the proceeding.

Party does not submit to jurisdiction

- (5) If, within 30 days after filing a jurisdictional response in a proceeding, the filing party serves a notice of application under subrule (1) (a) or (b) or (3) on the parties of record or files a pleading or a response to petition referred to in subrule (1) (c),
 - (a) the party does not submit to the jurisdiction of the court in relation to the proceeding merely by filing or serving any or all of the following:

- (i) the jurisdictional response;
 - (ii) a pleading or a response to petition under subrule (1) (c);
 - (iii) a notice of application and supporting affidavits under subrule (1) (a) or (b), and
- (b) until the court has decided the application or the issue raised by the pleading, petition or response to petition, the party may, without submitting to the jurisdiction of the court,
 - (i) apply for, enforce or obey an order of the court, and
 - (ii) defend the proceeding on its merits.

RULE 21-9 – NEGLIGENCE ACT CLAIMS

Contribution or indemnity claimed under the *Negligence Act*

- (1) A defendant who claims contribution or indemnity under the *Negligence Act* from a person must do so,
 - (a) if the person against whom the claim is to be made is a plaintiff, by counter-claim, or
 - (b) in any other case, whether or not the person against whom the claim is to be made is a party to the action, by third party notice.

Apportionment of liability claimed under the *Negligence Act*

- (2) A defendant who does not claim contribution or indemnity under the *Negligence Act* but who does claim an apportionment of liability under that Act must claim that apportionment in the response to civil claim.

PART 22 – GENERAL**RULE 22-1 – CHAMBERS PROCEEDINGS****Definition**

- (1) In this rule, “**chambers proceeding**” includes the following:
- (a) a petition proceeding;
 - (b) a requisition proceeding that has been set for hearing under Rule 17-1 (5) (b);
 - (c) an application, including, without limitation, the following:
 - (i) an application to change or set aside a judgment;
 - (ii) a matter that is ordered to be disposed of other than at trial;
 - (d) an appeal from, or an application to confirm, change or set aside, an order, a report, a certificate or a recommendation of a master, registrar, special referee or other officer of the court;
 - (e) an action that has, or issues in an action that have, been ordered to be proceeded with by affidavit or on documents before the court, and stated cases, special cases and hearings on a point of law;
 - (f) an application for judgment under Rule 3-8, 7-7 (6), 9-6 or 9-7.

Failure of party to attend

- (2) If a party to a chambers proceeding fails to attend at the hearing of the chambers proceeding, the court may proceed if, considering the nature of the chambers proceeding, it considers it will further the object of these Supreme Court Civil Rules to do so, and may require evidence of service it considers appropriate.

Reconsideration of order

- (3) If the court makes an order in circumstances referred to in subrule (2), the order must not be reconsidered unless the court is satisfied that the person failing to attend was not guilty of wilful delay or default.

Evidence on an application

- (4) On a chambers proceeding, evidence must be given by affidavit, but the court may
- (a) order the attendance for cross-examination of the person who swore or affirmed the affidavit, either before the court or before another person as the court directs,
 - (b) order the examination of a party or witness, either before the court or before another person as the court directs,
 - (c) give directions required for the discovery, inspection or production of a document or copy of that document,
 - (d) order an inquiry, assessment or accounting under Rule 18-1, and

- (e) receive other forms of evidence.

Hearing of application in public

- (5) Except in cases of urgency, a chambers proceeding must be heard in a place open to the public, unless the court, in the case of a particular chambers proceeding, directs that for special reasons the chambers proceeding ought to be dealt with in private.

Adjournment of application if applications not heard on date set

- (6) If a chambers proceeding has been set for hearing on a day on which the court does not hear chambers proceedings, the chambers proceeding stands adjourned without order to the next day on which the court hears chambers proceedings.

Power of the court

- (7) Without limiting subrule (4), on the hearing of a chambers proceeding, the court may
 - (a) grant or refuse the relief claimed in whole or in part, or dispose of any question arising on the chambers proceeding,
 - (b) adjourn the chambers proceeding from time to time, either to a particular date or generally, and when the chambers proceeding is adjourned generally a party of record may set it down on 3 days' notice for further hearing,
 - (c) obtain the assistance of one or more experts, in which case Rule 11-5 applies, and
 - (d) order a trial of the chambers proceeding, either generally or on an issue, and order pleadings to be filed and, in that event, give directions for the conduct of the trial and of pre-trial proceedings and for the disposition of the chambers proceeding.

Powers of court if notice not given

- (8) If it appears to the court that notice of a chambers proceeding ought to have been but was not served on a person, the court may
 - (a) dismiss the chambers proceeding or dismiss it only against that person,
 - (b) adjourn the chambers proceeding and direct that service be effected on that person or that notice be given in some alternate manner to that person, or
 - (c) direct that any order made, together with any other documents the court may order, be served on that person.

Urgent chambers proceeding

- (9) Rules 8-4 and 8-5 apply to chambers proceedings.

Adjournment

- (10) The hearing of a chambers proceeding may be adjourned from time to time by a registrar.

Notes of applications

- (11) A registrar must
 - (a) attend at and keep notes of the hearings of all chambers proceedings, and
 - (b) include, in the notes kept under paragraph (a) in relation to the hearing of a chambers proceeding, a short statement of the questions or points decided or orders made at the hearing.

RULE 22-2 – AFFIDAVITS

Affidavit to be filed

- (1) An affidavit used in a proceeding must be filed.

Form and content of affidavit

- (2) An affidavit
 - (a) must be expressed in the first person and show the name, address and occupation of the person swearing or affirming the affidavit,
 - (b) if the person swearing or affirming the affidavit is a party or the lawyer, agent, director, officer or employee of a party, must state that fact,
 - (c) must be divided into paragraphs numbered consecutively, and
 - (d) may be in Form 109.

Identifying affidavits

- (3) There must be set out in the top right hand corner of the first page of an affidavit, other than an affidavit of service,
 - (a) the name of the person swearing or affirming the affidavit,
 - (b) the sequential number of the affidavit made by that person in the same proceeding, and
 - (c) the date on which the affidavit was made.

Making affidavit

- (4) An affidavit is made when
 - (a) the affidavit is sworn or affirmed by the person swearing or affirming the affidavit,
 - (b) the person swearing or affirming the affidavit
 - (i) signs the affidavit, or
 - (ii) if the person swearing or affirming the affidavit is unable to sign the affidavit, places his or her mark on it, and
 - (c) the person before whom the affidavit is sworn or affirmed completes and signs a statement in accordance with subrule (5) and identifies each exhibit, if any, to the affidavit in accordance with subrule (8).

Statement to be signed

- (5) The person before whom an affidavit is sworn or affirmed must confirm that the affidavit was sworn or affirmed in the person's presence by completing and signing a statement on the affidavit in the following form:

Sworn (or affirmed) before me at British Columbia on[dd/mm/yyyy].....

**Statement if person swearing or affirming
the affidavit unable to read**

- (6) If it appears to the person before whom an affidavit is sworn or affirmed that the person swearing or affirming the affidavit is unable to read it, the person before whom it is sworn or affirmed must certify in the statement signed under subrule (5) that the affidavit was read in his or her presence to the person swearing or affirming the affidavit who seemed to understand it.

**Interpretation to person swearing or affirming the affidavit
who does not understand English**

- (7) If it appears to the person before whom an affidavit is to be sworn or affirmed that the person swearing or affirming the affidavit does not understand the English language, the affidavit must be interpreted to the person swearing or affirming the affidavit by a competent interpreter who must certify on the affidavit, by endorsement in Form 109, that he or she has interpreted the affidavit to the person swearing or affirming the affidavit.

Exhibit to be marked

- (8) The person before whom an affidavit is sworn or affirmed must identify each exhibit referred to in the affidavit by signing a certificate placed on the exhibit in the following form:

This is Exhibit referred to in the affidavit of sworn (or affirmed) before me on[dd/mm/yyyy]..... .

Copies of documentary exhibits

- (9) An exhibit referred to in an affidavit need not be filed, but must be made available for the use of the court and for the prior inspection of a party to the proceeding and, in the case of a documentary exhibit not exceeding 10 pages, a true reproduction must be attached to the affidavit and to all copies of the affidavit that are served.

Numbering exhibit pages

- (10) Each page of the documentary exhibits referred to in an affidavit, other than an affidavit of service, must be numbered sequentially, beginning with the first page of the first exhibit and ending with the last page of the last exhibit,
- (a) on the original exhibits and on all copies that are served, and
 - (b) even though one or more of those exhibits is not attached to the affidavit.

SUPREME COURT CIVIL RULESRule 22-3 – Forms and Documents

Alterations to be initialled

- (11) The person before whom an affidavit is sworn or affirmed must initial all alterations in the affidavit and, unless so initialled, the affidavit must not be used in a proceeding without leave of the court.

Limitation on contents of affidavit

- (12) Subject to subrule (13), an affidavit must state only what a person swearing or affirming the affidavit would be permitted to state in evidence at a trial.

Exception

- (13) An affidavit may contain statements as to the information and belief of the person swearing or affirming the affidavit, if
- (a) the source of the information and belief is given, and
 - (b) the affidavit is made
 - (i) in respect of an application that does not seek a final order, or
 - (ii) by leave of the court under Rule 12-5 (71) (a) or 22-1 (4) (e).
- [am. B.C. Reg. 119/2010, Sch. A, s. 36.]

Use of defective affidavit

- (14) With leave of the court, an affidavit may be used in evidence despite an irregularity in its form.

Affidavit made before proceeding started

- (15) An affidavit may be used in a proceeding even though it was made before the proceeding was started.

Affidavit of patient under the *Patients Property Act*

- (16) If an affidavit is required for use in a proceeding and the person who is proposed to swear or affirm the affidavit is a patient as defined in the *Patients Property Act*, the affidavit may be sworn or affirmed, on information and belief, by the litigation guardian of the patient.

RULE 22-3 – FORMS AND DOCUMENTS**Forms**

- (1) The forms in Appendix A or A.1 must be used if applicable, with variations as the circumstances of the proceeding require, and each of those forms must be completed by including the information required by that form in accordance with any instructions included on the form.

[am. B.C. Reg. 149/2013, s. 6.]

Documents

- (2) Unless the nature of the document renders it impracticable, every document prepared for use in the court must be in the English language, legibly printed, typewritten, written or reproduced on 8 1/2 inch × 11 inch durable white paper or durable off-white recycled paper.

Transcripts

- (3) Transcripts of oral evidence must conform to subrule (2).

Space for stamp

- (4) The first page of each document prepared for use in a proceeding must contain a blank area extending at least 5 centimetres from the top of the page and at least 5 centimetres from the left edge of the page.

Style of proceeding

- (5) A document prepared for use in a proceeding must be headed with the style of proceeding set out on the most recent originating pleading to be filed in that proceeding, but in a document, other than an order or a document that starts a proceeding, if there is more than one party to the proceeding identified as a plaintiff or as any other classification of party, the style of proceeding may be abbreviated to show the name of the first party listed in that classification, followed by the words “and others”.

Exception

- (5.1) Subrule (5) does not apply to notices under Rule 25-2 (3) in Form P1.
[en. B.C. Reg. 103/2015, s. 3.]

Style of proceeding for class proceeding

- (6) The style of proceeding for a proceeding must include the words “Brought under the *Class Proceedings Act*” immediately below the listed parties if
- (a) it is intended, at the start of the proceeding, that a certification order will be sought in respect of the proceeding under the *Class Proceedings Act*, or
 - (b) in any other case, a certification order is subsequently granted in respect of the proceeding,
- unless and until a certification order is refused in respect of the proceeding or the proceeding is decertified.

RULE 22-4 – TIME**Computation of time**

- (1) Unless a contrary intention otherwise appears, if a period of less than 7 days is set out by these Supreme Court Civil Rules or in an order of the court, holidays are not counted.

SUPREME COURT CIVIL RULESRule 22-5 – Multiple Claims and Parties

Extending or shortening time

- (2) The court may extend or shorten any period of time provided for in these Supreme Court Civil Rules or in an order of the court, even though the application for the extension or the order granting the extension is made after the period of time has expired.

Extending or shortening time respecting pleadings

- (3) The period fixed by these Supreme Court Civil Rules or an order for serving, filing or amending a pleading or other document may be extended by consent.

Notice of intention to proceed after delay of one year

- (4) In a proceeding in which judgment has not been pronounced and no step has been taken for one year, a party must not proceed until
- (a) the expiration of 28 days after service, on all parties of record, of notice in Form 44 of that party's intention to proceed, and
 - (b) a copy of the notice of intention to proceed and proof of its service has been filed.

Want of prosecution

- (5) Despite this rule, a defendant or respondent may apply to have a proceeding dismissed for want of prosecution without serving a notice of intention to proceed in Form 44.

Attendance

- (6) Attendance on an appointment before an official reporter within 1/2 hour following the time fixed for the appointment is a sufficient attendance.

RULE 22-5 – MULTIPLE CLAIMS AND PARTIES**Multiple claims**

- (1) Subject to subrule (6), a person, whether claiming in the same or different capacities, may join several claims in the same proceeding.

Multiple parties

- (2) Subject to subrule (6), a proceeding may be started by or against 2 or more persons in any of the following circumstances:
- (a) if separate proceedings were brought by or against each of those persons, a common question of law or fact would arise in all the proceedings;
 - (b) a right to relief claimed in the proceedings, whether it is joint, several or alternative, is in respect of or arises out of the same transaction or series of transactions;
 - (c) the court grants leave to do so.

Joining persons jointly entitled to relief

- (3) Subject to any enactment or these Supreme Court Civil Rules or unless the court otherwise orders, a plaintiff or petitioner who claims relief to which any other person is jointly entitled must join as parties to the proceeding all persons so entitled, and any of them who do not consent to be joined as a plaintiff or petitioner must be made a defendant or respondent.

If persons are jointly liable

- (4) If relief is claimed against a person who is jointly liable with some other person, the other person need not be made a party to the proceeding, but if persons may be jointly, but not severally, liable and relief is claimed against some but not all of those persons in a proceeding, the court may stay the proceeding until the other persons who may be liable are added as parties.

Party need not be interested in all relief

- (5) It is not necessary that every party be interested in all the relief sought in a proceeding, but the court may order that a party be compensated for being required to attend, or be relieved from attending, a part of a trial or hearing in which that party has no interest.

Separation

- (6) If a joinder of several claims or parties in a proceeding may unduly complicate or delay the trial or hearing of the proceeding or is otherwise inconvenient, the court may order separate trials or hearings or make any other order it considers will further the object of these Supreme Court Civil Rules.

Separating counterclaim or third party claim

- (7) If a counterclaim or a third party proceeding ought to be disposed of by a separate proceeding, the court may so order.

Consolidation

- (8) Proceedings may be consolidated at any time by order of the court or may be ordered to be tried at the same time or on the same day.

Misjoinder or nonjoinder of parties

- (9) A proceeding must not be defeated by reason of the misjoinder or nonjoinder of a party and the court may deal with the matter in controversy so far as it affects the rights and interests of the parties before it.

RULE 22-6 – CHANGE OF LAWYER

Change of lawyer

- (1) A party to a proceeding
(a) may change lawyers,

SUPREME COURT CIVIL RULESRule 22-6 – Change of Lawyer

- (b) having acted on his or her own behalf, may engage a lawyer to act, or
- (c) having been represented by a lawyer, may discharge the lawyer and act on his or her own behalf,

but until copies of notice of the change in Form 110 or 111 have been filed and served on the other parties of record, the other parties are entitled to proceed on the basis that there has been no change of representation or address for service.

Order that lawyer has ceased to act

- (2) If
 - (a) a lawyer for a party has died, cannot be found or for any reason is unable to practise, and
 - (b) the party has not given notice of change of lawyer or of intention to act in person in accordance with subrule (1),the court, on the application of any other party of record, may order that the lawyer has ceased to be the lawyer of the first mentioned party.

Order on application of lawyer

- (3) If a lawyer who has acted for a party to a proceeding has ceased to act and the party has not given a notice of change in accordance with subrule (1), the court, on the application of the lawyer, may declare that the lawyer has ceased to be the lawyer acting for the party and, if applicable,
 - (a) may declare that the lawyer's office is not the address for service of the party and give directions as to a new address for service, and
 - (b) may declare that the lawyer's fax number or e-mail address may no longer be used for service and give directions for a new fax number or e-mail address for service.

Notice of withdrawal

- (4) As an alternative to proceeding under subrule (3), a lawyer who has ceased to act for a party who has not given a notice of change under subrule (1) may serve a notice of intention to withdraw in Form 112 on that party and on the other parties of record.

Filing of objection

- (5) If a party on whom a notice of intention to withdraw is served under subrule (4) wishes to object to the withdrawal, the party must, within 7 days after service,
 - (a) file in the registry an objection in Form 113, and
 - (b) serve on the lawyer a copy of the filed objection.

Procedure if no objection filed

- (6) A lawyer who serves a notice of intention to withdraw under subrule (4) on all parties of record to a proceeding may file a notice of withdrawal of lawyer in Form 114 if no

objection, notice of change of lawyer or notice of intention to act in person is filed within 7 days after service of the notice of intention to withdraw.

Service of notice of withdrawal

- (7) If a lawyer files a notice of withdrawal of lawyer under subrule (6), the lawyer ceases to be the party's lawyer when the notice has been served on all parties of record.

Service of documents after withdrawal

- (8) After a lawyer ceases under subrule (7) to be a party's lawyer, the party's address for service is, until that address is changed under Rule 4-1 (3), the address set out in the notice of withdrawal of lawyer filed under subrule (6) of this rule.

Procedure if objection filed

- (9) If, within the 7 day period referred to in subrule (6), an objection is filed in the registry, the lawyer may apply, on notice to each party who has filed an objection, for an order under subrule (3).

Substituted service

- (10) If personal service of a notice of intention to withdraw cannot be made in accordance with Rule 4-3 (2) on a party for whom the lawyer acts, the lawyer may apply for an order under Rule 4-4 allowing service by an alternative method.

Service of copy of order

- (11) An applicant who obtains an order under subrule (2) or (3) must serve a copy of the entered order on all parties of record and, until it is served, a party is entitled to proceed on the basis that there has been no change of lawyer or address for service.

RULE 22-7 – EFFECT OF NON-COMPLIANCE

Non-compliance with rules

- (1) Unless the court otherwise orders, a failure to comply with these Supreme Court Civil Rules must be treated as an irregularity and does not nullify
- (a) a proceeding,
 - (b) a step taken in the proceeding, or
 - (c) any document or order made in the proceeding.

Powers of court

- (2) Subject to subrules (3) and (4), if there has been a failure to comply with these Supreme Court Civil Rules, the court may
- (a) set aside a proceeding, either wholly or in part,
 - (b) set aside any step taken in the proceeding, or a document or order made in the proceeding,

SUPREME COURT CIVIL RULESRule 22-7 – Effect of Non-compliance

- (c) allow an amendment to be made under Rule 6-1,
- (d) dismiss the proceeding or strike out the response to civil claim and pronounce judgment, or
- (e) make any other order it considers will further the object of these Supreme Court Civil Rules.

Proceeding must not be set aside for incorrect originating pleading

- (3) The court must not wholly set aside a proceeding on the ground that the proceeding was required to be started by an originating pleading other than the one employed.

Application to set aside for irregularity

- (4) An application for an order under subrule (2) (a), (b) or (d) must not be granted unless the application is made
 - (a) within a reasonable time, and
 - (b) before the applicant has taken a fresh step after knowledge of the irregularity.

Consequences of certain non-compliance

- (5) Without limiting any other power of the court under these Supreme Court Civil Rules, if a person, contrary to these Supreme Court Civil Rules and without lawful excuse,
 - (a) refuses or neglects to obey a subpoena or to attend at the time and place appointed for his or her examination for discovery,
 - (b) refuses to be sworn or to answer any question put to him or her,
 - (c) refuses or neglects to produce or permit to be inspected any document or other property,
 - (d) refuses or neglects to answer interrogatories or to make discovery of documents, or
 - (e) refuses or neglects to attend for or submit to a medical examination,then
 - (f) if the person is the plaintiff or petitioner, a present officer of a corporate plaintiff or petitioner or a partner in or manager of a partnership plaintiff or petitioner, the court may dismiss the proceeding, and
 - (g) if the person is a defendant, respondent or third party, a present officer of a corporate defendant, respondent or third party or a partner in or manager of a partnership defendant, respondent or third party, the court may order the proceeding to continue as if no response to civil claim or response to petition had been filed.

Failure to comply with direction of court

- (6) If a person, without lawful excuse, refuses or neglects to comply with a direction of the court, the court may make an order under subrule (5) (f) or (g).

Dismissal for want of prosecution

- (7) If, on application by a party, it appears to the court that there is want of prosecution in a proceeding, the court may order that the proceeding be dismissed.

RULE 22-8 – CONTEMPT OF COURT

Power of court to punish

- (1) The power of the court to punish contempt of court must be exercised by an order of committal or by imposition of a fine or both.

Corporation in contempt

- (2) If a corporation wilfully disobeys an order against the corporation, the order may be enforced by one or more of the following:
- (a) imposition of a fine on the corporation;
 - (b) committal of one or more directors or officers of the corporation;
 - (c) imposition of a fine on one or more directors or officers of the corporation.

Security

- (3) Instead of or in addition to making an order of committal or imposing a fine, the court may order a person to give security for the person's good behaviour.

Certain acts as contempt

- (4) A person who is guilty of an act or omission described in Rule 12-5 (25) or 22-7 (5), in addition to being subject to any consequences prescribed by those rules, is guilty of contempt of court and subject to the court's power to punish contempt of court.

If person may be guilty of contempt

- (5) If the court is of the opinion that a person may be guilty of contempt of court, it may order, by warrant in Form 115 directed to a sheriff or other officer of the court or to a peace officer, that the person be apprehended and brought before the court.

Power of court after apprehension

- (6) If a person referred to in subrule (5) is apprehended and brought before the court, the court in a summary manner may adjudge the innocence or guilt of the person and punish the person for the contempt, if any, or may give the directions it thinks fit for the determination of the person's innocence or guilt and punishment.

If corporation may be guilty of contempt

- (7) If the court is of the opinion that a corporation may be guilty of contempt of court, it may order, by its warrant in Form 115 directed to a sheriff or other officer of the court or to a peace officer, that any director, officer or employee of the corporation be apprehended and brought before the court.

SUPREME COURT CIVIL RULESRule 22-8 – Contempt of Court

Power of court after apprehension

- (8) If a director, officer or employee referred to in subrule (7) is apprehended and brought before the court, the court in a summary manner may adjudge the innocence or guilt of the corporation and punish the corporation for the contempt, if any, or may give the directions it thinks fit for the determination of the corporation's innocence or guilt and the punishment to be imposed.

Release of apprehended person

- (9) The court may order the release of a person apprehended under subrule (5) or (7) on receiving an undertaking in Form 116 from that person.

Order for release

- (10) A release order under subrule (9) must be in Form 117.

Proceeding for contempt

- (11) A party applying for an order for contempt must serve the alleged contemnor with a copy of the filed notice of application and all filed affidavits in support of it at least 7 days before the hearing of the application.

Affidavit

- (12) An application under subrule (11) must be supported by affidavit setting out the conduct alleged to be contempt of court.

Hearing

- (13) The court may give directions as to the mode of hearing the application, including an order that the matter be transferred to the trial list under Rule 22-1 (7) (d).

Service of order not necessary

- (14) If the court is satisfied that a person has actual notice of the terms of an order of the court, it may find the person guilty of contempt for disobedience of the order, even though the order has not been served on the person.

Suspension of punishment

- (15) The court at any time may direct that the punishment for contempt be suspended for the period or on the terms or conditions the court may specify.

Discharge of person

- (16) The court, on application by or on behalf of a person committed to prison for contempt, may discharge that person even though the period of the committal may not have elapsed.

Weekly review of person in custody

- (17) If the court orders a person be committed without specifying in days, weeks or months the period of the committal, the sheriff must bring that person before the court at

intervals of not more than 7 days, in order that the court may review the committal and determine whether relief as set out in subrule (15) or (16) should be granted.

PART 23 – COURT AND REGISTRY MATTERS

RULE 23-1 – REGISTRY OPERATIONS

Copy of document filed in registry

- (1) Unless otherwise provided by an enactment, a person may, on payment of the proper fees, obtain from the registry a copy of a document on file in a proceeding.

When registry open

- (2) Except on Saturdays, holidays and those days that are prescribed by the Lieutenant Governor in Council as holidays for the Public Service of British Columbia, the registry is to be kept open to the public for the transaction of business from 9 a.m. until 4 p.m.

Hours of registrar

- (3) The hours of attendance by a registrar and the registry staff are from 8:30 a.m. until 4:30 p.m.

Lunch hours

- (4) If a registry has insufficient staff to allow continuous staff attendance at the lunch hour, the Chief Justice may, in writing, authorize that registry to close.

Use of seal

- (5) In each registry, the seal of the court must be stamped on every
 - (a) notice of civil claim, and
 - (b) other document requiring a sealissued from or filed in that registry.

Name of registry

- (6) The name of the registry must be written or stamped on the face of every document issued from or filed or recorded in that registry.

Signature of registrar

- (7) If the signature or endorsement of a registrar is required on a document, the document is deemed to have been signed or endorsed by the registrar if the document is signed or endorsed by a person appointed for that purpose by the registrar.

Business not to be conducted out of office hours

- (8) In case of urgency, the court may order that a registry be opened for the purpose of commencing a proceeding or for some other good reason.

Request to registrar by requisition

- (9) Unless these Supreme Court Civil Rules otherwise provide, if a person wishes a registrar to perform some act under these Supreme Court Civil Rules,
- (a) the person must make the request by requisition in Form 17 unless these Supreme Court Civil Rules otherwise provide, and
 - (b) the registrar may discard the requisition after the required act has been done.

Incapacity of judge

- (10) If an application ought to be made to, or any jurisdiction ought to be exercised by, the judge by whom a proceeding has been tried or partly tried, or heard or partly heard, then, if that judge dies or ceases to be a judge of the court during or after the trial or hearing, or if for any other reason it is impossible or inconvenient for that judge to act in the proceeding, the Chief Justice or next senior judge of the court may, either by a special order or by a general order, nominate some other judge to whom the application may be made or by whom the jurisdiction may be exercised.

Powers of substituted judge

- (11) Without limiting subrule (10), the other judge nominated under that subrule may
- (a) order that the proceeding be restored to the proper registry for retrial or rehearing,
 - (b) if, on the original trial or hearing, evidence was given orally, direct that the retrial or rehearing be on
 - (i) an official transcript of that evidence,
 - (ii) transcript, evidence given orally and evidence given by affidavit,
 - (iii) new evidence, or
 - (iv) any other basisas in his or her opinion the circumstances of the case require, and
 - (c) dispose of the costs of the original trial or hearing and of the costs of furnishing any copies of the transcript of the evidence, or refer the question of costs to the judge presiding at the retrial or rehearing.

Powers of presiding judge

- (12) Directions for a retrial or rehearing that include a direction for the use of the transcript of the evidence do not limit or restrict the power of the judge presiding at the retrial or rehearing to permit in his or her discretion the recalling of any witness called at the original trial or hearing, or to receive other or additional evidence.

Transfers

- (13) At any time after a proceeding is started, the court may on application order the proceeding to be transferred from the registry in which it is being conducted to any other registry of the court for any or all purposes.

RULE 23-2 – FAX FILING

Application

- (1) This rule applies only to those proceedings that are filed at the Chilliwack, Cranbrook, Dawson Creek, Kamloops, Kelowna, Nelson, Penticton, Prince George, Rossland, Salmon Arm, Smithers, Terrace, Vernon or Williams Lake registry of the court.

Document may be submitted for filing by fax

- (2) Subject to this rule, a person wishing to file a document may transmit that document by fax to the applicable court registry.

Means of transmission

- (3) A document may be transmitted by fax to a registry for filing if
 - (a) the document is transmitted to the appropriate registry at the fax number designated for that registry by a practice direction of the Chief Justice,
 - (b) the document is
 - (i) sent under cover of a fax cover sheet in Form 118, and
 - (ii) accompanied by payment of the applicable filing fees, and
 - (c) the document is not one referred to in subrule (4).

Application of this rule

- (4) The following documents may not be transmitted by fax to a registry for filing:
 - (a) any document pertaining to the following:
 - (i) probate;
 - (ii) adoption;
 - (iii) reciprocal enforcement of orders under the *Court Order Enforcement Act*;
 - (b) any of the following documents:
 - (i) a certified copy of any document being filed for enforcement purposes;
 - (ii) an application record or a petition record;
 - (iii) a trial record;
 - (iv) a proof of marriage from a foreign jurisdiction;
 - (v) a certificate of judgment;
 - (vi) a certificate of pending litigation;
 - (vii) an affidavit of service submitted for filing in support of a default order;
 - (c) any of the following documents, unless their submission by fax is authorized by the Manager, Supreme Court Scheduling of the receiving registry:

- (i) a trial certificate;
- (ii) a notice of trial;
- (iii) and (iv) Repealed. [B.C. Reg. 119/2010, Sch. A, s. 37 (b).]
- (v) a requisition to reset a hearing or trial;
- (vi) a notice of case planning conference in Form 19;
- (d) a document that, with the fax cover sheet, exceeds 30 pages in length, unless its submission by fax is authorized by a registrar.
[am. B.C. Reg. 119/2010, Sch. A, s. 37.]

When a document is filed

- (5) A document that is transmitted by fax to a registry for filing in accordance with subrule (3) and that is approved for filing by the registrar is filed as follows:
 - (a) the document is filed on the day it is received by the registry if any of the document, other than the fax cover sheet, is received at the fax machine of the registry at or before 4 p.m. on a day on which the registry is open for business;
 - (b) the document is filed on the next day on which the registry is open for business in any other case.

Confirmation of filing

- (6) After a document is received at the fax machine of the registry, a registrar must do the following in accordance with subrule (7):
 - (a) if the document was transmitted for filing in accordance with subrule (3) and was approved for filing by the registrar, provide to the person identified as the submitting party on the fax cover sheet
 - (i) confirmation of the fees paid, and
 - (ii) the first page of the filed document, bearing the registry stamp and file number;
 - (b) if the document was not transmitted for filing in accordance with subrule (3), or was not approved for filing by the registrar, provide to the person identified as the submitting party on the fax cover sheet
 - (i) a notice that the document has not been filed and the reasons for non-acceptance, and
 - (ii) the first page of the document.

Confirmation of filing

- (7) For the purposes of subrule (6), a registrar may provide the documents referred to in that subrule to the person identified as the submitting party on the fax cover sheet
 - (a) by transmitting those documents by fax to the fax number shown on the fax cover sheet as the fax number for the submitting party, or
 - (b) in any other manner the registrar considers appropriate.

Original of document may be required by court

- (8) The court may require that the original of a document that has been filed under this rule be produced.

RULE 23-3 – ELECTRONIC FILING

Definitions

- (1) In this rule:
- “**electronic document**” means a document that has been transmitted for filing electronically;
 - “**electronic services agreement**” means an agreement referred to in subrule (3);
 - “**registered user**” means a person who has entered into an electronic services agreement.

This rule prevails in event of conflict

- (2) In the event of a conflict between this rule and another rule, this rule applies.

Electronic services agreement

- (3) A person wishing to file documents in a registry under this rule must
- (a) enter into an agreement with the Court Services Branch of the Ministry of Attorney General respecting the terms and conditions under which those filings may be made, and
 - (b) submit documents for filing in accordance with that agreement.
- [am. B.C. Regs. 27/2013, Sch. 2, s. 13; 99/2018, Sch. 2, s. 16.]

Means of transmission

- (4) A registered user may electronically transmit a document to a registry for filing if
- (a) the document is accompanied by payment of the applicable filing fees, and
 - (b) the document is not one referred to in subrule (5).

Application of this rule

- (5) The following documents may not be transmitted for filing electronically:
- (a) any document pertaining to the following:
 - (i) probate, other than documents respecting an application that, under Part 25, does not require the filing of an originally signed version of a will;
 - (ii) reciprocal enforcement of orders under the *Court Order Enforcement Act*;
 - (b) any of the following documents:
 - (i) a certified copy of any document being filed for enforcement purposes;

- (ii) an application record, a petition record or a hearing record;
- (iii) a trial record;
- (iv) a proof of marriage from a foreign jurisdiction, unless such proof is issued electronically;
- (v) a certificate of judgment;
- (vi) a certificate of pending litigation;
- (vii) an affidavit, filed under Rule 12-5 (59), that constitutes the evidence in chief of a witness.

[am. B.C. Regs. 120/2014, s. 6; 115/2019, s. 3.]

Affidavits and other signed documents

- (6) An affidavit or other signed document that is being filed for evidentiary purposes, if submitted for filing electronically, must clearly identify the signatory and must be accompanied by a statement, in Form 119, of the lawyer acting for the person on whose behalf the document is submitted for filing or, if that person is unrepresented, by a statement of that person, in Form 119, indicating that
 - (a) the original paper version of the document appears to bear an original signature of the person identified as the signatory and the person making the Form 119 statement has no reason to believe that the signature placed on the document is not the signature of the identified signatory, and
 - (b) the version of the document that is being submitted for filing electronically appears to be a true copy of the original paper version of the document and the person making the Form 119 statement has no reason to believe that it is not a true copy of the original paper version.

Retention of documents

- (7) A person who, under subrule (6), submits a document for filing in a proceeding must
 - (a) keep the original paper version of the document until the earliest of
 - (i) the date on which the proceeding, including any appeals, is finally disposed of,
 - (ii) the date on which the appeal period for that proceeding has expired if no notice of appeal respecting the proceeding has been filed within that period, and
 - (iii) the date on which a registrar requests that the original paper version be filed, and
 - (b) if a request is made under paragraph (a) (iii), file the original paper version promptly after that request is made.

Conversion of documents

- (8) If a document in paper form is filed with a registrar, the registrar may convert the document into electronic form and, in that event, the registrar must

SUPREME COURT CIVIL RULESRule 23-3 – Electronic Filing

- (a) store the conversion in a computer or in another electronic system that the registrar considers appropriate, and
- (b) retain the paper form of the document.

Inspection of original documents

- (9) A person who submits a document referred to in subrule (6) for filing electronically must, on request, make the original paper version of that document available for inspection by other parties or their lawyer and by the court.

Requisition

- (10) A person who is entitled to inspect a document under subrule (9) may, if that inspection is denied, file a requisition in Form 17 to request that the original paper version of the document be filed and, promptly after receipt of that requisition, the registrar must make a request under subrule (7) (a) (iii).

Application of Rule 22-2

- (11) Rule 22-2 continues to apply to affidavits filed under this rule, but, in the event of a conflict between this rule and Rule 22-2 in respect of those affidavits, this rule prevails.

Electronic authentication deemed a signature

- (12) For the purposes of these Supreme Court Civil Rules other than subrule (6) of this rule, a document is deemed to have been originally signed if it has been electronically authenticated in the manner contemplated by the applicable electronic services agreement.

Filing of documents

- (13) If a document that has been transmitted for filing electronically is accepted for filing by a registrar, the document is deemed to have been filed as follows:
 - (a) if the document is received by the registry at or before 4 p.m. on a day that is not a Saturday or a holiday, the document is deemed to be filed on the day of receipt;
 - (b) if the document is received by the registry on a Saturday or holiday or after 4 p.m. on any other day, the document is deemed to be filed on the next day that is not a Saturday or a holiday.

Electronic acceptance

- (14) After a document that has been transmitted for filing electronically is accepted for filing by a registrar, the registrar must affix an electronic version of the registry stamp to the document and, after that, must provide a copy of the stamped electronic document, in the manner contemplated by the electronic services agreement, to the person who transmitted the document for filing.

Sealing of notice of civil claim

- (15) After a registrar provides an electronic acceptance of a notice of civil claim under subrule (14), the notice of civil claim is deemed to have been sealed by the registrar.

Public access to documents filed electronically

- (16) After a document has been filed under this rule, a person who is otherwise entitled to view and obtain a copy of the document may, on payment of the proper fee,
- (a) obtain from the registry a paper copy of the document,
 - (b) if a public access computer terminal is available in the registry, view the document on that terminal or, if the document is not available for viewing on that terminal, view on that terminal the information about the document or its contents, if any, that is available on that terminal, or
 - (c) if the person is a registered user, access the document in accordance with the terms of the electronic services agreement entered into by that person.

Service of documents

- (17) A document that may or must be served on a person may, if it is an electronic document, be served on the person as follows:
- (a) if the person has provided an e-mail address for service, by e-mailing it to that person's e-mail address for service;
 - (b) if the lawyer for the person has provided an e-mail address for service, by e-mailing it to that lawyer's e-mail address for service;
 - (c) if paragraph (a) or (b) applies and, under these Supreme Court Civil Rules, multiple copies of the document are to be served, the serving party need serve only a single electronic copy of the document.

If document does not reach a person

- (18) Even though a document has been served in accordance with subrule (17), a person may show, on an application to set aside the consequences of default, on an application for an extension of time or on an application in support of a request for an adjournment, that the document
- (a) did not come to the person's notice,
 - (b) did come to the person's notice later than when it was served or effectively served, or
 - (c) was incomplete or illegible.

RULE 23-4 – MONEY IN COURT**Interpretation**

- (1) In this rule, unless the context otherwise requires:

SUPREME COURT CIVIL RULES

Rule 23-4 – Money in Court

“**financial institution**” means a bank, credit union or trust company designated by the minister;

“**funds**” means any money that has been paid into or deposited in court, except money paid

- (a) under the *Court Order Enforcement Act*,
- (b) for security for costs,
- (c) in satisfaction of a claim, or
- (d) for bail;

“**minister**” means the Minister of Finance;

“**securities**” means any bonds, stocks, shares, debentures or other securities.

Deposit of funds

- (2) All funds must be deposited promptly in a financial institution by a registrar and must, after that, be paid by the registrar to the minister, accompanied by
 - (a) a certified copy of the order directing payment in, or
 - (b) if the funds have been paid into court without an order, a statement showing the particulars of the payment in.

Deposit of securities

- (3) All securities deposited in court must be accompanied
 - (a) by a certified copy of the order directing deposit in court and listing the securities, or
 - (b) if the securities are deposited without an order listing the securities, by a statement listing the securities.

Transmission of securities

- (4) Promptly after securities are deposited in court, a registrar must transmit those securities to the minister
 - (a) by registered mail, insured to the extent of the securities’ par value, or
 - (b) through a financial institution,together with a certified copy of the order or the statement.

Payment out of court

- (5) Funds and securities must be paid out or delivered, on authority of an order of the court, on production of a certified copy of the order or authorization by a registrar for payment out, and must be paid or delivered to the person named in the order or authorization.

Interest

- (6) All funds held in court draw interest, payable by the minister, for each 6 month period after December 31, 1992, at 2% below the prime lending rate of the banker to the

government on January 1 and July 1 respectively in each year, with interest to be compounded on January 1 and July 1 in each year.

No other interest payable

- (7) The interest paid under this rule is instead of any interest earned on an investment made by the minister under subrule (10).

Calculation of interest

- (8) Interest under subrule (6) is payable on all funds up to \$100 000 from the first day of the month following payment into court until the last day of the month before payment out of court, and on all funds in excess of \$100 000 from the date of payment into court until the date of payment out.

Account

- (9) For the purpose of segregating the funds from other money held by the minister, the minister must create an account in the treasury designated “Investments, *Supreme Court Act*”, and the funds held in this account
- (a) constitute a trust, and
 - (b) must, at all times, be substantially equal to the funds held by the minister under this rule.

Investments

- (10) The minister may
- (a) invest as he or she sees fit all or any part of the funds, and
 - (b) convert securities into money.

Direction for payment out

- (11) If, by an order of the court, funds are directed to be dealt with, delivered or paid out, the order is a direction to the minister to that effect.

Deposit of other money paid into court

- (12) Money paid into court, other than funds, must be deposited by a registrar in a financial institution and be paid out in accordance with the existing practice of the court, but the registrar must pay to the minister all moneys that have been on deposit for more than 2 years.

No interest on other funds

- (13) Money paid to the minister under this rule must be held by the minister in the same manner as funds deposited under subrule (2), except as to payment of interest.

SUPREME COURT CIVIL RULESRule 23-5 – Sittings and Hearings

Money for person under disability

- (14) In a proceeding in which a sum of money or a security is awarded to a person under a disability, the court may, at or after the trial, order that the whole or any part of the sum or the security be paid,
- (a) if the person is an infant, to the Public Guardian and Trustee in trust for the infant, or
 - (b) in any other case, into court to the credit of the person.

Payment out of money or security

- (15) If a sum of money or a security is paid into court under subrule (14) (b), the sum or the security may be paid out of court as the court may direct.

Payment in for infant

- (16) When money is paid into court to the credit of an infant, a copy of the birth certificate of the infant, or other proof to the satisfaction of a registrar of the name and date of birth of the infant, must be filed, unless the registrar dispenses with the filing.

Payment out of money held for infant

- (17) In support of an application for payment out of money paid in under subrule (16), the applicant must file a declaration in Form 120.

RULE 23-5 – SITTINGS AND HEARINGS**Under direction of Chief Justice**

- (1) The court must dispose of the business before it at the times and in the places the Chief Justice directs.

Urgency

- (2) In case of urgency, an application may be made personally to a judge, to a master or to a registrar.

Hearing by communication medium

- (3) In case of urgency, or if the court or a registrar considers it appropriate to do so, the court or the registrar, as the case may be, may conduct a hearing and make an order or decision by telephone, video conference or other communication medium.

[en. B.C. Reg. 65/2013, Sch. A, s. 3 (a).]

Video conferencing

- (4) On application by a party or on its own initiative, the court may direct
- (a) that an application be heard by way of telephone, video conference or other communication medium, and
 - (b) the manner in which the application is to be conducted.

Application to registrar by communication medium

- (4.1) On application by a party or on a registrar’s own initiative, a registrar may direct
- (a) that a hearing before a registrar be heard by way of telephone, video conference or other communication medium, and
 - (b) the manner in which the hearing is to be conducted.
- [en. B.C. Reg. 65/2013, Sch. A, s. 3 (b).]

Application must be made by requisition

- (5) An application under subrule (4) or (4.1) for a direction that an application or a hearing before a registrar be heard by way of telephone, video conference or other communication medium
- (a) must be made by requisition in Form 17, and
 - (b) must be supported by a letter, signed by the person or the person’s lawyer, setting out the reasons why the order is sought.
- [am. B.C. Reg. 65/2013, Sch. A, s. 3 (c).]

RULE 23-6 – MASTERS, REGISTRARS AND SPECIAL REFEREES

Powers of a master

- (1) Without limiting any other powers of a master under these Supreme Court Civil Rules, a master hearing an application has the powers of the court set out in Rules 8-5 (6) to (8) and 22-1 (2) to (8).

Master as registrar

- (2) A master has the powers and jurisdiction of a registrar under these Supreme Court Civil Rules.
- (3) Repealed. [B.C. Reg. 149/2013, s. 7.]

Hearing record

- (3.1) Before attending a registrar’s hearing started by the filing of an appointment, the person taking out the appointment (in this subrule called the “applicant”) must provide to the registry where the hearing is to take place, no later than 4 p.m. on the business day that is one full business day before the date set for the hearing, a hearing record as follows:
- (a) the hearing record must be in a ring binder or in some other form of secure binding;
 - (b) the hearing record must contain, in consecutively numbered pages, or separated by tabs, the following documents in the following order:
 - (i) a title page bearing the style of proceeding and the names of the lawyers, if any, for the applicant and the persons served with the appointment (in this subrule called the “respondents”);

SUPREME COURT CIVIL RULESRule 23-6 – Masters, Registrars and Special Referees

- (ii) an index;
- (iii) a copy of the filed appointment and of every document that, under these rules, is required to be filed with that appointment;
- (iv) a copy of the affidavit of service of the appointment, which copy must not include the exhibits to the affidavit;
- (v) if the appointment is to settle an order under Rule 13-1, a copy of the reasons for judgment on which the order is based, a transcript of the order made or a copy of the clerk's notes from the hearing;
- (vi) if the appointment is to assess costs under Rule 14-1, a copy of the entered order for costs;
- (vii) if the appointment has been filed under Rule 18-1, a copy of the entered order referring the matter to the registrar;
- (viii) a copy of every filed affidavit and pleading, and of every other document, that is to be relied on at the hearing;
- (c) the hearing record may contain
 - (i) a draft of the proposed report or certificate, and
 - (ii) a list of authorities;
- (d) the hearing record must not contain
 - (i) written argument,
 - (ii) copies of authorities, including case law, legislation, legal articles or excerpts from text books, or
 - (iii) any other documents unless they are included with the consent of the applicant and the respondents.

[en. B.C. Reg. 65/2013, Sch. A, s. 4.]

Dealings with hearing record

- (3.2) Rule 8-1 (17), (19) and (20) applies to a hearing record and, for that purpose, a reference in Rule 8-1 (17), (19) or (20) to “application record” is a reference to a hearing record and a reference to an “applicant” and an “application respondent” is a reference to the applicant and respondent to the registrar’s hearing respectively and a reference to the “hearing of the application” is a reference to the hearing of the registrar’s hearing.

[en. B.C. Reg. 65/2013, Sch. A, s. 4.]

Registrar’s powers at registrar’s hearing

- (4) A registrar may, in respect of any registrar’s hearing, whether before that registrar or any other registrar,
- (a) extend, shorten or limit the time for any step in the registrar’s hearing,
 - (b) exercise the powers that, under Rules 22-1 (2) and (3) and 23-5 (4), may be exercised by the court,
 - (c) exercise the powers set out in Rule 18-1 (5), and

- (d) direct the parties to attend a pre-hearing conference.

[am. B.C. Reg. 112/2012, Sch. A, s. 5.]

Registrar's directions at pre-hearing conference

- (5) Without limiting Rule 18-1 (5), a registrar conducting a pre-hearing conference may give directions for the conduct of any registrar's hearing, whether or not that registrar's hearing is before the registrar conducting the pre-hearing conference, including, without limitation, directions respecting the following:
 - (a) the production of documents;
 - (b) oral examinations for discovery;
 - (c) service of notices to admit;
 - (d) service of experts' reports;
 - (e) service of witness lists;
 - (f) any other matter that may assist in the just and efficient determination of the issues.

Reference by master to judge

- (6) If a matter appears to a master to be proper for the decision of a judge, the master may refer it to a judge, and the judge may either dispose of the matter or refer it back to the master with directions.

Reference by registrar to judge or master

- (7) If a matter appears to a registrar to be proper for the decision of a judge or master, the registrar may refer it to a judge or master, and the judge or master may either dispose of the matter or refer it back to the registrar with directions.
- (8) Repealed. [B.C. Reg. 104/2019, s. 4.]

Notice of appeal

- (8.1) An appeal from an order of a decision of a master, registrar or special referee must be brought by filing a notice of appeal in Form 121 within 14 days after the order or decision is made.

[en. B.C. Reg. 104/2019, s. 4.]

Service of notice of appeal and appellant's statement of argument

- (8.2) A copy of the filed notice of appeal and of the appellant's statement of argument, in Form 121.1, must be served on the respondent(s) within 7 days after notice of appeal being filed.

[en. B.C. Reg. 104/2019, s. 4.]

SUPREME COURT CIVIL RULESRule 23-6 – Masters, Registrars and Special Referees

Notice of interest

- (8.3) A respondent who wishes to oppose the appeal must file a notice of interest in Form 70.

[en. B.C. Reg. 104/2019, s. 4.]

Service of notice of interest and respondent's statement of argument

- (8.4) A copy of the notice of interest and of the respondent's statement of argument in the form set out in Form 121.2 must be delivered to the appellant within 14 days of the notice of appeal and appellant's statement of argument being served.

[en. B.C. Reg. 104/2019, s. 4.]

Transcript of reasons for judgment or decision

- (8.5) If the order or decision from which the appeal is taken was pronounced orally rather than issued in writing, the appellant must order a transcript of the presider's reasons for judgment or decision within 14 days after the order or decision is issued.

[en. B.C. Reg. 104/2019, s. 4.]

Transcript of oral evidence

- (8.6) If the appeal is taken from an order or decision following a hearing in which oral evidence is taken, in addition to a transcript of the reasons for judgment or decision, the appellant must order a transcript of the oral evidence within 14 days after the order or decision is issued.

[en. B.C. Reg. 104/2019, s. 4.]

Date and time of hearing of appeal

- (8.7) If the hearing of an appeal will require more than 2 hours, the date and time of the hearing must be fixed by Supreme Court Scheduling, and if the hearing of the appeal will require 2 hours or less, it may be set on the chambers list on a date not before the expiry of the time for delivery of the respondent's notice of interest and statement of argument.

[en. B.C. Reg. 104/2019, s. 4.]

Appeal record

- (8.8) The appellant must provide to the registry where the hearing of the appeal is to take place, no earlier than 9 a.m. and no later than 4 p.m. on the business day that is one full business day before the date set for the hearing, an appeal record as follows:

- (a) the appeal record must be in a ring binder or in some other form of secure binding;
- (b) the appeal record must contain
 - (i) a title page,
 - (ii) an index,
 - (iii) a copy of the notice of appeal,

- (iv) a copy of the order of the master or decision of the registrar or special referee that is subject to the appeal,
- (v) a copy of the written reasons for judgment of the master, or reasons for decision of the registrar or special referee, or, if the reasons were given orally, a transcript of the reasons,
- (vi) a copy of the notice of application and application response, and for registrars' appeals, a copy of the appointment,
- (vii) copies of any affidavits that were before the master, registrar or special referee that will be relied on for the appeal,
- (viii) a transcript of any oral evidence heard by the master, registrar or special referee to be relied on for the appeal,
- (ix) the appellant's statement of argument, not to exceed 10 pages, and
- (x) the respondent's statement of argument, not to exceed 10 pages.

[en. B.C. Reg. 104/2019, s. 4.]

Appeal record to be returned

- (8.9) Unless the court otherwise orders, the appellant must retrieve the appeal record at the conclusion of the hearing or, if the appeal is adjourned to a date later than the following business day, after the hearing is adjourned.

[en. B.C. Reg. 104/2019, s. 4.]

**Abridgement or modification of timelines
and documents required on appeal**

- (8.10) If the circumstances of an appeal require, the timelines and document filing requirements may be abridged, extended or modified by order under Rule 22-4 (2).

[en. B.C. Reg. 104/2019, s. 4.]

- (9) and (10) Repealed. [B.C. Reg. 104/2019, s. 4.]

Appeal not to act as stay

- (11) An appeal from the decision of a master or registrar is not a stay of proceeding unless so ordered by the court or the master.

PART 24 – TRANSITION

RULE 24-1 – TRANSITIONAL PLEADINGS

Definitions

- (1) In this Part:
- “address for delivery”, “appearance”, “requisition”, “statement of claim”, “statement of defence” and “writ of summons” have the same meanings as they had in the former Supreme Court Rules;
- “transitional proceeding” means a proceeding that was started before July 1, 2010.

These rules apply to transitional proceedings

- (2) A transitional proceeding is deemed to be a proceeding started under these Supreme Court Civil Rules.

Pleadings deemed to be a notice of civil claim

- (3) If the person who started a transitional proceeding did so by filing a writ of summons or a writ of summons and statement of claim,
- (a) the person is deemed to be the plaintiff in the proceeding, and
 - (b) the writ of summons is, or the writ of summons and statement of claim collectively are, deemed to be the notice of civil claim in the proceeding.

Requisition deemed to be a notice of civil claim

- (4) If the person who started a transitional proceeding did so by filing a requisition,
- (a) the person is deemed to be the plaintiff in the proceeding, and
 - (b) the requisition is deemed to be the notice of civil claim in the proceeding.

Petition

- (5) If the person who started a transitional proceeding did so by filing a petition,
- (a) the person is deemed to be the petitioner in the proceeding, and
 - (b) the petition is deemed to be the petition in the proceeding.

Appearance and statement of defence deemed to be a response to civil claim

- (6) If a person filed, in a transitional proceeding referred to in subrule (3) or (4), an appearance with or without a statement of defence, statement of defence to counterclaim or statement of defence to third party notice, as the case may be,
- (a) the person is deemed to be a defendant, defendant by way of counterclaim or third party, as the case may be, in the proceeding, and
 - (b) the appearance is, or, if the person filed both an appearance and a statement of defence, statement of defence to counterclaim or statement of defence to

third party notice, as the case may be, the filed documents collectively are, deemed to be a response to civil claim, response to counterclaim or response to third party notice, as the case may be, in the proceeding.

Appearance deemed to be a response to petition

- (7) If a person filed, in a transitional proceeding referred to in subrule (5), an appearance,
 - (a) the person is deemed to be a petition respondent, within the meaning of Rule 16-1, in the proceeding, and
 - (b) the appearance is deemed to be a response to petition in the proceeding.

Other pleadings

- (8) If a person filed, in a transitional proceeding, a counterclaim, third party notice or reply, that document is deemed to be a pleading in the proceeding.

Unserved writ of summons

- (9) Unless the court otherwise orders, if, before July 1, 2010, a person filed a writ of summons, with or without a statement of claim, and that document has not, or those documents have not, been served on a person named as a defendant in the transitional proceeding started by that filing, Rule 3-2 applies to the filed document or documents.

Demand for amendment

- (10) A party to a proceeding referred to in this rule may, by demand in Form 122, demand that a document that is deemed under this rule to be a pleading, petition or response to petition be amended by the party who filed it to make it accord with these Supreme Court Civil Rules.

Party must amend

- (11) If a demand is served under subrule (10), the party on whom the demand is served must, within 21 days after service, amend the deemed pleading, petition or response to petition to make it accord with these Supreme Court Civil Rules, and that amendment does not constitute an amendment for the purposes of Rule 6-1 (1) (a).

Failure to amend

- (12) If a demand is served under subrule (10) of this rule and the party on whom the demand is served does not make the amendments required under subrule (11) within the period referred to in that subrule, the demanding party may apply to the court for an order to strike the deemed pleading, petition or response to petition of the party on whom the demand is served.

Address for service

- (13) For the purposes of Rule 4-1 of these Supreme Court Civil Rules, until a new address for service is provided for a party to a proceeding referred to in this rule, the party is deemed to have, as an address for service in the proceeding, that party's address for delivery under the former Supreme Court Rules.

SUPREME COURT CIVIL RULESRule 24-1 – Transitional Pleadings

Step in ongoing proceeding

- (14) If a step in a proceeding is taken before July 1, 2010, the former Supreme Court Rules apply to any right or obligation arising out of or relating to that step if and to the extent that that right or obligation is to have effect before September 1, 2010.

Trial management conference

- (15) If the trial of a transitional proceeding is scheduled to begin before October 1, 2010,
- (a) a trial management conference may be held in the transitional proceeding at any time, or
 - (b) if a trial management conference was not required to be held in relation to the transitional proceeding under the former Supreme Court Rules, the trial may proceed without a trial management conference.

Court may decide

- (16) If there is any dispute in relation to the procedure to be applied to or followed in a proceeding referred to in this rule, any party may seek directions.

PART 25 – ESTATES**RULE 25-1 – DEFINITIONS****Definitions**

(1) In this Part:

“affidavit of assets and liabilities for estate grant” means an affidavit referred to in Rule 25-3 (2) (g);

“affidavit of assets and liabilities for resealing” means an affidavit referred to in Rule 25-6 (2) (g);

“alternate executor” means a person who, under the terms of a will, is to become an executor if the person named in the will as executor is unable or unwilling to act or continue to act in that capacity;

“authorization to obtain estate information” means an authorization to obtain estate information issued under Rule 25-4 (1) (a);

“authorization to obtain resealing information” means an authorization to obtain resealing information issued under Rule 25-7 (1) (a);

“citor” means a person who serves a citation under Rule 25-11 (1);

“deliver”, in relation to a person, means provide to the person by

- (a) personal delivery,
- (b) ordinary mail to the person’s residential or postal address, or
- (c) e-mail, fax or other electronic means to the address provided by the person for that purpose;

“disputant” means a person who files a notice of dispute under Rule 25-10 (1);

“estate grant” means

- (a) a grant of probate, whether the grant is made for general, special or limited purposes,
- (b) a grant of administration, whether the grant is made for general, special or limited purposes, or
- (c) an ancillary grant of probate or an ancillary grant of administration;

“executor” means

- (a) a person named in a will as an executor, or
- (b) if 2 or more persons are named in a will as an executor, each of those co-executors,

unless that person has renounced executorship;

“renounce executorship” has the meaning set out in subrule (4) of this rule;

“solemn form” has the meaning set out in subrule (5) of this rule;

“submission for estate grant” means a submission for estate grant in Form P2;

“**submission for resealing**” means a submission for resealing in Form P21;

“**testamentary document**” means a document that does one or both of the following:

- (a) makes or purports to make a testamentary disposition other than
 - (i) a designation under Part 5 of the *Wills, Estates and Succession Act*, or
 - (ii) a designation of a beneficiary under Part 3 or 4 of the *Insurance Act*;
- (b) appoints or purports to appoint an executor of the estate of the maker of the document,

and, without limiting this, includes a will;

“**wills notice**” means a notice filed under section 73 of the *Wills, Estates and Succession Act* with the chief executive officer under the *Vital Statistics Act*.

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 44/2014, Sch. 1, s. 2 (a).]

Interpretation

- (2) The definitions and interpretation sections of the *Wills, Estates and Succession Act* apply to this Part unless the context otherwise requires.

[en. B.C. Reg. 149/2013, s. 8.]

When delivery occurs under this Part

- (3) Delivery of a document under this Part occurs as follows:

- (a) subject to Rule 25-2 (5) (a), if the document is sent for delivery to a person by ordinary mail, the document is deemed to be delivered one week later on the same day of the week as the day of mailing or, if that deemed day of delivery is a Saturday or holiday, on the next day that is not a Saturday or holiday;
- (b) subject to Rule 25-2 (5) (b), (6) and (7), if the document is transmitted for delivery to a person by e-mail, fax or other electronic means to the e-mail, fax or other electronic address provided by the person for that purpose,
 - (i) if the document is transmitted before 4 p.m. on a day that is not a Saturday or holiday, the document is deemed to be delivered on the day of transmission, or
 - (ii) if the document is transmitted on a Saturday or holiday, or after 4 p.m. on any other day, the document is deemed to be delivered on the next day that is not a Saturday or holiday.

[en. B.C. Reg. 149/2013, s. 8.]

Renunciation of executorship

- (4) An executor renounces executorship
 - (a) in a circumstance set out in paragraph (a) or (b) of Rule 25-11 (5), or
 - (b) when a notice of renunciation in Form P17 from the executor is filed
 - (i) with documents filed under Rule 25-3 (2) in relation to the will in which the executor was named as an executor, or

- (ii) in the proceeding in which the documents referred to in subparagraph (i) were filed.

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 44/2014, Sch. 1, s. 2 (b).]

Solemn form

- (5) A will is proved in solemn form when, after a trial or hearing, the court pronounces for the force and validity of the will in solemn form of law.

[en. B.C. Reg. 149/2013, s. 8.]

Parties and parties of record

- (6) Unless a contrary intention appears in this Part or in an order under Rule 25-14 (8) (b), a reference to a party or party of record in a rule of these Supreme Court Civil Rules is, for the purposes of applying that rule to a proceeding under this Part, deemed to be a reference to a person who has filed a document in the proceeding.

[en. B.C. Reg. 149/2013, s. 8.]

RULE 25-2 – NOTICE MUST BE PROVIDED**Notice of intended application for estate grant or resealing**

- (1) Subject to this rule, unless the court otherwise orders, a person intending to apply for an estate grant or for the resealing of a foreign grant in relation to the estate of a deceased must, at least 21 days before submitting for filing the materials required for that application under this Part, deliver the following to the persons referred to in subrule (2):

- (a) a notice that complies with subrule (3);
- (b) whichever of the following, if any, that applies to the intended application:
 - (i) if the intended applicant intends to apply for a grant of probate or a grant of administration with will annexed, a copy of the will in relation to which the application is to be made;
 - (ii) if the intended applicant intends to apply for the resealing of a foreign grant or for an ancillary grant of probate or an ancillary grant of administration with will annexed, a copy of the foreign grant and, if a copy of the will in relation to which the foreign grant was issued is not attached to the foreign grant, a copy of the will;
 - (iii) if the intended applicant intends to apply for an ancillary grant of administration without will annexed, a copy of the foreign grant.

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 44/2014, Sch. 1, s. 3 (a).]

Persons to whom documents must be delivered

- (2) The documents referred to in subrule (1) must be delivered to the following persons:
- (a) if the deceased left a will, each of the following who is not a person by whom or on whose behalf the documents referred to in subrule (1) are to be delivered (a person by whom or on whose behalf the documents referred to

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Rule 25-2 – Notice Must Be Provided

in subrule (1) are to be delivered is, in this subrule, called an “intended applicant”):

- (i) each person
 - (A) who is named in the will as executor or alternate executor,
 - (B) whose right to make an application for an estate grant in relation to the deceased is prior to or equal to the intended applicant’s right to make that application, and
 - (C) who is alive at the time of the deceased’s death;
- (ii) each beneficiary under the will who is not referred to in subparagraph (i) of this paragraph;
- (iii) each person
 - (A) who, under Division 1 of Part 3 of the *Wills, Estates and Succession Act*, would have been an intestate successor if the deceased did not leave a will and the estate exceeded the preferential share of the spouse as described in section 21 (2) to (5) of that Act, and
 - (B) who is not referred to in subparagraph (i) or (ii) of this paragraph;
- (b) if the deceased did not leave a will,
 - (i) each person who, under Division 1 of Part 3 of the *Wills, Estates and Succession Act*, is an intestate successor of the deceased or would have been an intestate successor if the estate exceeded the preferential share of the spouse as described in section 21 (2) to (5) of that Act, and
 - (ii) each creditor of the deceased whose claim exceeds \$10 000 and who is not referred to in subparagraph (i) of this paragraph;
- (c) if the deceased was a Nisga’a citizen, the Nisga’a Lisims government;
- (d) if the deceased was a member of a treaty first nation, the treaty first nation;
- (e) any other person who, by court order under subrule (14) (a), is to receive notice;
- (f) any person not referred to in paragraph (a), (b), (c), (d) or (e) of this subrule who has served a citation on the intended applicant in relation to the deceased.

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 115/2019, s. 4.]

Form of notice of application

- (3) A notice under subrule (1) must be in Form P1, must be signed by the intended applicant or the intended applicant’s lawyer and must contain the following:
 - (a) the name, last residential address and date of death of the deceased;
 - (b) subject to subrule (4), the name and mailing address of the intended applicant and an address for service for the intended applicant, which

address for service must be an accessible address that complies with Rule 4-1 (1);

- (c) if the intended applicant is an individual, the city and country in which the intended applicant ordinarily lives;
- (d) the estate grant or resealing for which the intended applicant intends to apply;
- (e) the registry of the court where the submission for estate grant or submission for resealing will be filed;
- (f) the following statements in relation to each person to whom the notice is delivered:
 - (i) that the person has a right to oppose,
 - (A) in the case of a notice provided in relation to an application for an estate grant, the issuance to the intended applicant of either or both of an authorization to obtain estate information and an estate grant, or
 - (B) in the case of a notice provided in relation to an application for a resealing of a foreign grant, either or both of the issuance of an authorization to obtain resealing information and the resealing of the foreign grant;
 - (ii) that the person may or may not be entitled to claim against the estate for relief, including a claim under
 - (A) the *Family Law Act*, or
 - (B) Division 6 of Part 4 of the *Wills, Estates and Succession Act*;
 - (iii) that, if the person chooses to take a step referred to in subparagraph (i) or (ii) of this paragraph, the person must do so within the time limited by any relevant rule of court or other enactment;
 - (iv) that the person may consult with that person's own lawyer concerning the person's interest in, or rights against, the estate;
 - (v) in the case of an application for a grant of administration, that the person may apply for an order requiring the intended applicant to provide security unless the intended applicant is the Public Guardian and Trustee;
- (g) the following statements:
 - (i) that an estate grant may issue or a foreign grant may be resealed, as the case may be, without further notice, on any date that is at least 21 days after the date on which the notice is delivered, or on any earlier date ordered by the court;
 - (ii) if an authorization to obtain estate information issues to the intended applicant, the intended applicant may apply for an estate grant without further notice, and if an authorization to obtain resealing

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information issues to the intended applicant, the intended applicant may apply for the resealing of the foreign grant without further notice;

- (iii) that if an estate grant issues to the intended applicant as a result of the application, the intended applicant must provide, if there is a will, to the beneficiaries or, if there is no will, to intestate successors of the deceased, an accounting as to how the estate was administered and how the estate assets were distributed, and
- (iv) that if a foreign grant is resealed as a result of the application, the intended applicant must provide, if there is a will, to the beneficiaries or, if there is no will, to intestate successors of the deceased, an accounting as to how the estate comprising the assets to which the resealed grant applies was administered and how those assets were distributed.

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 44/2014, Sch. 1, s. 3 (b).]

Multiple intended applicants

- (4) If an application referred to in subrule (1) is to be brought by 2 or more intended applicants, those intended applicants
 - (a) must adopt a single address for service that is applicable to them all, which address for service must be an accessible address that complies with Rule 4-1 (1), and
 - (b) may adopt additional addresses for service under Rule 4-1 (2) provided that each additional address for service is applicable to all of the applicants.

[en. B.C. Reg. 149/2013, s. 8.]

When delivery occurs under this rule

- (5) Delivery of a document under this rule occurs as follows:
 - (a) if the document is sent for delivery to a person by ordinary mail to the person's mailing address, the document is deemed to be delivered on the date it is mailed;
 - (b) subject to subrules (6) and (7) of this rule, if the document is transmitted for delivery to a person by e-mail, fax or other electronic means to the e-mail, fax or other electronic address provided by the person for that purpose, the document is deemed to be delivered on the date it is transmitted.

[en. B.C. Reg. 149/2013, s. 8.]

No delivery by e-mail, fax or other electronic means without acknowledgement

- (6) Sending a document referred to in subrule (1) to a person by e-mail, fax or other electronic means does not constitute delivery of the document to that person unless that person provides a written acknowledgement of receipt.

[en. B.C. Reg. 149/2013, s. 8.]

If delivery is effected by e-mail, fax or other electronic means

- (7) If documents referred to in subrule (1) are delivered by e-mail, fax or other electronic means, the intended applicant must swear, in an affidavit in Form P9, that
- (a) the intended recipient of the documents has, in writing, acknowledged receipt of those documents, and
 - (b) the intended applicant will retain a copy of that acknowledgement until the personal representative of the deceased is discharged and, until then, will produce that acknowledgement promptly after being requested to do so by the registrar.
- [en. B.C. Reg. 149/2013, s. 8.]

If person to whom notice is to be delivered is a minor

- (8) If a person to whom documents are to be delivered under subrule (1) is a minor, the intended applicant must deliver those documents
- (a) as follows:
 - (i) if the applicant knows that the minor resides with all of the minor's parents, to those parents;
 - (ii) if subparagraph (i) does not apply but the applicant knows that a parent or guardian has responsibility for financial decisions relating to the minor, to that parent or guardian;
 - (iii) if neither subparagraph (i) nor subparagraph (ii) applies but the applicant knows of one or more addresses at which the minor resides, to the minor at each of those addresses, and
 - (b) subject to subrule (9), to the Public Guardian and Trustee.
- [en. B.C. Reg. 149/2013, s. 8.]

If testamentary trust exists

- (9) An intended applicant need not deliver documents under subrule (8) (b) to the Public Guardian and Trustee if
- (a) the intended applicant is an executor or alternate executor of the deceased's estate,
 - (b) the minor is not a spouse or child of the deceased, and
 - (c) the deceased's will
 - (i) creates a trust for the interest of the minor in the estate, and
 - (ii) appoints a trustee for that trust.
- [en. B.C. Reg. 149/2013, s. 8.]

If person to whom notice is to be delivered is a mentally incompetent person

- (10) Subrule (11) applies if
- (a) there has been appointed for a person to whom documents are to be delivered under subrule (1)

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- (i) a committee appointed under the *Patients Property Act*, or
- (ii) the equivalent of a committee appointed by a court outside British Columbia, or
- (b) a person to whom documents are to be delivered under subrule (1) is or may be mentally incompetent and paragraph (a) of this subrule does not apply to the person.

[en. B.C. Reg. 149/2013, s. 8.]

How notice may be delivered to a mentally incompetent person

- (11) If subrule (10) applies to a person to whom documents are to be delivered under subrule (1), the intended applicant must deliver the documents to the person as follows:
- (a) if subrule (10) (a) (i) applies, by delivering the documents to
 - (i) the committee referred to in that subparagraph, and
 - (ii) the Public Guardian and Trustee;
 - (b) if subrule (10) (a) (ii) applies, by delivering the documents to
 - (i) the equivalent person referred to in that subparagraph, and
 - (ii) the Public Guardian and Trustee;
 - (c) if subrule (10) (b) applies, by delivering the documents to the Public Guardian and Trustee in addition to delivering those documents to the person.

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 44/2014, Sch. 1, s. 3 (c).]

If person to whom notice is to be delivered is dead

- (12) If a person to whom documents are to be delivered under subrule (1) is dead, the intended applicant must
- (a) deliver those documents to the personal representative of the person, if known, or
 - (b) if the intended applicant does not know of a personal representative of the person, apply to the court under Rule 8-4 for directions and, unless the court dispenses with notice, deliver those documents in accordance with the order obtained on that application.

[en. B.C. Reg. 149/2013, s. 8.]

Notice to Public Guardian and Trustee

- (13) At the time that a notice is delivered to the Public Guardian and Trustee under subrule (8) or (11), the intended applicant must also deliver to the Public Guardian and Trustee a notice, in writing, setting out
- (a) the name of every other person to whom notice is required to be delivered under subrule (8) or (11), and
 - (b) the most recent of each of the following that is known to the intended applicant about each of those persons:

- (i) the person's residential address, inside or outside British Columbia;
- (ii) the person's postal address, inside or outside British Columbia;
- (iii) the person's e-mail address;
- (iv) the person's fax number.

[en. B.C. Reg. 149/2013, s. 8.]

Court may alter or dispense with notice

- (14) On application, the court may do one or both of the following to avoid any prejudice that would otherwise result to the intended applicant, to another person or to the estate:
- (a) vary the classes of persons to whom documents referred to in subrule (1) are to be delivered;
 - (b) dispense with the requirement under subrule (1), (8) or (11) to deliver documents to one or more persons other than the Public Guardian and Trustee.

[en. B.C. Reg. 149/2013, s. 8.]

Public Guardian and Trustee not required to deliver notice under subrule (1)

- (15) If the intended applicant is the Public Guardian and Trustee, he or she is not required to deliver documents under subrule (1) to any person referred to in subrule (2) except that the Public Guardian and Trustee must deliver the documents to the following:
- (a) if the deceased left a will, each spouse or child of the deceased;
 - (b) if the deceased was a Nisga'a citizen, the Nisga'a Lisims government or, if the deceased was a member of a treaty first nation, the treaty first nation.

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 44/2014, Sch. 1, s. 3 (d).]

If application made for solemn form grant

- (16) A person may file the materials required for an application under this Part without first providing notice under this rule to a person referred to in subrule (2) if
- (a) the application is for a grant of probate or a grant of administration with will annexed in relation to a will that has been proved in solemn form, and
 - (b) the person referred to in subrule (2) was served with the petition or notice of application under which proof of the will in solemn form was sought.

[en. B.C. Reg. 149/2013, s. 8.]

RULE 25-3 – APPLICATION FOR ESTATE GRANT**How to Apply****Definition**

- (1) In this rule, “**will**” means,

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Rule 25-3 – Application for Estate Grant

- (a) in relation to an application for a grant of probate or a grant of administration with will annexed, the testamentary document in relation to which the application was brought, or
- (b) in relation to an application for an ancillary grant of probate or an ancillary grant of administration with will annexed, the testamentary document in relation to which the foreign grant was issued.

[en. B.C. Reg. 149/2013, s. 8.]

Documents to be filed in an application

- (2) A person wishing to apply for an estate grant must, after delivering in accordance with Rule 25-2 the documents that were required to be delivered under that rule, file the following documents:
 - (a) a submission for estate grant in Form P2;
 - (b) an affidavit from the applicant, or, if there are 2 or more applicants, from at least one of the applicants, as follows:
 - (i) if the application is for a grant of probate or a grant of administration with will annexed,
 - (A) in Form P3 if subrule (6) of this rule applies, or
 - (B) in Form P4 if subrule (6) of this rule does not apply;
 - (ii) if the application is for a grant of administration without will annexed, in Form P5;
 - (iii) if the application is for an ancillary grant of probate or an ancillary grant of administration with will annexed, in Form P6;
 - (iv) if the application is for an ancillary grant of administration without will annexed, in Form P7;
 - (c) if there are 2 or more applicants, an affidavit in Form P8 from each of the applicants who has not sworn an affidavit referred to in paragraph (b);
 - (d) two copies of a certificate from the chief executive officer under the *Vital Statistics Act* indicating the results of a search for a wills notice filed by or on behalf of the deceased;
 - (e) any affidavit or material required by any of subrules (15) to (24) of this rule;
 - (f) one or more affidavits, in Form P9, that, collectively, confirm that the documents referred to in Rule 25-2 were delivered to all of the persons to whom, under that rule, the documents were required to be delivered;
 - (g) in accordance with subrule (7) of this rule, from the applicant, or, if there is more than one applicant, from at least one of the applicants, an affidavit of assets and liabilities, which affidavit must be
 - (i) subject to subparagraph (ii) of this paragraph, an affidavit of assets and liabilities for domiciled estate grant in Form P10, or

- (ii) if subrule (8) applies, an affidavit of assets and liabilities for domiciled estate grant in Form P10 or an affidavit of assets and liabilities for non-domiciled estate grant in Form P11;
- (h) in accordance with subrule (10), for each of the documents that are filed with the submission for estate grant and that are not written in the English language, an affidavit of translator in Form P12;
- (i) if one or more of the executors has renounced executorship, whichever of the following that applies:
 - (i) if the executor has provided to the applicant a notice of renunciation in Form P17, that notice of renunciation;
 - (ii) if the executor is deemed under Rule 25-11 to have renounced executorship, an affidavit of deemed renunciation in Form P34 prepared by the executor under Rule 25-11 (7) and any supporting affidavits of service;
- (j) any document required under subrule (3).

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 44/2014, Sch. 1, s. 4 (a) to (d).]

Filing of wills

- (3) Subject to subrule (5), the person wishing to apply for an estate grant must file with the documents referred to in subrule (2) (a) to (j) the following:
 - (a) if the application will be for a grant of probate or a grant of administration with will annexed,
 - (i) the originally signed version of the will, if that original exists or, if that original does not exist, a copy of the will,
 - (i.1) in addition to the will or copy provided under subparagraph (i), 2 copies of the will, and
 - (ii) if an order has been made that affects the validity or content of the will and that order has not yet been filed in the proceeding within which the estate grant is being sought, a copy of that order;
 - (b) if a grant of probate or equivalent, or a grant of administration with will annexed or equivalent, was issued in a jurisdiction that has not been prescribed for the purposes of section 138 of the *Wills, Estates and Succession Act* and the application under this Part will be for an ancillary grant of probate or an ancillary grant of administration with will annexed, the following:
 - (i) a copy of the foreign grant that has been certified by the issuing court;
 - (ii) if the will is not attached to the foreign grant, a copy of the will that has been certified by the issuing court;
 - (c) if a grant of administration without will annexed, or equivalent, was issued in a jurisdiction that has not been prescribed for the purposes of section 138 of the *Wills, Estates and Succession Act* and the application will be for an ancillary grant of administration without will annexed, a copy of the foreign

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grant certified by the court out of which the grant of administration without will annexed, or equivalent, was issued.

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 115/2019, s. 5 (a).]

Multiple applicants

- (4) If an application for an estate grant is brought by 2 or more applicants, those applicants
- (a) must adopt a single address for service that is applicable to them all, which address for service must be an accessible address that complies with Rule 4-1 (1), and
 - (b) may adopt additional addresses for service under Rule 4-1 (2) provided that each additional address for service is applicable to all of the applicants.

[en. B.C. Reg. 149/2013, s. 8.]

Documents to be separate

- (5) None of the documents referred to in a paragraph of subrule (2) or (3) may be attached to any document referred to in any other paragraph of subrule (2) or (3), and, without limiting this, an originally signed version of the will, when submitted for filing in accordance with subrule (3) (a), must not be attached to any other document.

[en. B.C. Reg. 149/2013, s. 8.]

**Form of affidavit for application for grant of probate
or grant of administration with will annexed**

- (6) The affidavit required of an applicant under subrule (2) (b) in relation to an application for a grant of probate or a grant of administration with will annexed may be in Form P3 if
- (a) the applicant swearing the affidavit is named in the will as an executor or alternate executor or is a person referred to in section 131 of the *Wills, Estates and Succession Act*,
 - (b) the applicant swearing the affidavit is satisfied that
 - (i) a diligent search for a testamentary document of the deceased has been made in each place that could reasonably be considered to be a place where a testamentary document may be found, including, without limitation, in all places where the deceased usually kept his or her documents, and
 - (ii) no testamentary document that is dated later than the date of the will has been found,
 - (c) the applicant swearing the affidavit believes that the will is the last will of the deceased that deals with property in British Columbia,
 - (d) the will complies with the requirements of Division 1 of Part 4 of the *Wills, Estates and Succession Act*, and the originally signed version of the will is being filed with the submission for estate grant,
 - (e) a certificate has been obtained from the chief executive officer under the *Vital Statistics Act* indicating the results of a search for a wills notice filed

by or on behalf of the deceased, and the certificate indicates that no wills notice has been filed by or on behalf of the deceased

- (i) in relation to a testamentary document that is dated later than the date of the will, or
- (ii) at all,
- (f) the will is not a military will executed in accordance with the requirements of section 38 of the *Wills, Estates and Succession Act*,
- (g) the applicant swearing the affidavit is not aware of there being any issues respecting execution of the will,
- (h) the applicant swearing the affidavit is not aware of there being any interlinations, erasures or obliterations in, or other alterations to, the will,
- (i) the applicant swearing the affidavit is not aware of there being any issues arising from the appearance of the will,
- (j) any documents referred to in the will are attached to the will, and
- (k) the applicant swearing the affidavit is not aware of there being any grant of probate or administration, or equivalent, having been issued, in relation to the deceased, in British Columbia or in any other jurisdiction.

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 44/2014, Sch. 1, s. 4 (e).]

Filing of affidavit of assets and liabilities for estate grant

- (7) The affidavit required under subrule (2) (g) may be filed concurrently with or subsequent to the filing of the other documents referred to in subrules (2) and (3).

[en. B.C. Reg. 149/2013, s. 8.]

Affidavit of assets and liabilities for non-domiciled estate grant

- (8) The applicant for an estate grant may file an affidavit of assets and liabilities for non-domiciled estate grant in Form P11 if
- (a) the deceased was not domiciled or ordinarily resident in British Columbia at the time of death,
 - (b) all property of the deceased situated outside British Columbia, if any, has been, is being or will be
 - (i) administered by a foreign personal representative, or
 - (ii) otherwise administered under the law of a foreign jurisdiction.

[en. B.C. Reg. 149/2013, s. 8.]

Supplemental affidavit of assets and liabilities for estate grant

- (9) Whether or not an estate grant has been issued in response to an application for an estate grant, if the applicant determines, after filing the affidavit of assets and liabilities for estate grant required in relation to the application, that
- (a) there are assets or liabilities of the estate that are not referred to in that affidavit or in an affidavit filed under this subrule, or

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- (b) information contained in the affidavit of assets and liabilities for estate grant or in a supplemental affidavit of assets and liabilities for estate grant filed under this subrule is incorrect or incomplete,

the applicant must, promptly after making that determination,

- (c) file a supplemental affidavit of assets and liabilities for domiciled estate grant in Form P14 or, if the applicant has filed in the proceeding an affidavit of assets and liabilities for non-domiciled estate grant in Form P11, a supplemental affidavit of assets and liabilities for non-domiciled estate grant in Form P15, and
- (d) pay all fees payable in relation to that filing, including all applicable probate fees.

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 44/2014, Sch. 1, s. 4 (f) and (g).]

Filing of affidavit of translator

- (10) An affidavit of translator in Form P12 must be filed concurrently with any document referred to in subrule (2) or (3) that is the subject of a translation.

[en. B.C. Reg. 149/2013, s. 8.]

Delivery to Public Guardian and Trustee

- (11) Subject to subrule (12) of this rule, if, under Rule 25-2, the applicant was required to deliver to the Public Guardian and Trustee the documents referred to in Rule 25-2 (1), the applicant must, promptly after filing a document referred to in subrule (2) or (9) of this rule, deliver a copy of that filed document to the Public Guardian and Trustee.

[en. B.C. Reg. 149/2013, s. 8.]

Exceptions to delivery to Public Guardian and Trustee

- (12) An applicant referred to in subrule (11) need not, under that subrule, deliver to the Public Guardian and Trustee the following:
 - (a) a copy of any document filed under subrule (3) if a copy of that document was delivered to the Public Guardian and Trustee under Rule 25-2;
 - (b) the exhibits to the affidavits of delivery filed under subrule (2) (f) of this rule;
 - (c) any affidavit of delivery filed under subrule (2) (f) that relates solely to delivery of the notice of proposed application to the Public Guardian and Trustee.

[en. B.C. Reg. 149/2013, s. 8.]

Sealing of court file

- (13) If the Public Guardian and Trustee is the applicant in an application brought under this rule, the Public Guardian and Trustee may, by filing a direction in Form P13, direct that the court file respecting the application and any related material specified by the Public Guardian and Trustee be sealed, and, in that event, the registrar must seal the

court file and related material in the manner, to the extent and for the period set out in section 125 of the *Wills, Estates and Succession Act*.

[en. B.C. Reg. 149/2013, s. 8.]

Applications – Search for Will

Search for will

- (14) The applicant in an application brought under this rule must swear or affirm in the affidavit required under subrule (2) (b) that the applicant is satisfied that
- (a) a diligent search for a testamentary document of the deceased has been made in each place that could reasonably be considered to be a place where a testamentary document may be found, including, without limitation,
 - (i) in all places where the deceased usually kept his or her documents,
 - (ii) at a location specified in the certificate referred to in subrule (2) (d), and
 - (iii) if that certificate indicates that the testamentary document is kept by a law firm and the law firm is no longer at the location specified in the certificate and cannot otherwise be located, with the Law Society of British Columbia, and
 - (b) as a result of that search,
 - (i) if the application is for a grant of probate, a grant of administration with will annexed, an ancillary grant of probate or an ancillary grant of administration with will annexed, one of the following:
 - (A) no testamentary document of the deceased that is dated later than the date of the will has been found;
 - (B) one or more testamentary documents of the deceased dated later than the date of the will have been found, but, for the reasons stated in the affidavit, the applicant believes that those testamentary documents are invalid or otherwise not relevant to the application, or
 - (ii) if the application is for a grant of administration without will annexed, one of the following:
 - (A) no testamentary document of the deceased has been found;
 - (B) one or more testamentary documents of the deceased have been found, but, for the reasons stated in the affidavit, the applicant believes that those testamentary documents are invalid or otherwise not relevant to the application.

[en. B.C. Reg. 115/2019, s. 5 (b).]

Copy must be attached

- (14.1) If, under subrule (14) (a) (ii) or (b) (ii), the applicant has found one or more testamentary documents that the applicant believes are invalid or otherwise not relevant to

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the application, a copy of those testamentary documents must be attached as an exhibit to the affidavit.

[en. B.C. Reg. 103/2015, s. 4.]

Applications Respecting Wills – Execution of Will

Proof of proper execution of will by affidavit of subscribing witness

- (15) If an application is brought under this rule for a grant of probate or a grant of administration with will annexed and
- (a) the will contains no attestation clause, or
 - (b) the will contains an attestation clause but that clause is not sufficient to show that the requirements of Division 1 of Part 4 of the *Wills, Estates and Succession Act* relating to the execution of wills, or the corresponding requirements of any law to which reference may be made under section 80 of the *Wills, Estates and Succession Act*, were met when the will was signed,

the applicant must do one of the following unless the will has been proved in solemn form:

- (c) file with the submission for estate grant an affidavit from at least one of the subscribing witnesses that the requirements of Division 1 of Part 4 of the *Wills, Estates and Succession Act* relating to the execution of wills, or the corresponding requirements of any law to which reference may be made under section 80 of the *Wills, Estates and Succession Act*, were met when the will was signed;
- (d) if an affidavit from a subscribing witness as required by paragraph (c) cannot be obtained, comply with subrule (16).

[en. B.C. Reg. 149/2013, s. 8.]

Evidence of proper execution of will where subscribing witness unavailable

- (16) If an affidavit from a subscribing witness as required by subrule (15) (c) cannot be obtained,
- (a) the applicant must, subject to paragraphs (b) and (c) of this subrule,
 - (i) swear or affirm in the affidavit referred to in subrule (2) (b) (i) (B) that the affidavit from a subscribing witness required by subrule (15) cannot be obtained, and
 - (ii) file an affidavit by any other person present when the will was signed that the requirements of Division 1 of Part 4 of the *Wills, Estates and Succession Act* relating to the execution of wills, or the corresponding requirements of any law to which reference may be made under section 80 of the *Wills, Estates and Succession Act*, were met,

- (b) if it is not possible to obtain an affidavit referred to in paragraph (a) (ii) of this subrule, the applicant must, subject to paragraph (c),
 - (i) swear or affirm in the affidavit referred to in subrule (2) (b) (i) (B) that neither an affidavit from a subscribing witness required by subrule (15) nor an affidavit required by paragraph (a) (ii) of this subrule can be obtained, and
 - (ii) file one or more affidavits, by one or more persons deposing from personal knowledge, which affidavits, collectively, provide that
 - (A) except in the case of a will signed by a person other than the will-maker in the manner referred to in subrule (18) (e), the signature of the will-maker on the will is in the handwriting of the deceased, and
 - (B) the signatures of the subscribing witnesses on the will are in the handwriting of those witnesses, or
- (c) if it is not possible to obtain an affidavit referred to in paragraph (a) (ii) of this subrule or an affidavit referred to in paragraph (b) (ii), the applicant must
 - (i) swear or affirm in the affidavit referred to in subrule (2) (b) (i) (B) that neither an affidavit from a subscribing witness required by subrule (15) nor the affidavits referred to in paragraphs (a) (ii) and (b) (ii) of this subrule can be obtained, and
 - (ii) file an affidavit, by a person deposing from personal knowledge, respecting circumstances that raise a presumption in favour of the proper execution of the will.

[en. B.C. Reg. 149/2013, s. 8.]

**Proof of proper execution of privileged
will by member of military force**

- (17) If an application is brought under this rule for a grant of probate or a grant of administration with will annexed and the applicant alleges that the will is made in a form permitted by section 38 of the *Wills, Estates and Succession Act* for a will by
 - (a) a member of the Canadian Forces while on active service under the *National Defence Act* (Canada), or
 - (b) a member of a naval, land or air force of any member of the British Commonwealth of Nations or any ally of Canada while on active service,the applicant must, unless the will has been proved in solemn form, provide evidence in the affidavit referred to in subrule (2) (b) (i) (B) that
 - (c) the will-maker was authorized to make a will in that form at the time the will was made, and
 - (d) the will was executed in accordance with the requirements of section 38 of the *Wills, Estates and Succession Act*.

[en. B.C. Reg. 149/2013, s. 8.]

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Proof of will-maker's knowledge of will

- (18) If an application is brought under this rule for a grant of probate, a grant of administration with will annexed, an ancillary grant of probate or an ancillary grant of administration with will annexed and, at the time of the making of the will, the will-maker
- (a) was blind,
 - (b) was illiterate,
 - (c) did not fully understand the language in which the will was written,
 - (d) signed the will by means of a mark instead of handwritten words, or
 - (e) directed another person to sign the will on behalf of the will-maker in the will-maker's presence,
- the applicant must, unless the will has been proved in solemn form,
- (f) indicate in the affidavit referred to in subrule (2) (b) (i) (B) which of paragraphs (a) to (e) of this subrule apply, and
 - (g) if the attestation clause of the will does not indicate that the circumstances referred to in the paragraphs identified under paragraph (f) of this subrule applied to the will-maker at the time of the signing of the will, file one or more affidavits, by any person deposing from personal knowledge, respecting circumstances that raise a presumption that
 - (i) the requirements of Division 1 of Part 4 of the *Wills, Estates and Succession Act*, or the corresponding requirements of any law to which reference may be made under section 80 of the *Wills, Estates and Succession Act*, were met, and
 - (ii) the will-maker had knowledge of the contents of the will.

[en. B.C. Reg. 149/2013, s. 8.]

International Wills Convention

- (19) If an application is brought under this rule for a grant of probate, a grant of administration with will annexed, an ancillary grant of probate or an ancillary grant of administration with will annexed in respect of a will that is in the form required by the Convention Providing a Uniform Law on the Form of an International Will enacted as Schedule 2 of the *Wills, Estates and Succession Act*, the applicant is not required to provide evidence of the authenticity of the signature of the authorized person, as that term is defined in the convention.

[en. B.C. Reg. 149/2013, s. 8.]

Applications Respecting Wills – Appearance of Will**Alterations**

- (20) If an alteration that is not an erasure or obliteration appears in a will, the applicant must

- (a) file an affidavit, which affidavit may but need not be in Form P16, by any person with personal knowledge of the facts, stating that the alteration was present when the will was signed, or
 - (b) file evidence that
 - (i) the alteration was made in accordance with the requirements of Divisions 1 and 4 of Part 4 of the *Wills, Estates and Succession Act* or the corresponding requirements of any law to which reference may be made under section 80 of the *Wills, Estates and Succession Act*,
 - (ii) the alteration was authenticated by the re-execution of the will or by the subsequent execution of a codicil,
 - (iii) the alteration
 - (A) does not substantively alter the effect of the will, and
 - (B) is in respect of form, style or numbering or is a typographical error, or
 - (iv) the will was proved in solemn form, and the order proving the will in solemn form determined that the alteration does form part of the will.
- [en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 44/2014, Sch. 1, s. 4 (h) to (j).]

Words erased or obliterated

- (21) If words in a will have been erased or obliterated, the applicant must, unless the words are entirely effaced and cannot be ascertained on inspection,
- (a) file an affidavit, which affidavit may but need not be in Form P16, by any person with personal knowledge of the facts, stating that the erasure or obliteration existed in the will when the will was signed, or
 - (b) file evidence that
 - (i) the erasure or obliteration was made in accordance with the requirements of Divisions 1 and 4 of Part 4 of the *Wills, Estates and Succession Act* or the corresponding requirements of any law to which reference may be made under section 80 of the *Wills, Estates and Succession Act*,
 - (ii) the erasure or obliteration was authenticated by the re-execution of the will or by the subsequent execution of a codicil, or
 - (iii) the will was proved in solemn form and the order proving the will in solemn form determined that the words erased or obliterated do not form part of the will.
- [en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 44/2014, Sch. 1, s. 4 (k).]

Registrar must consider appearance of will

- (22) Without limiting subrules (20) and (21), if an application is brought under this rule for a grant of probate, a grant of administration with will annexed, an ancillary grant of probate or an ancillary grant of administration with will annexed and the appearance of the will leads the registrar to believe that

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- (a) words in the will were erased or obliterated,
- (b) an attempt was made to revoke the will,
- (c) a page or document was previously attached to the will but is missing,
- (d) the will is incomplete,
- (e) the will has been altered and the alteration is not one made by the will-maker in compliance with Divisions 1 and 4 of Part 4 of the *Wills, Estates and Succession Act* or the corresponding requirements of any law to which reference may be made under section 80 of the *Wills, Estates and Succession Act*, or
- (f) the will does not comply with the requirements of section 37 (1) (b) of the *Wills, Estates and Succession Act* or the corresponding requirements of any law to which reference may be made under section 80 of the *Wills, Estates and Succession Act*,

the registrar may, unless the will has been proved in solemn form, require the applicant to file one or more of the following:

- (g) any page or document that was previously attached to, or is apparently missing from, the will;
- (h) an affidavit that explains
 - (i) the circumstances that led to the deficiency that the registrar perceives in the will, and
 - (ii) the will-maker's knowledge and intentions relative to those circumstances.

[en. B.C. Reg. 149/2013, s. 8.]

Document referred to in will

- (23) Without limiting subrule (22), if an application is brought under this rule in respect of a will for a grant of probate, a grant of administration with will annexed, an ancillary grant of probate or an ancillary grant of administration with will annexed, and if a reference in the will to a document raises a question as to whether the document ought to form part of the will, the registrar must require the applicant to file

- (a) the document, or
- (b) if the applicant is unable or unwilling to file the required document, an affidavit explaining why the document is not being filed.

[en. B.C. Reg. 149/2013, s. 8.]

Fee agreements

- (23.1) Subrule (23) does not apply to a reference in a will to a document that sets out the allowance to be paid to an executor or administrator of the will.

[en. B.C. Reg. 115/2019, s. 5 (c).]

Reference to judge or master

- (24) If, in relation to an application for an estate grant, there is a question under subrule (20), (21), (22) or (23) about what is or is not included in the will, the registrar must refer the application, along with any materials filed with the registrar under the applicable subrule, to a judge or master for an order resolving that question.

[en. B.C. Reg. 149/2013, s. 8.]

**RULE 25-4 – PROCEDURE AFTER FILING
APPLICATION MATERIALS FOR ESTATE GRANT****Approval by registrar of application**

- (1) Subject to subrule (2), the registrar must do the following on an application for an estate grant:
- (a) if the application materials filed under Rule 25-3 do not include the affidavit of assets and liabilities for estate grant required in relation to that application, issue to the applicant an authorization to obtain estate information in Form P18, to recognize the applicant as the person to whom an estate grant will be issued once the affidavit of assets and liabilities for estate grant has been filed and all fees payable in relation to the application, including all probate fees, have been paid;
 - (b) subject to section 124 of the *Wills, Estates and Succession Act*, after the affidavit of assets and liabilities for estate grant required in relation to that application is filed with or after the filing of the other application materials filed under Rule 25-3, issue an estate grant in Form P19 once all fees payable in relation to that filing, including all applicable probate fees, have been paid.

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 44/2014, Sch. 1, s. 5.]

When registrar must refuse to approve application

- (2) The registrar must not issue an authorization to obtain estate information under subrule (1) (a) of this rule or an estate grant under subrule (1) (b) unless the registrar is satisfied that
- (a) notice of the application has been delivered in accordance with Rule 25-2,
 - (b) the application materials comply with Rule 25-3,
 - (c) without limiting paragraph (b), if the application is for a grant of probate or a grant of administration with will annexed and is supported by an affidavit in Form P3, it was appropriate for that form of affidavit to be filed in support of the application,
 - (d) if the application is for an ancillary grant of probate or administration,
 - (i) the information in the foreign grant respecting the name of the deceased and the other names by which the deceased was known

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exactly matches the information in the submission for estate grant respecting those names, and

- (ii) each of the persons to whom the foreign grant was issued is an applicant in the submission for estate grant, and the names of the applicants in the submission for estate grant exactly match the names of the persons to whom the foreign grant was issued,
- (e) if the document to be issued is an authorization to obtain estate information, the only document that remains to be filed is the affidavit of assets and liabilities for estate grant and the applicant requires the authorization to obtain estate information to facilitate the applicant's ability to determine the assets in the estate and the liabilities applicable to them,
- (f) if the document to be issued is an estate grant, all fees payable in relation to the application, including all probate fees, have been paid,
- (g) there is no notice of dispute in effect in relation to the estate, and
- (h) there is no reason to require a hearing in relation to the application.

[en. B.C. Reg. 149/2013, s. 8.]

Application must be in relation to will

- (3) If the registrar is not satisfied that the making, revocation, alteration or revival of a testamentary document complies with the *Wills, Estates and Succession Act* or with the corresponding requirements of any law to which reference may be made under section 80 of the *Wills, Estates and Succession Act*, the registrar must not issue an authorization to obtain estate information under subrule (1) (a) of this rule or an estate grant under subrule (1) (b) until
 - (a) the registrar is satisfied that the making, revocation, alteration or revival of the testamentary document complies with those requirements,
 - (b) the court orders, under section 58 of the *Wills, Estates and Succession Act*, that the testamentary document is effective as a will, or
 - (c) the court orders that the testamentary document is proved as a will in solemn form.

[en. B.C. Reg. 149/2013, s. 8.]

Registrar must provide notice of refusal

- (4) If, under subrule (3), the registrar refuses to issue an estate grant or an authorization to obtain estate information, the registrar must provide to the applicant notice, in writing, of
 - (a) any defect in the application materials, including, without limitation, in
 - (i) the form of the application materials,
 - (ii) the information contained or not contained in the application materials, or
 - (iii) any exhibit or other document attached or not attached to, or filed or not filed with, the application materials,

- (b) any other question or matter relating to the application that prevents the registrar from approving it, and
- (c) any further information or material that the registrar requires in order to be satisfied in relation to a matter of which he or she must be satisfied before issuing an estate grant or an authorization to obtain estate information.

[en. B.C. Reg. 149/2013, s. 8.]

How notice is to be provided

- (5) The registrar may provide to the applicant the notice required under subrule (4) by any convenient means, including, without limitation, by sending the notice to the applicant at the mailing address, fax number or e-mail address, if any, provided as an address for service by the applicant in the submission for estate grant.

[en. B.C. Reg. 149/2013, s. 8.]

Procedure after refusal by registrar to approve application

- (6) If, on an application for an estate grant, the registrar refuses to issue an estate grant or an authorization to obtain estate information, the applicant may do one or both of the following:
 - (a) file further information and material
 - (i) to correct a defect of which the applicant was informed under subrule (4) (a) or (b), or
 - (ii) required by the registrar under subrule (4) (c);
 - (b) proceed under Rule 25-9 to request an order of the court.

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 103/2015, s. 5.]

Subrules (1) to (6) applicable after filing of revised or additional material

- (7) Subrules (1) to (6) of this rule apply to a reconsideration by the registrar of an application after revised or additional material is filed under subrule (6) (a).

[en. B.C. Reg. 149/2013, s. 8.]

Application by one or more of several co-executors

- (8) A grant of probate issued on an application for an estate grant brought by one or more, but not all, co-executors must reserve the right of a co-executor who does not join in the application to apply at a later time unless that co-executor has renounced executorship.

[en. B.C. Reg. 149/2013, s. 8.]

SUPREME COURT CIVIL RULESRule 25-5 – Corrections, Amendments and Revocations of Estate Documents

**RULE 25-5 – CORRECTIONS, AMENDMENTS AND
REVOCATIONS OF ESTATE DOCUMENTS****Corrections****Applications to correct**

- (1) If the person to whom an estate grant is issued or on whose behalf a foreign grant is resealed, or who was issued an authorization to obtain estate information or an authorization to obtain resealing information, determines that there is a clerical mistake, or an error arising from an accidental slip or omission, in the estate grant, resealed foreign grant, authorization to obtain estate information or authorization to obtain resealing information, the person may apply to the registrar to correct the estate grant, resealed foreign grant, authorization to obtain estate information or authorization to obtain resealing information.

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 103/2015, s. 6 (a).]

**Application to correct name of deceased
in style of proceeding**

- (1.1) Without limiting subrule (1), a person who has applied for an estate grant or to reseat a foreign grant may request that the registrar correct the deceased's name in the style of proceeding of the grant or authorization by complying with Rule 23-1 (9) and filing an affidavit explaining the error and indicating the deceased's correct name.

[en. B.C. Reg. 115/2019, s. 6 (a).]

Registrar may correct

- (2) If, on an application under subrule (1) respecting an estate grant, a resealed foreign grant, an authorization to obtain estate information or an authorization to obtain resealing information, the registrar is satisfied that a clerical mistake or an error has occurred in the estate grant, resealed foreign grant, authorization to obtain estate information or authorization to obtain resealing information, the registrar may correct the clerical mistake or error by issuing to the applicant a correction record in Form P20.

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 103/2015, s. 6 (b).]

**Registrar may correct name of deceased
in style of proceeding**

- (2.1) If, before the issuance of a grant or authorization or the resealing of a foreign grant,
- (a) an applicant makes a request under subrule (1.1), and
 - (b) the registrar is satisfied that the deceased's name is incorrectly set out in the style of proceeding of the instrument referred to in the request and that the deceased's name is correctly set out elsewhere in the submission for estate grant in Form P2 or the submission for resealing in Form P21 and that the deceased's name in the notice in Form P1 is not seriously misleading,

the registrar must issue a Form P20.1 and, when issuing the grant or authorization or resealing the foreign grant, may use the corrected name in the style of proceeding.

[en. B.C. Reg. 115/2019, s. 6 (b).]

Amendment Applications

Application for amendment

- (3) On application, the court may order that an authorization to obtain estate information, an authorization to obtain resealing information, an estate grant or the resealing of a foreign grant be amended and,
- (a) if the person applying for the amendment is the person to whom the estate grant, authorization to obtain estate information or authorization to obtain resealing information was issued or on whose application the foreign grant was resealed, that person must provide to the registry the estate grant, authorization to obtain estate information, authorization to obtain resealing information or resealed foreign grant, along with all certified and notarial copies of it, concurrently with the filing of the application record provided under Rule 8-1 (15), or
 - (b) if the person applying for the amendment is not the person to whom the estate grant, authorization to obtain estate information or authorization to obtain resealing information was issued or on whose application the foreign grant was resealed,
 - (i) that person must, without limiting Rule 8-1, ensure that the person who has possession or control of the estate grant, authorization to obtain estate information, authorization to obtain resealing information or resealed foreign grant is served with the notice of application and supporting materials, and
 - (ii) the person who has possession or control of the estate grant, authorization to obtain estate information, authorization to obtain resealing information or resealed foreign grant must file the estate grant, authorization to obtain estate information, authorization to obtain resealing information or resealed foreign grant no later than 4 p.m. on the day that is one full day before the date set for the hearing.

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 103/2015, s. 6 (c).]

Issue of new grant

- (4) If a document is amended under subrule (3), the amended document replaces the original document and, unless the court otherwise orders, that original document and the certified and notarial copies provided to the registry under subrule (3) are not to be returned to any person.

[en. B.C. Reg. 149/2013, s. 8.]

SUPREME COURT CIVIL RULESRule 25-5 – Corrections, Amendments and Revocations of Estate Documents

Revocation Applications**Filing of grant in revocation application**

- (5) On application, the court may order that an estate grant, an authorization to obtain estate information, an authorization to obtain resealing information or the resealing of a foreign grant be revoked and,
- (a) if the person applying for revocation is the person to whom the estate grant, authorization to obtain estate information or authorization to obtain resealing information was issued or on whose application the foreign grant was resealed, that person
 - (i) must provide to the registry the estate grant, authorization to obtain estate information, authorization to obtain resealing information or resealed foreign grant, along with all certified and notarial copies of it, concurrently with the filing of the notice of application, and
 - (ii) after complying with subparagraph (i), must not act under the estate grant, authorization to obtain estate information, authorization to obtain resealing information or resealed foreign grant without leave of the registrar until the application is decided, or
 - (b) if the person applying for revocation is not the person to whom the estate grant, authorization to obtain estate information or authorization to obtain resealing information was issued or on whose application the foreign grant was resealed,
 - (i) the person who has possession or control of the estate grant, authorization to obtain estate information, authorization to obtain resealing information or resealed foreign grant must file the estate grant, authorization to obtain estate information, authorization to obtain resealing information or resealed foreign grant within 7 days after being served with the notice of application for the revocation, and
 - (ii) after being served with the notice of application, the person to whom the estate grant, authorization to obtain estate information, authorization to obtain resealing information or resealed foreign grant was issued must not act under the estate grant, authorization to obtain estate information, authorization to obtain resealing information or resealed foreign grant without leave of the registrar until the application is decided.

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 103/2015, s. 6 (c).]

When leave may be granted

- (6) The registrar may grant leave to a person under subrule (5) (a) (ii) or (b) (ii) if
- (a) a request for leave is made by filing
 - (i) a requisition in Form 17, and
 - (ii) affidavit or other evidence in support of the request, and

- (b) the registrar is satisfied that the harm that will occur if the leave is granted is less than the harm that will occur if leave is not granted.

[en. B.C. Reg. 149/2013, s. 8.]

No revocation by default

- (7) A default in the filing of an application response or, if the court orders service and filing of pleadings in an application under Rule 25-14 (1) (c), in the filing of a response to civil claim, does not, of itself, justify an order revoking the estate grant, authorization to obtain estate information or authorization to obtain resealing information or revoking the resealing of the foreign grant.

[en. B.C. Reg. 149/2013, s. 8.]

RULE 25-6 – APPLICATIONS FOR RESEALING

Definition

- (1) In this rule, “**foreign will**”, in relation to an application under subrule (2), means the will in relation to which the foreign grant referred to in that subrule was issued.

[en. B.C. Reg. 149/2013, s. 8.]

Application for resealing

- (2) If a grant of probate or equivalent, or a grant of administration or equivalent, was issued in a jurisdiction prescribed for the purposes of section 138 of the *Wills, Estates and Succession Act*, the foreign personal representative to whom the foreign grant was issued may, after the documents referred to in Rule 25-2 (1) have been delivered in accordance with Rule 25-2, apply for a resealing of the foreign grant by filing the following:
- (a) a submission for resealing in Form P21;
 - (b) a copy of the foreign grant that has been certified by the issuing court, and, if the foreign will is not attached to the foreign grant, a copy of the foreign will that has been certified by the issuing court;
 - (c) an affidavit from the applicant or, if there are 2 or more applicants, from at least one of the applicants, as follows:
 - (i) if the application is for resealing a grant of probate or a grant of administration with will annexed, in Form P22;
 - (ii) if the application is for resealing a grant of administration without will annexed, in Form P23;
 - (d) if there are 2 or more foreign personal representatives to whom the foreign grant was issued, an affidavit in Form P24 from each of the foreign personal representatives who has not sworn an affidavit referred to in paragraph (c);
 - (e) 2 copies of a certificate from the chief executive officer under the *Vital Statistics Act* indicating the results of a search for a wills notice filed by or on behalf of the deceased;

SUPREME COURT CIVIL RULESRule 25-6 – Applications for Resealing

- (f) one or more affidavits, in Form P9, that, collectively, confirm that the documents referred to in Rule 25-2 were delivered to all of the persons to whom, under that rule, the documents were required to be delivered;
- (g) in accordance with subrule (6) of this rule, an affidavit of assets and liabilities for resealing in Form P25 from the applicant, or, if there is more than one applicant, from at least one of the applicants;
- (h) in accordance with subrule (8), for each of the documents that are filed with the submission for resealing and that are not written in the English language, an affidavit of translator in Form P12.

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 44/2014, Sch. 1, s. 6 (a).]

Multiple applicants

- (3) If there are 2 or more foreign personal representatives to whom the foreign grant was issued, all of those foreign personal representatives must be applicants in the application for resealing and those applicants
 - (a) must adopt a single address for service that is applicable to them all, which address for service must be an accessible address that complies with Rule 4-1 (1), and
 - (b) may adopt additional addresses for service under Rule 4-1 (2) provided that each additional address for service is applicable to all of the applicants.

[en. B.C. Reg. 149/2013, s. 8.]

Domicile of deceased on resealing

- (4) If the submission for resealing referred to in subrule (2) (a) specifies a different ordinary residence for the deceased at the time of his or her death than does the foreign grant, the registrar may require further evidence as to the domicile of the deceased.

[en. B.C. Reg. 149/2013, s. 8.]

Documents to be separate

- (5) None of the documents referred to in a paragraph of subrule (2) may be attached to any document referred to in any other paragraph of subrule (2).

[en. B.C. Reg. 149/2013, s. 8.]

Filing of affidavit of assets and liabilities for resealing

- (6) An affidavit required under subrule (2) (g) may be filed concurrently with or subsequent to the filing of the other documents referred to in subrule (2).

[en. B.C. Reg. 149/2013, s. 8.]

Supplemental affidavit of assets and liabilities for resealing

- (7) Whether or not a foreign grant has been resealed in response to an application under subrule (2), if the applicant determines, after filing the affidavit of assets and liabilities for resealing required in relation to the application, that
 - (a) there are assets or liabilities of the estate that are neither referred to in that affidavit nor referred to in an affidavit filed under this subrule, or

- (b) information contained in the affidavit of assets and liabilities for resealing, or in a supplemental affidavit of assets and liabilities for resealing filed under this subrule, is incorrect or incomplete,

the applicant must file a supplemental affidavit of assets and liabilities for resealing in Form P26 promptly after making that determination and must pay all fees payable in relation to that filing, including all applicable probate fees.

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 44/2014, Sch. 1, s. 6 (b).]

Filing of affidavit of translator

- (8) An affidavit of translator in Form P12 must be filed concurrently with any document referred to in subrule (2) that is the subject of a translation.

[en. B.C. Reg. 149/2013, s. 8.]

Delivery to Public Guardian and Trustee

- (9) Subject to subrule (10) of this rule, if, under Rule 25-2, the applicant was required to deliver to the Public Guardian and Trustee the documents referred to in Rule 25-2 (1), the applicant must, promptly after filing a document referred to in subrule (2) of this rule, deliver a copy of that filed document to the Public Guardian and Trustee.

[en. B.C. Reg. 149/2013, s. 8.]

Exceptions to delivery to Public Guardian and Trustee

- (10) An applicant referred to in subrule (9) need not, under that subrule, deliver to the Public Guardian and Trustee the following:
 - (a) a copy of any document filed under subrule (2) (b) if a copy of that document was delivered to the Public Guardian and Trustee under Rule 25-2;
 - (b) the exhibit to the affidavits of delivery filed under subrule (2) (f) of this rule;
 - (c) any affidavit of delivery filed under subrule (2) (f) that relates solely to delivery of the notice of proposed application to the Public Guardian and Trustee.

[en. B.C. Reg. 149/2013, s. 8.]

Search for will

- (11) The applicant in an application brought under this rule must swear or affirm in the affidavit required under subrule (2) (c) that the applicant is satisfied that a diligent search for a testamentary document of the deceased has been made in each place that could reasonably be considered to be a place where a testamentary document may be found, including, without limitation, in all places where the deceased usually kept his or her documents, and,
 - (a) if the foreign grant is a grant of probate or a grant of administration with will annexed, one of the following:
 - (i) no testamentary document of the deceased that is dated later than the date of the foreign will has been found;

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- (ii) one or more testamentary documents of the deceased dated later than the date of the foreign will have been found and the reasons why the applicant believes that those testamentary documents are invalid or otherwise not relevant to the application, or
- (b) if the foreign grant is a grant of administration without will annexed, one of the following:
 - (i) no testamentary document of the deceased has been found;
 - (ii) one or more testamentary documents of the deceased have been found, and the reasons why the applicant believes that those testamentary documents are invalid or otherwise not relevant to the application.

[en. B.C. Reg. 149/2013, s. 8.]

RULE 25-7 – PROCEDURE AFTER FILING APPLICATION MATERIALS FOR RESEALING

Approval by registrar of application

- (1) Subject to subrule (3), the registrar must, on an application to reseal a foreign grant, do the following:
 - (a) if the application materials filed under Rule 25-6 do not include the affidavit of assets and liabilities for resealing required in relation to that application, issue to the applicant an authorization to obtain resealing information in Form P27 to recognize the applicant as the person to whom a resealed grant will be issued once
 - (i) the affidavit of assets and liabilities for resealing has been filed, and
 - (ii) all fees payable in relation to that filing, including all applicable probate fees, have been paid;
 - (b) subject to section 124 of the *Wills, Estates and Succession Act*, if the affidavit of assets and liabilities for resealing required in relation to the application is filed with or after the filing of the other application materials filed under Rule 25-6, reseal the foreign grant once all fees payable in relation to the application, including all applicable probate fees, have been paid.

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 44/2014, Sch. 1, s. 7.]

Certification of resealing

- (2) To reseal a foreign grant, the registrar must attach a Form P28 to the certified copy of the foreign grant that was filed under Rule 25-6 (2) (b).

[en. B.C. Reg. 149/2013, s. 8.]

When registrar must refuse to approve application

- (3) The registrar must not issue an authorization to obtain resealing information under subrule (1) (a) of this rule or reseal a foreign grant under subrule (1) (b) unless the registrar is satisfied that
- (a) notice of the application had been delivered in accordance with Rule 25-2,
 - (b) the application materials comply with Rule 25-6,
 - (c) the information in the foreign grant respecting the name of the deceased and the other names by which the deceased was known exactly matches the information in the submission for resealing respecting those names,
 - (d) each of the persons to whom the foreign grant was issued is an applicant in the submission for resealing, and the names of the applicants in the submission for resealing exactly match the names of the persons to whom the foreign grant was issued,
 - (e) if the document to be issued is an authorization to obtain resealing information, the only document that remains to be filed is the affidavit of assets and liabilities for resealing and the applicant requires the authorization to obtain resealing information to facilitate the applicant's ability to determine the assets in the estate and the liabilities applicable to them,
 - (f) if the registrar intends to reseal the foreign grant, all fees payable in relation to the application have been paid,
 - (g) there is no notice of dispute in effect in relation to the estate, and
 - (h) there is no reason to require a hearing in relation to the application.

[en. B.C. Reg. 149/2013, s. 8.]

Registrar must provide notice of refusal

- (4) If, under subrule (3), the registrar refuses to approve an application for the resealing of a foreign grant, the registrar must provide to the applicant notice, in writing, of
- (a) any defect in the application materials, including, without limitation, in
 - (i) the form of the application materials,
 - (ii) the information contained or not contained in the application materials, or
 - (iii) any exhibit or other document attached or not attached to, or filed or not filed with, the application materials,
 - (b) any other question or matter relating to the application that prevents the registrar from approving it, and
 - (c) any further information or material that the registrar requires in order to be satisfied in relation to a matter of which he or she must be satisfied before resealing the foreign grant.

[en. B.C. Reg. 149/2013, s. 8.]

SUPREME COURT CIVIL RULESRule 25-8 – Effect of Authorization to Obtain Estate Information or Authorization to Obtain Resealing Information

How notice is to be provided

- (5) The registrar may provide to the applicant the notice required under subrule (4) by any convenient means, including, without limitation, by sending it to the applicant at the mailing address, fax number or e-mail address, if any, provided as an address for service by the applicant in the submission for resealing.

[en. B.C. Reg. 149/2013, s. 8.]

Procedure after refusal by registrar to approve application

- (6) If, on an application for the resealing of a foreign grant, the registrar refuses to issue an authorization to obtain resealing information or to reseal a foreign grant, the applicant may do one or both of the following:

- (a) file further information and material
 - (i) to correct a defect of which the applicant was informed under subrule (4) (a) or (b), or
 - (ii) required by the registrar under subrule (4) (c);
- (b) proceed under Rule 25-9 to request a hearing by the court.

[en. B.C. Reg. 149/2013, s. 8.]

Subrules (1) to (6) applicable after filing of revised or additional material

- (7) Subrules (1) to (6) of this rule apply to a reconsideration by the registrar of an application after revised or additional material is filed under subrule (6) (a).

[en. B.C. Reg. 149/2013, s. 8.]

Notice to issuing court of resealing

- (8) After the resealing of a foreign grant, the registrar must provide notice of the resealing to the court that issued the foreign grant.

[en. B.C. Reg. 149/2013, s. 8.]

Notice of revocation or amendment of resealed grant

- (9) If the registrar knows that a British Columbia grant has been resealed in another jurisdiction, the registrar must notify the resealing court of any revocation or amendment of the British Columbia grant.

[en. B.C. Reg. 149/2013, s. 8.]

**RULE 25-8 – EFFECT OF AUTHORIZATION TO OBTAIN ESTATE
INFORMATION OR AUTHORIZATION TO OBTAIN RESEALING INFORMATION****Authorizations may be delivered**

- (1) An applicant to whom an authorization to obtain estate information or an authorization to obtain resealing information has been issued may deliver a copy of that authorization to obtain estate information or authorization to obtain resealing information to the following:

- (a) any person whom the applicant believes has possession or control of one or more assets of the estate of the deceased;
- (b) any person whom the applicant believes has possession or control of one or more documents relating to assets of the estate of the deceased.

[en. B.C. Reg. 149/2013, s. 8.]

Order to provide information

- (2) A person to whom a copy of an authorization to obtain estate information or an authorization to obtain resealing information is delivered under subrule (1) must, within 30 days after the date of delivery,

- (a) deliver to the applicant information as to the nature and value of those assets of the deceased's estate that are in the person's possession or control, or
- (b) if the person

- (i) has possession or control of a safety deposit box, a safe, a storage locker or any other thing or place where the deceased kept or may have kept records or assets, and
 - (ii) does not have a document that itemizes the contents of that thing or place,

allow the holder of the authorization to obtain estate information or authorization to obtain resealing information to have access to that thing or place for the purposes of listing its contents.

[en. B.C. Reg. 149/2013, s. 8.]

Powers of court if information or access not provided

- (3) If a person to whom a copy of an authorization to obtain estate information or an authorization to obtain resealing information is delivered under subrule (1) does not comply with subrule (2), the applicant may, on notice to the person, apply to the court for an order that the required information or access be provided, and the court may, on the application,

- (a) make an order that the information or access be provided in the manner and at the time or within the period ordered by the court, and
- (b) make such other orders as the court considers will further the objects of these Supreme Court Civil Rules, including, without limitation, an order that the person pay the costs of the application.

[en. B.C. Reg. 149/2013, s. 8.]

RULE 25-9 – APPLICATION TO COURT FOR GRANT OR RESEALING

Applicant may apply to court

- (1) If the registrar refuses to issue an estate grant, an authorization to obtain estate information or an authorization to obtain resealing information or refuses to reseal a

foreign grant, the applicant may apply to the court for the authorization, grant or resealing.

[en. B.C. Reg. 149/2013, s. 8.]

Application materials

- (2) An applicant wishing to apply to the court under subrule (1) must file
- (a) a requisition in Form 31,
 - (b) a draft of the proposed order in Form 35,
 - (c) affidavit or other evidence in support of the application, and
 - (d) any material provided by the registrar in relation to the application.

[en. B.C. Reg. 149/2013, s. 8.]

Powers of the court

- (3) An application under subrule (1) in relation to a will is not in the nature of an appeal from the registrar and, on that application, the court may
- (a) approve the application,
 - (b) direct that an application be made for the will to be proved in solemn form, or
 - (c) direct that the application be heard by the court and give directions respecting that hearing.

[en. B.C. Reg. 149/2013, s. 8.]

Registrar to issue authorization or grant following disposition of application

- (4) If an application under subrule (1) is approved by the court under subrule (3) (a) or at a hearing referred to in subrule (3) (c), the registrar must issue the estate grant, authorization to obtain estate information or authorization to obtain resealing information or reseal the foreign grant, as the case may be, in accordance with the order.

[en. B.C. Reg. 149/2013, s. 8.]

RULE 25-10 – NOTICES OF DISPUTE

Notice of dispute

- (1) To oppose the issuance of an estate grant, an authorization to obtain estate information or an authorization to obtain resealing information or to oppose the resealing of a foreign grant, a person to whom documents have been or are to be delivered under Rule 25-2 (2) or a person who claims an interest under a prior or subsequent will must file a notice of dispute that accords with subrule (3) of this rule before the earlier of
- (a) the issuance of an authorization to obtain estate information or an authorization to obtain resealing information, and
 - (b) the issuance of an estate grant or the resealing of a foreign grant.

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 115/2019, s. 7.]

Only one notice of dispute to be filed

- (2) A person must not file more than one notice of dispute in relation to any one estate.
[en. B.C. Reg. 149/2013, s. 8.]

Contents of notice of dispute

- (3) A notice of dispute referred to in subrule (1) must be in Form P29, must provide an address for service of the disputant, which address for service must be an accessible address that complies with Rule 4-1 (1), and must disclose
- (a) that the disputant is a person to whom documents have been or are to be delivered under Rule 25-2 (2) or a person who claims an interest under a prior or subsequent will, and
 - (b) the grounds on which the notice of dispute is filed.
- [en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 115/2019, s. 7.]

Amendment of notice of dispute

- (4) A notice of dispute may be amended once without leave of the court, and after that only with leave of the court.
[en. B.C. Reg. 149/2013, s. 8.]

Amendment of notice of dispute

- (5) Rule 6-1 (2) and (3) applies to an amendment of a notice of dispute without leave of the court and, for that purpose, a reference in that rule to a pleading is deemed to be a reference to the notice of dispute.
[en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 44/2014, Sch. 1, s. 8 (a).]

Renewal of notice of dispute

- (6) The court may renew a notice of dispute, for any period the court considers appropriate, as follows:
- (a) if the application for renewal is brought before the notice of dispute ceases to be in effect, if the court is satisfied that it is appropriate to make an order for renewal;
 - (b) if the application for renewal is brought after the notice of dispute ceases to be in effect, if the court is satisfied that
 - (i) there were good reasons that the application for renewal could not be brought before the notice of dispute ceases to be in effect,
 - (ii) substantial prejudice would be suffered by the person seeking renewal of the notice of dispute if the order for renewal is not made, and
 - (iii) no other person interested in the estate would suffer substantial prejudice if the order for renewal is made.
- [en. B.C. Reg. 149/2013, s. 8.]

SUPREME COURT CIVIL RULESRule 25-10 – Notices of Dispute

Application for renewal of notice of dispute

- (7) Subject to Rule 8-5 (6), an application to renew a notice of dispute filed in relation to an estate must be made on notice to
- (a) each person who has submitted for filing a submission for estate grant, or a submission for resealing, in relation to the estate,
 - (b) each person who has filed a notice of dispute in relation to the estate, and
 - (c) any other interested person to whom the court directs notice be given.
- [en. B.C. Reg. 149/2013, s. 8.]

No grant while notice of dispute in effect

- (8) While a notice of dispute is in effect in relation to the estate of a deceased, the registrar must not, with respect to that estate,
- (a) issue an estate grant, an authorization to obtain estate information or an authorization to obtain resealing information, or
 - (b) reseal a foreign grant.
- [en. B.C. Reg. 149/2013, s. 8.]

Withdrawal of notice of dispute

- (9) A disputant may withdraw a notice of dispute by filing a withdrawal of notice of dispute in Form P30.
- [en. B.C. Reg. 149/2013, s. 8.]

Application to remove notice of dispute

- (10) A person who is interested in an estate in relation to which a notice of dispute has been filed, including, without limitation, an applicant for an estate grant or for the resealing of a foreign grant, may apply on notice to the disputant for an order removing the notice of dispute.
- [en. B.C. Reg. 149/2013, s. 8.]

Grounds on which notice of dispute may be removed

- (11) On an application under subrule (10), the court may, by order in Form P31, remove a notice of dispute if the court determines that the filing is not in the best interests of the estate.
- [en. B.C. Reg. 149/2013, s. 8.]

When notice of dispute ceases to be in effect

- (12) A notice of dispute in relation to an estate ceases to be in effect as follows:
- (a) subject to paragraph (b), on the date that is one year after the date on which the notice of dispute was filed;
 - (b) if the notice of dispute has been renewed under subrule (6), at the end of the renewal period;
 - (c) if the notice of dispute is withdrawn by the disputant under subrule (9);

- (d) if the will in relation to which the notice of dispute relates is proved in solemn form;
- (e) if the court orders, under subrule (11) or otherwise, that the notice of dispute is removed.

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 44/2014, Sch. 1, s. 8 (b).]

RULE 25-11 – CITATIONS

Citation to apply for probate

- (1) If a testamentary document is or may be in existence, a person interested in the estate may serve by personal service on each person named as an executor in the testamentary document a citation in Form P32 in respect of the testamentary document to require the served person to apply for a grant of probate in relation to that testamentary document.

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 44/2014, Sch. 1, s. 9.]

Alternate executors

- (2) A citation under subrule (1) in relation to a grant of probate
 - (a) must be served by personal service on each alternate executor if an event, including, without limitation, an event referred to in subrule (5), occurs that entitles the alternate executor to assume the office of executor, and
 - (b) must not be served on an alternate executor until an event referred to in paragraph (a) occurs that entitles that alternate executor to assume the office of executor.

[en. B.C. Reg. 149/2013, s. 8.]

Citation to be supported

- (3) A citation under subrule (1) in relation to a testamentary document must include
 - (a) an address for service of the citor, which address for service must be an accessible address that complies with Rule 4-1 (1), and
 - (b) a statement of the citor providing
 - (i) the grounds for the citor's knowledge of or belief as to the existence of the testamentary document, and
 - (ii) information available to the citor that will allow the testamentary document to be identified.

[en. B.C. Reg. 149/2013, s. 8.]

Answer to citation

- (4) A person who is cited by being served with a citation under subrule (1) must, within 14 days after being served with the citation,
 - (a) if the cited person has been issued a grant of probate in respect of the testamentary document in relation to which the citation was issued, serve on the citor, by ordinary service, a copy of the estate grant, or

- (b) if the cited person has not yet been issued a grant of probate in respect of the testamentary document in relation to which the citation was issued, serve the citor as follows:
 - (i) if the cited person has filed a submission for estate grant under Rule 25-3 (2) in respect of the testamentary document, serve on the citor, by ordinary service, a copy of the filed submission for estate grant along with copies of the other documents filed under Rule 25-3 (2);
 - (ii) if subparagraph (i) does not apply but the cited person has delivered documents under Rule 25-2 (1) in relation to an application for a grant of probate that the cited person intends to pursue in respect of the testamentary document, serve on the citor, by ordinary service, a copy of those documents;
 - (iii) if the cited person has not taken any step under this Part in relation to the estate, serve on the citor, by ordinary service, an answer in Form P33 providing an address for service that is an accessible address that complies with Rule 4-1 (1) and stating that the cited person
 - (A) will apply for a grant of probate in respect of the testamentary document, or
 - (B) refuses to apply for a grant of probate in respect of the testamentary document.

[en. B.C. Reg. 149/2013, s. 8.]

Deemed renunciation of executorship

- (5) A person who is cited under subrule (1) to apply for a grant of probate in relation to a testamentary document is deemed to have renounced executorship in relation to that testamentary document if
 - (a) he or she is a person referred to in subrule (4) (b) (i), (ii) or (iii) (A) and does not
 - (i) serve on the citor the document that, under that provision, he or she is required to serve, or
 - (ii) obtain a grant of probate within 6 months after the date on which the citation was served or within any longer period that the court on the application of the cited person may allow, or
 - (b) he or she is a person who serves on the citor an answer referred to in subrule (4) (b) (iii) (B).

[en. B.C. Reg. 149/2013, s. 8.]

Effect of failure to answer citation or give reason for refusing probate

- (6) If each person who is cited under subrule (1) to apply for a grant of probate in relation to a testamentary document is deemed under subrule (5) to have renounced executorship in relation to the testamentary document, the citor or another person interested

in the estate may, without limiting any other right the citor or other person may have, apply for one or more of the following:

- (a) a grant of probate or a grant of administration with will annexed in relation to the testamentary document or another testamentary document;
- (b) an order under section 58 of the *Wills, Estates and Succession Act* curing any deficiencies in the testamentary document;
- (c) an order that the testamentary document is a will proved in solemn form;
- (d) if the testamentary document is in the possession of a cited person, the issuance of a subpoena under Rule 25-12 to require the cited person to file the testamentary document.

[en. B.C. Reg. 149/2013, s. 8.]

Affidavit of deemed renunciation for grant of probate

- (7) The citor may swear an affidavit of deemed renunciation in Form P34 if the person who has been served with a citation in respect of a testamentary document is deemed under subrule (5) to have renounced executorship in relation to the testamentary document.

[en. B.C. Reg. 149/2013, s. 8.]

RULE 25-12 – SUBPOENA FOR TESTAMENTARY DOCUMENT OR GRANT

How to obtain a subpoena for testamentary document or grant

- (1) A person may apply for a subpoena to be issued to require a person to deliver to the registry one or more of a testamentary document, an authorization to obtain estate information, an authorization to obtain resealing information, an estate grant, a foreign grant, a resealed foreign grant and a certified or notarial copy of such a document.

[en. B.C. Reg. 149/2013, s. 8.]

Filings required

- (2) An application may be brought under subrule (1) by filing
 - (a) a requisition for subpoena in Form P35 that provides for the applicant an address for service that is an accessible address that complies with Rule 4-1 (1), and
 - (b) an affidavit in support of the request.

[en. B.C. Reg. 149/2013, s. 8.]

Subpoena may be issued

- (3) On being satisfied that
 - (a) the document in relation to which the subpoena is sought is required for the purpose of any application or other matter under this Part, and
 - (b) the person to whom the subpoena is addressed failed to comply with a request of the applicant to provide the document to the applicant,

SUPREME COURT CIVIL RULESRule 25-12 – Subpoena for Testamentary Document or Grant

the registrar may issue the subpoena, in Form P37, sought by the application.

[en. B.C. Reg. 149/2013, s. 8.]

Service of subpoena

- (4) A subpoena issued under this rule must be personally served and, if an affidavit is filed for the purpose of proving the service, the affidavit must state when, where, how and by whom service was effected.

[en. B.C. Reg. 149/2013, s. 8.]

Certification of non-compliance

- (5) The registrar may endorse a copy of the requisition for subpoena in Form P35 with a notation that the person to whom the subpoena was directed has not, within a specified period, done either of the following:

- (a) delivered to the registry the document referred to in the subpoena;
- (b) provided to the registrar an affidavit indicating that the document referred to in the subpoena is not in the person's possession or control and setting out what knowledge the person has respecting that document.

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 44/2014, Sch. 1, s. 10.]

Failure of subpoenaed person to file document

- (6) On receipt of
- (a) proof that a subpoena was served on a person (the “served person”),
 - (b) proof that the delivery of the documents required by the subpoena is required for the purpose of any application or other matter under this Part, and
 - (c) a copy of the requisition for subpoena in Form P35 that has been endorsed by the registrar in accordance with subrule (5),

the court, by its warrant in Form P36 directed to a peace officer, may cause the served person to be apprehended and promptly brought before the court and to be detained in custody or released on terms the court may order, and the court may order the served person to pay the costs arising from his or her failure to file the document.

[en. B.C. Reg. 149/2013, s. 8.]

Release of apprehended person

- (7) The court may, by release order in Form 117, order the release of a person apprehended under subrule (6) on receiving an undertaking in Form 116 from that person.

[en. B.C. Reg. 149/2013, s. 8.]

Order setting aside subpoena

- (8) A person who has been served with a subpoena under this rule may apply to the court for an order setting aside the subpoena on the grounds that compliance with it is

unnecessary or that it would work a hardship on the person, and the court may make any order it considers will further the object of these Supreme Court Civil Rules.

[en. B.C. Reg. 149/2013, s. 8.]

RULE 25-13 – REMUNERATION AND PASSING OF ACCOUNTS

Remuneration and passing of accounts

- (1) A personal representative or a person interested in an estate administered by a personal representative may apply, in accordance with subrule (2), for an order for one or both of the following:
 - (a) an order for the passing of the personal representative's accounts in relation to the estate;
 - (b) an order to fix and approve the personal representative's remuneration.

[en. B.C. Reg. 149/2013, s. 8.]

Application process

- (2) An application under subrule (1)
 - (a) may be brought
 - (i) in accordance with Rule 25-14 (1) (o), (p) or (q),
 - (ii) in conjunction with an application referred to in Rule 25-14 (1) (d), (e) or (f), or
 - (iii) in accordance with Rule 8-3 if each interested person other than the applicant has consented to the accounts to be passed or the remuneration to be fixed and approved, as the case may be, and
 - (b) must, if brought by the personal representative, be supported by an affidavit in support of application to pass accounts in Form P38.

[en. B.C. Reg. 149/2013, s. 8.]

Directions and referrals

- (3) In an application under subrule (1), the court may do one or more of the following:
 - (a) hear and decide any matter relating to the accounts or the remuneration of the personal representative;
 - (b) direct the registrar to conduct an inquiry, assessment or accounting in relation to any matter relating to the accounts or the remuneration of the personal representative;
 - (c) make any other order or give any direction that the court considers appropriate in the circumstances.

[en. B.C. Reg. 149/2013, s. 8.]

SUPREME COURT CIVIL RULESRule 25-13 – Remuneration and Passing of Accounts

Effect of referral to registrar

- (4) Subject to subrule (5), after a direction is made under subrule (3) (b), Rule 18-1 applies as if the application and the direction had been made under Rule 18-1.

[en. B.C. Reg. 149/2013, s. 8.]

Certification of results

- (5) Unless the court otherwise orders, if the court directs the registrar to conduct an inquiry, assessment or accounting under subrule (3) (b),
- (a) the registrar must, by certificate in Form P39, certify the result of the inquiry, assessment or accounting, and
 - (b) if filed under Rule 18-1 (9), the certificate is binding, subject to appeal, on the persons interested in the estate who
 - (i) had notice of the inquiry, assessment or accounting,
 - (ii) consented to the accounts or the remuneration, or
 - (iii) are the subject of an order made under Rule 18-1 (20) (b).

[en. B.C. Reg. 149/2013, s. 8.]

Affidavit required for passing of accounts and remuneration

- (6) In addition to any other materials that may be required for an application under subrule (1) of this rule, the applicant must file the following:
- (a) if the applicant is the personal representative, he or she must file a statement of account affidavit in Form P40
 - (i) describing the assets and liabilities of the estate as at the later of
 - (A) the date of the deceased's death, and
 - (B) the last day of the period covered by the most recent of the accounts passed under this Part or approved and consented to in writing by all beneficiaries,
 - (ii) describing, in chronological order, capital transactions that occurred after the applicable date referred to in subparagraph (i),
 - (iii) describing, in chronological order, income transactions that occurred after the applicable date referred to in subparagraph (i),
 - (iv) describing the assets and liabilities of the estate as at the last day of the period covered by the accounts to be passed,
 - (v) describing all distributions made and any distributions anticipated to be made out of the estate,
 - (vi) including a calculation of the remuneration, if any, claimed by the applicant for
 - (A) the applicant, and
 - (B) any current and previous personal representative or trustee for whom a claim for remuneration has not yet been made, and

- (vii) including any other details or information the court may require or the applicant may consider relevant;
- (b) if the applicant is a person other than the personal representative, he or she must file an affidavit explaining why an accounting is required.
[en. B.C. Reg. 149/2013, s. 8.]

Special costs

- (7) Unless the court on an application otherwise orders, if costs are payable under an application under subrule (1), those costs
 - (a) must be assessed as special costs, and
 - (b) may be assessed without an order of the court,and Rule 14-1 (3) and (5) applies.
[en. B.C. Reg. 44/2014, Sch. 1, s. 11.]

RULE 25-14 – APPLICATIONS**APPLICATIONS RELATING TO GRANTS****How to apply for most applications**

- (1) If there has been an application for estate grant, a person may apply in accordance with Part 8 for an order
 - (a) Repealed. [B.C. Reg. 115/2019, s. 8 (b).]
 - (b) granting administration with or without will annexed in circumstances in which the right to be appointed as the administrator is contested,
 - (c) revoking an authorization to obtain estate information or estate grant or an authorization to obtain resealing information or the resealing of a foreign grant,
 - (d) subject to subrule (1.2), removing or substituting a personal representative or, if different, the holder of an authorization to obtain estate information or the holder of an authorization to obtain resealing information,
 - (e) discharging a personal representative or, if different, the holder of an authorization to obtain estate information or the holder of an authorization to obtain resealing information,
 - (f) passing over an executor,
 - (g) Repealed. [B.C. Reg. 103/2015, s. 7 (a) (iii).]
 - (h) removing or renewing a notice of dispute,
 - (i) that a foreign grant of probate or administration not be resealed,
 - (j) requiring security for the administration of an estate,
 - (k) varying or substituting security for the administration of an estate,
 - (l) directing that security be assigned to a person named in the order,

- (m) respecting production, delivery or filing of
 - (i) a testamentary document,
 - (ii) a certified or notarial copy of an authorization to obtain estate information,
 - (iii) an estate grant,
 - (iv) an authorization to obtain resealing information, or
 - (v) a resealed foreign grant,
- (n) Repealed. [B.C. Reg. 44/2014, Sch. 1, s. 12 (c).]
- (o) for the passing of accounts,
- (p) fixing and approving the remuneration of a personal representative,
- (q) subject to subrule (2), respecting any other matter concerning
 - (i) an authorization to obtain estate information,
 - (ii) an authorization to obtain resealing information,
 - (iii) a grant of probate,
 - (iv) a grant of administration with or without will annexed,
 - (v) an ancillary grant,
 - (vi) a resealing, or
 - (vii) the office of personal representative,other than a question or matter covered by Rule 2-1 (2) (c) or (d), or
- (r) appointing a trustee to hold and administer a minor's interest in an estate until the minor reaches 19 years of age.

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Regs. 44/2014, Sch. 1, s. 12 (a) to (d); 103/2015, s. 7 (a); 115/2019, s. 8 (a) to (c).]

How to apply by petition for orders

- (1.1) If there has been no application for estate grant, a person may, with notice, apply by petition to the court for an order
- (a) passing over an executor,
 - (b) appointing an administrator of the estate under section 132 of the *Wills, Estates and Succession Act*,
 - (c) respecting production, delivery or filing of a testamentary document, and
 - (d) subject to subrule (2), respecting any other matter referred to in subrule (1).

[en. B.C. Reg. 103/2015, s. 7 (b).]

Applications by requisition

- (1.11) If there has been an application for estate grant, a person may apply in accordance with Part 8, or, if nothing has been filed in relation to the estate, by requisition in Form P41, for an order
- (a) under Rule 25-2 (14), or

- (b) to shorten the 21-day waiting period referred to in Rule 25-2 (1) or to authorize a filing made before that period has expired.

[en. B.C. Reg. 115/2019, s. 8 (d).]

Substitution of personal representative in the event of death

- (1.2) If a deceased's personal representative dies, a person may apply in accordance with Part 8, subject to any directions given by the court under subrule (8) of this rule, to be substituted as the personal representative by filing

- (a) a copy of the death certificate of the personal representative,
- (b) an affidavit setting out the request to be substituted as the personal representative and specifying the right to be appointed as personal representative on the basis that the person is one of the following:
 - (i) the alternate executor;
 - (ii) entitled to apply for administration of the estate in accordance with section 130 of the *Wills, Estates and Succession Act*;
 - (iii) entitled to apply for administration with will annexed in accordance with section 131 of that Act, and
- (c) an affidavit confirming delivery of the affidavit referred to in paragraph (b) to
 - (i) every person who was entitled to notice under the original application, and
 - (ii) any executors who
 - (A) did not receive notice of the original application, and
 - (B) have an equal or greater right to apply to be the personal representative.

[en. B.C. Reg. 103/2015, s. 7 (b).]

How to apply for spousal home and will deficiencies orders

- (2) To apply to the court for any of the following orders:
 - (a) an order under section 30 of the *Wills, Estates and Succession Act* determining the value of a deceased's interest in a spousal home within the meaning of that Act;
 - (b) an order under section 33 of the *Wills, Estates and Succession Act* relating to a spousal home within the meaning of that Act;
 - (c) an order under section 58 of the *Wills, Estates and Succession Act* respecting deficiencies in a document that does or may disclose a testamentary intention or testamentary disposition of a deceased;
 - (d) an order under section 59 of the *Wills, Estates and Succession Act* rectifying a will,

a person

SUPREME COURT CIVIL RULESRule 25-14 – Applications

- (e) may, if there is an existing proceeding within which, under these Supreme Court Civil Rules, it is appropriate to seek that order, apply for that order in accordance with Part 8 by notice of application in Form P42 in that proceeding, or
- (f) must, if there is no existing proceeding within which it is appropriate to seek that order, apply by petition in Form P43.

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Regs. 44/2014, Sch. 1, s. 12 (e); 115/2019, s. 8 (e).]

Address for service

- (3) An applicant who makes an application under subrule (1.11) by filing a requisition in Form P41 must include an address for service that is an accessible address that complies with Rule 4-1 (1).

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Regs. 44/2014, Sch. 1, s. 12 (f); 115/2019, s. 8 (f).]

Proceeding for proof of a will in solemn form

- (4) To apply to the court for an order proving a will in solemn form, a person
 - (a) may, if there is an existing proceeding within which, under these Supreme Court Civil Rules, it is appropriate to seek that order, apply for that order by notice of application in that proceeding, or
 - (b) must, if there is no existing proceeding within which it is appropriate to seek that order, start a proceeding by petition under Rule 16-1 and seek the order within that proceeding.

[en. B.C. Reg. 149/2013, s. 8.]

Personal representative to be served

- (5) Subject to subrule (6) of this rule, a person applying to the court under any of paragraphs (b) to (q) of subrule (1) must, unless Rule 17-1 applies or the court otherwise orders, serve the notice of application and the other application materials referred to in Rule 8-1 (7) on
 - (a) each personal representative of the deceased unless that personal representative is the applicant, and
 - (b) any other person who may be affected by the order sought.

[en. B.C. Reg. 149/2013, s. 8.]

When personal service is required

- (6) A notice of application in an application referred to in paragraph (c), (d), (e) or (f) of subrule (1) of this rule must be personally served on a personal representative or, in the case of a reference in subrule (1) (f) to a person with a right to administration in priority to the applicant, that person.

[en. B.C. Reg. 149/2013, s. 8.]

Disputant to receive notice of proceeding relating to a grant

- (7) While a notice of dispute is in effect in relation to the estate of a deceased, a person who, in relation to that estate, brings any application under this rule must, without

limiting any other service obligations applicable to the person, serve on the disputant, by ordinary service, a copy of all documents the applicant is required to file in connection with the application.

[en. B.C. Reg. 149/2013, s. 8.]

Court may give directions as to procedure

- (8) Without limiting any other power of the court under this or any other Part of these Supreme Court Civil Rules, the court may, on its own motion or on application, give directions concerning the procedure to be followed in any matter under this Part and, without limiting this, may give directions respecting any of the following:
- (a) the issues to be decided;
 - (b) who the parties will be, including directions for the addition or substitution of a party;
 - (c) how evidence may or must be presented;
 - (d) summary disposition of any or all issues in the matter;
 - (e) the trial of any or all of the issues in the matter;
 - (f) pleadings;
 - (g) examinations for discovery and discovery of documents;
 - (h) service or delivery of a notice, process, order or document on any person;
 - (i) dispensing with service or delivery;
 - (j) representation of any person or interest.

[en. B.C. Reg. 149/2013, s. 8.]

General civil petition rule applies

- (9) Rule 16-1 applies to all applications by petition under this rule.

[en. B.C. Reg. 115/2019, s. 8 (g).]

RULE 25-15 – MISCELLANEOUS**Grant of administration to guardians**

- (1) If the individual who would be entitled to be a personal representative of an estate is a minor, the court may, with the consent of the Public Guardian and Trustee, make a grant of administration, for the minor's use and benefit, to the guardian who has, in relation to the minor, the parental responsibilities referred to in section 41 (k) of the *Family Law Act*.

[en. B.C. Reg. 149/2013, s. 8.]

Changing address for service

- (2) Rule 4-1 (3) applies to this Part and, for that purpose,
- (a) a reference in Rule 4-1 (3) to a party of record who has provided an address for service is deemed to refer in this Part to a person who has provided, by

SUPREME COURT CIVIL RULES

Rule 25-16 – Transition

service, delivery or otherwise, a document under this Part in which the person has included an address for service, and

- (b) a reference in Rule 4-1 (3) to other parties of record is deemed to be a reference to any other person to whom the person referred to in paragraph (a) provided the document referred to in that paragraph.

[en. B.C. Reg. 149/2013, s. 8.]

If no address for service given

- (3) Rule 4-2 (7) applies to this Part and, for that purpose, a reference in Rule 4-2 (7) to a party of record is deemed to refer in this Part to a person who has delivered, served or otherwise provided a document under this Part in which the person ought to have included an address for service.

[en. B.C. Reg. 149/2013, s. 8.]

Costs if only solemn form required

- (4) A respondent to a petition or application brought under this Part is not liable for costs if

- (a) the respondent merely requires that the will be proved in solemn form, and
(b) the respondent only intends to cross-examine the witnesses produced in support of the will,

unless the court determines that there was no reasonable ground for requiring proof in solemn form.

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 44/2014, Sch. 1, s. 13.]

RULE 25-16 – TRANSITION**Definition**

- (1) In this rule, “**former rule**” means
- (a) Rule 61 or Rule 62 of the Supreme Court Rules, B.C. Reg. 221/90, that was repealed on the coming into force of the Supreme Court Civil Rules, B.C. Reg. 168/2009, or
- (b) Rule 21-4 or Rule 21-5 that was repealed on the coming into force of this rule.

[en. B.C. Reg. 149/2013, s. 8; am. B.C. Reg. 44/2014, Sch. 1, s. 14.]

Application for grant or resealing under former rule

- (2) If, before the coming into force of this rule, an application was brought under a former rule for a grant of probate or administration, ancillary grant of probate or administration or resealing of a foreign grant,
- (a) the application is deemed to be an application for an estate grant or a resealing, as the case may be, under this Part,

- (b) if that application met all of the notice, delivery and service requirements of the former rule, it is deemed to meet all of the notice, delivery and service requirements of this Part, and
- (c) the court or the registrar may issue an estate grant or reseal a foreign grant, as the case may be, in response to the application if that estate grant could have been issued, or that foreign grant could have been resealed, under the former rule.

[en. B.C. Reg. 149/2013, s. 8.]

Caveat filed under former rule

- (3) If a caveat filed under a former rule in relation to an estate is in effect on the coming into force of this rule, the caveat
 - (a) is deemed to be a notice of dispute filed under this Part, and
 - (b) expires
 - (i) when it is withdrawn,
 - (ii) if it is not withdrawn but has been renewed by order of the court, when the renewal period ceases, or
 - (iii) if it is not withdrawn and has not been renewed by order of the court, on the date that is 6 months after the date on which it was filed.

[en. B.C. Reg. 149/2013, s. 8.]

Citation to accept or refuse probate served under former rule

- (4) If a citation to accept or refuse probate or to propound an alleged will was served under a former rule, the citation is deemed to be a citation under Rule 25-11, and, for that purpose, the citation is deemed to have been served on the coming into force of this rule.

[en. B.C. Reg. 149/2013, s. 8.]

Probate actions under former rule

- (5) A probate action brought under a former rule, or a petition proceeding brought under a former rule for proof of a will in solemn form, that was ongoing when this rule came into effect is deemed to continue as a proceeding under this Part and, for that purpose, all steps that could have been taken in the probate action or petition proceeding under the former rule, including, without limitation, steps in respect of pleadings, examinations for discovery, discovery of documents and the trial of any or all issues, may be taken in the proceeding under this Part subject to any contrary directions under subrule (6).

[en. B.C. Reg. 149/2013, s. 8.]

Court may decide

- (6) The court may give directions if there is any dispute in relation to the procedure to be applied to, or followed in, a proceeding referred to in this Part.

[en. B.C. Reg. 149/2013, s. 8.]

SUPREME COURT CIVIL RULES

Appendix A – List of Forms

APPENDIX A – LIST OF FORMS

Form 1	Notice of Civil Claim [am. B.C. Regs. 119/2010, Sch. A, s. 38; 95/2011, Sch. A, s. 11.]
Form 2	Response to Civil Claim
Form 3	Counterclaim [am. B.C. Reg. 95/2011, Sch. A, s. 12.]
Form 4	Response to Counterclaim
Form 5	Third Party Notice [am. B.C. Reg. 95/2011, Sch. A, s. 13.]
Form 6	Response to Third Party Notice
Form 7	Reply
Form 8	Default Judgment [en. B.C. Reg. 58/2012, Sch. A, s. 3.]
Form 9	Notice of Address for Service
Form 10	Advertisement
Form 11	Endorsement on Originating Pleading or Petition for Service Outside British Columbia
Form 12	Request
Form 13	Notice and Summary of Document
Form 14	Certificate
Form 15	Affidavit of Personal Service [en. B.C. Reg. 120/2014, s. 7; am. B.C. Reg. 103/2015, s. 8.]
Form 16	Affidavit of Ordinary Service [en. B.C. Reg. 120/2014, s. 7; am. B.C. Reg. 103/2015, s. 8.]
Form 17	Requisition – General [am. B.C. Regs. 119/2010, Sch. A, s. 39; 149/2013, s. 9; 120/2014, s. 8.]
Form 17.1	Requisition – Short Notice [en. B.C. Reg. 120/2014, s. 9.]
Form 17.2	Requisition [en. B.C. Reg. 120/2014, s. 9.]
Form 18	Certificate of Service by Sheriff
Form 19	Notice of Case Planning Conference
Form 20	Case Plan Proposal
Form 21	Case Plan Order [am. B.C. Reg. 119/2010, Sch. A, s. 40.]
Form 22	List of Documents [en. B.C. Reg. 119/2010, Sch. A, s. 41; am. B.C. Reg. 3/2016, s. 3.]
Form 23	Appointment to Examine for Discovery [am. B.C. Reg. 3/2016, s. 4.]
Form 24	Interrogatories
Form 25	Subpoena to Witness
Form 26	Notice to Admit
Form 27	Order for Examination of Persons Outside the Jurisdiction
Form 28	Instructions to Examiner
Form 29	Order for Issue of a Letter of Request to Judicial Authority of Another Jurisdiction
Form 30	Letter of Request for Examination of Witness out of Jurisdiction
Form 30.1	Request for Document Required by Judicial Authority of Another Jurisdiction [en. B.C. Reg. 115/2019, s. 9.]
Form 31	Requisition for Consent Order or for Order Without Notice [am. B.C. Regs. 119/2010, Sch. A, s. 42; 149/2013, s. 10.]
Form 32	Notice of Application [am. B.C. Regs. 119/2010, Sch. A, s. 43; 241/2010, Sch. A, s. 3; 115/2019, s. 10.]
Form 33	Application Response
Form 34	Consent Order [am. B.C. Reg. 119/2010, Sch. A, s. 44.]
Form 35	Order Made After Application [en. B.C. Reg. 58/2012, Sch. A, s. 3; am. B.C. Reg. 149/2013, s. 10.]
Form 36	Notice of Discontinuance
Form 37	Notice of Withdrawal
Form 38	Security for Receiver
Form 39	Security of Receiver by Undertaking

Appendix A – List of Forms

Form 40	Notice of Trial [am. B.C. Regs. 119/2010, Sch. A, s. 46; 95/2011, Sch. A, s. 15; 103/2015, s. 9.]
Form 41	Trial Brief [en. B.C. Reg. 3/2016, s. 5.]
Form 42	Trial Certificate [am. B.C. Reg. 119/2010, Sch. A, s. 47.]
Form 43	Notice to Produce [en. B.C. Reg. 65/2013, Sch. A, s. 5.]
Form 44	Notice of Intention to Proceed
Form 45	Notice of Intention to Call Adverse Party as a Witness
Form 46	Warrant After Subpoena
Form 47	Notice Requiring Trial by Jury
Form 48	Order After Trial [am. B.C. Reg. 119/2010, Sch. A, s. 48.]
Form 49	Appointment
Form 50	Writ of Seizure and Sale
Form 51	Writ of Sequestration [am. B.C. Reg. 95/2011, Sch. A, s. 17.]
Form 52	Writ of Possession [am. B.C. Reg. 95/2011, Sch. A, s. 17.]
Form 53	Writ of Delivery [am. B.C. Reg. 95/2011, Sch. A, s. 17.]
Form 54	Writ of Delivery or Assessed Value [am. B.C. Reg. 95/2011, Sch. A, s. 17.]
Form 55	Acknowledgment of Payment
Form 56	Subpoena to Debtor
Form 57	Examiner's Report
Form 58	Notice of Application for Committal
Form 59	Order of Committal
Form 59.1	Appointment for Examination in Aid of Execution [en. B.C. Reg. 95/2011, Sch. A, s. 18.]
Form 60	Certificate of Result of Sale
Form 61	Notice of Fast Track Action [am. B.C. Reg. 95/2011, Sch. A, s. 19.]
Form 62	Bill of Costs [am. B.C. Regs. 119/2010, Sch. A, s. 49; 92/2013, Sch. A, s. 1.]
Form 63	Default Judgment Bill of Costs [am. B.C. Regs. 119/2010, Sch. A, s. 49; 92/2013, Sch. A, s. 1.]
Form 64	Certificate of Costs
Form 65	Certificate of Fees
Form 66	Petition to the Court [am. B.C. Regs. 95/2011, Sch. A, s. 20; 65/2013, Sch. A, s. 6; 149/2013, s. 11.]
Form 67	Response to Petition [am. B.C. Reg. 115/2019, s. 11.]
Form 68	Notice of Hearing
Form 69	Notice of Order
Form 70	Notice of Interest [am. B.C. Reg. 149/2013, s. 12.]
Form 71	Notice of Stated Case
Form 72	Notice of Hearing of Stated Case
Form 73	Notice of Appeal if Directions Required [am. B.C. Regs. 119/2010, Sch. A, s. 50; 95/2011, Sch. A, s. 21.]
Form 74	Notice of Appeal – Standard Directions [am. B.C. Regs. 119/2010, Sch. A, ss. 50 and 51; 95/2011, Sch. A, s. 21.]
Form 75	Notice of Hearing of Appeal
Form 76	Notice of Abandonment of Appeal
Form 77	Order to Register Foreign Judgment
Form 78	Affidavit of Attainment of Majority
Form 79	Order to Waive Fees [en. B.C. Reg. 58/2012, Sch. A, s. 3; am. B.C. Reg. 112/2012, Sch. A, s. 6.]
Form 80	Affidavit in Support of Order to Waive Fees [am. B.C. Regs. 95/2011, Sch. A, s. 22; 112/2012, Sch. A, s. 7; 103/2015, s. 10.]
Form 81	Notice of Civil Claim – Admiralty (in Rem)

SUPREME COURT CIVIL RULES

Appendix A – List of Forms

Form 82	Notice of Civil Claim – Admiralty (in Rem and in Personam) [am. B.C. Reg. 95/2011, Sch. A, s. 23.]
Form 83	Affidavit to Lead Warrant
Form 84	Warrant to Arrest Ship
Form 85	Caveat – Admiralty
Form 86	Notice of Withdrawal of Caveat
Form 87	Payment into Court as Bail
Form 88	Bank Guarantee or Bailbond
Form 89	Release
Forms 90 to 107	Repealed. [B.C. Reg. 149/2013, s. 13.]
Form 108	Jurisdictional Response
Form 109	Affidavit
Form 110	Notice of Appointment or Change of Lawyer
Form 111	Notice of Intention to Act in Person
Form 112	Notice of Intention to Withdraw as Lawyer [am. B.C. Regs. 119/2010, Sch. A, s. 53; 95/2011, Sch. A, s. 24.]
Form 113	Objection
Form 114	Notice of Withdrawal of Lawyer
Form 115	Warrant – Contempt
Form 116	Undertaking [am. B.C. Reg. 149/2013, s. 14.]
Form 117	Release Order [am. B.C. Reg. 149/2013, s. 15.]
Form 118	Fax Cover Sheet [en. B.C. Reg. 112/2012, Sch. A, s. 8; am. B.C. Reg. 104/2019, s. 5.]
Form 119	Electronic Filing Statement [am. B.C. Reg. 112/2012, Sch. A, s. 9.]
Form 120	Declaration
Form 121	Notice of Appeal from Master, Registrar or Special Referee [am. B.C. Regs. 119/2010, Sch. A, s. 54; 104/2019, s. 6.]
Form 121.1	Appellant’s Statement of Argument [en. B.C. Reg. 104/2019, s. 7.]
Form 121.2	Respondent’s Statement of Argument [en. B.C. Reg. 104/2019, s. 7.]
Form 122	Demand
Form 123	Offer to Settle Costs
Form 124	Certificate of Mediation

APPENDIX A – FORMS**FORM 1 (RULE 3-1 (1))**

No.

..... Registry

In the Supreme Court of British Columbia

Between

Plaintiff(s)

and

Defendant(s)

NOTICE OF CIVIL CLAIM*[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]***This action has been started by the plaintiff(s) for the relief set out in Part 2 below.**

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.**Time for response to civil claim**

A response to civil claim must be filed and served on the plaintiff(s),

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,
- (b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

CLAIM OF THE PLAINTIFF(S)

PART 1: STATEMENT OF FACTS

[Using numbered paragraphs, set out a concise statement of the material facts giving rise to the plaintiff's(s') claim.]

1

2

[If any party sues or is sued in a representative capacity, identify the party and describe the representative capacity.]

PART 2: RELIEF SOUGHT

[Using numbered paragraphs, set out the relief sought and indicate against which defendant(s) that relief is sought. Relief may be sought in the alternative.]

1

2

PART 3: LEGAL BASIS

[Using numbered paragraphs, set out a concise summary of the legal bases on which the plaintiff(s) intend(s) to rely in support of the relief sought and specify any rule or other enactment relied on. The legal bases for the relief sought may be set out in the alternative.]

1

2

Plaintiff's(s') address for service: *[Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]*

Fax number address for service (if any):

E-mail address for service (if any):

Place of trial:

The address of the registry is:

Date:[dd/mm/yy].....

Signature of

☐ plaintiff ☐ lawyer for plaintiff(s)

.....[type or print name].....

Rule 7-1 (1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
 - (a) prepare a list of documents in Form 22 that lists
 - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
 - (ii) all other documents to which the party intends to refer at trial, and
 - (b) serve the list on all parties of record.

APPENDIX

[The following information is provided for data collection purposes only and is of no legal effect.]

PART 1: CONCISE SUMMARY OF NATURE OF CLAIM:

PART 2: THIS CLAIM ARISES FROM THE FOLLOWING:

*[Check **one** box below for the case type that **best** describes this case.]*

A personal injury arising out of:

- ☐ a motor vehicle accident
- ☐ medical malpractice
- ☐ another cause

A dispute concerning:

- ☐ contaminated sites
- ☐ construction defects
- ☐ real property (real estate)
- ☐ personal property
- ☐ the provision of goods or services or other general commercial matters
- ☐ investment losses
- ☐ the lending of money
- ☐ an employment relationship
- ☐ a will or other issues concerning the probate of an estate
- ☐ a matter not listed here

PART 3: THIS CLAIM INVOLVES:

[Check all boxes below that apply to this case]

- ☐ a class action
- ☐ maritime law
- ☐ aboriginal law
- ☐ constitutional law
- ☐ conflict of laws
- ☐ none of the above
- ☐ do not know

PART 4:

[If an enactment is being relied on, specify. Do not list more than 3 enactments.]

FORM 2 (RULE 3-3 (1))

[Style of Proceeding]

RESPONSE TO CIVIL CLAIM

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Filed by:[party(ies)]..... (the “defendant(s)”)

PART 1: RESPONSE TO NOTICE OF CIVIL CLAIM FACTS

Division 1 – Defendant’s(s’) Response to Facts

[Indicate, for each paragraph in Part 1 of the notice of civil claim, whether the fact(s) alleged in that paragraph is(are) admitted, denied or outside the knowledge of the defendant(s).]

- 1 The facts alleged in paragraph(s)[list paragraph numbers]..... of Part 1 of the notice of civil claim are admitted.
- 2 The facts alleged in paragraph(s)[list paragraph numbers]..... of Part 1 of the notice of civil claim are denied.
- 3 The facts alleged in paragraph(s)[list paragraph numbers]..... of Part 1 of the notice of civil claim are outside the knowledge of the defendant(s).

Division 2 – Defendant’s(s’) Version of Facts

[Using numbered paragraphs, set out the defendant’s(s’) version of the facts alleged in those paragraphs of the notice of civil claim that are listed above in paragraph 2 of Division 1 of this Part.]

- 1
- 2

Division 3 – Additional Facts

[If additional material facts are relevant to the matters raised by the notice of civil claim, set out, in numbered paragraphs, a concise statement of those additional material facts.]

- 1
- 2

PART 2: RESPONSE TO RELIEF SOUGHT

[Indicate, for each paragraph in Part 2 of the notice of civil claim, whether the defendant(s) consent(s) to, oppose(s) or take(s) no position on the granting of that relief.]

- 1 The defendant(s) consent(s) to the granting of the relief sought in paragraphs[list paragraph numbers]..... of Part 2 of the notice of civil claim.
- 2 The defendant(s) oppose(s) the granting of the relief sought in paragraphs[list paragraph numbers]..... of Part 2 of the notice of civil claim.

- 3 The defendant(s) take(s) no position on the granting of the relief sought in paragraphs[*list paragraph numbers*]..... of Part 2 of the notice of civil claim.

PART 3: LEGAL BASIS

[*Using numbered paragraphs, set out a concise summary of the legal bases on which the defendant(s) oppose(s) the relief sought by the plaintiff(s) and specify any rule or other enactment relied on. The legal bases for opposing the plaintiff's(s') relief may be set out in the alternative.*]

1

2

Defendant's(s') address for service: [*Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.*]

Fax number address for service (if any):

E-mail address for service (if any):

Date:[*dd/mm/yy*].....

.....
Signature of [] defendant [] lawyer for
defendant(s)

.....[*type or print name*].....

Rule 7-1 (1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
- (a) prepare a list of documents in Form 22 that lists
 - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
 - (ii) all other documents to which the party intends to refer at trial, and
 - (b) serve the list on all parties of record.

FORM 3 (RULE 3-4 (1))

[Style of Proceeding]

[Add the following to the style of proceeding to identify each person, not named as party in the notice of civil claim, against whom the counterclaim is brought.]

and

Defendant(s) by way of counterclaim

COUNTERCLAIM

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Filed by:[party(ies)].....

To:[name(s) of party(ies) against whom the counterclaim is brought].....

This action has been brought by the plaintiff(s) against the defendant(s) for the relief set out in the notice of civil claim filed in this action.

TAKE NOTICE that the defendant(s)[state name(s)]..... claim(s) against you for the relief set out in Part 2 below.

IF YOU INTEND TO RESPOND to the claim made against you in this counterclaim, or if you have a set-off or counterclaim that you wish to have taken into account at the trial, YOU MUST FILE a response to counterclaim in Form 4 in the above-named registry of this court within the time for response to counterclaim described below and SERVE a copy of the filed response to counterclaim on the address for service of the defendant(s) bringing this counterclaim.

YOU OR YOUR LAWYER may file the response to counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to counterclaim within the time for response to counterclaim described below.

Time for response to counterclaim

A response to counterclaim must be filed and served on the defendant(s) bringing this counterclaim,

- (a) if you were served with the counterclaim anywhere in Canada, within 21 days after that service,
- (b) if you were served with the counterclaim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the counterclaim anywhere else, within 49 days after that service, or
- (d) if the time for response to counterclaim has been set by order of the court, within that time.

CLAIM OF THE DEFENDANT(S) BRINGING THE COUNTERCLAIM

PART 1: STATEMENT OF FACTS*[Using numbered paragraphs, set out a concise statement of the material facts giving rise to the counterclaim.]*

1

2

*[If any party sues or is sued in a representative capacity, identify the party and describe the representative capacity.]***PART 2: RELIEF SOUGHT***[Using numbered paragraphs, set out the relief sought and indicate against which party(ies) that relief is sought. Relief may be sought in the alternative.]*

1

2

PART 3: LEGAL BASIS*[Using numbered paragraphs, set out a concise summary of the legal bases on which the defendant(s) bringing this counterclaim intend(s) to rely in support of the relief sought and specify any rule or other enactment relied on. The legal bases for the relief sought may be set out in the alternative.]*

1

2

Address for service of the defendant(s) bringing this counterclaim: *[Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]*

Fax number address for service (if any):

E-mail address for service (if any):

The address of the registry is:

Date:[dd/mm/yyyy].....

.....
Signature of [] filing party [] lawyer for filing party(ies)

.....[type or print name].....

Rule 7-1 (1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
 - (a) prepare a list of documents in Form 22 that lists
 - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
 - (ii) all other documents to which the party intends to refer at trial, and
 - (b) serve the list on all parties of record.

FORM 4 (RULE 3-4 (5))

[Style of Proceeding]

RESPONSE TO COUNTERCLAIM

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Filed by:[party(ies)]..... (the “responding party(ies)”)

PART 1: RESPONSE TO COUNTERCLAIM FACTS

Division 1 – Response to Facts

[Indicate, for each paragraph in Part 1 of the counterclaim, whether the fact(s) alleged in that paragraph is(are) admitted, denied or outside the knowledge of the responding party(ies).]

- 1 The facts alleged in paragraph(s)[list paragraph numbers]..... of Part 1 of the counterclaim are admitted.
- 2 The facts alleged in paragraph(s)[list paragraph numbers]..... of Part 1 of the counterclaim are denied.
- 3 The facts alleged in paragraph(s)[list paragraph numbers]..... of Part 1 of the counterclaim are outside the knowledge of the responding party(ies).

Division 2 – Responding Party’s(ies’) Version of Facts

[Using numbered paragraphs, set out the responding party’s(ies’) version of the facts alleged in those paragraphs of the counterclaim that are listed above in paragraph 2 of Division 1 of this Part.]

- 1
- 2

Division 3 – Additional Facts

[If additional material facts are relevant to the matters raised by the counterclaim, set out, in numbered paragraphs, a concise statement of those additional material facts.]

- 1
- 2

PART 2: RESPONSE TO RELIEF SOUGHT

[Indicate, for each paragraph in Part 2 of the counterclaim, whether the responding party(ies) consent(s) to, oppose(s) or take(s) no position on the granting of that relief.]

- 1 The responding party(ies) consent(s) to the granting of the relief sought in paragraphs[list paragraph numbers]..... of Part 2 of the counterclaim.
- 2 The responding party(ies) oppose(s) the granting of the relief sought in paragraphs[list paragraph numbers]..... of Part 2 of the counterclaim.

- 3 The responding party(ies) take(s) no position on the granting of the relief sought in paragraphs[*list paragraph numbers*]..... of Part 2 of the counterclaim.

PART 3: LEGAL BASIS

[Using numbered paragraphs, set out a concise summary of the legal bases on which the responding party(ies) oppose(s) the relief sought by the party(ies) bringing the counterclaim and specify any rule or other enactment relied on. The legal bases for opposing the claimed relief may be set out in the alternative.]

1

2

Address for service of the responding party(ies): [*Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.*]

Fax number address for service (if any):

E-mail address for service (if any):

Date:[*dd/mm/yyyy*].....

.....
Signature of [] filing party [] lawyer for filing party(ies)

.....[*type or print name*].....

Rule 7-1 (1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
- (a) prepare a list of documents in Form 22 that lists
 - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
 - (ii) all other documents to which the party intends to refer at trial, and
 - (b) serve the list on all parties of record.

FORM 5 (RULE 3-5 (3))

[Style of Proceeding]

[Add the following to the style of proceeding.]

and

Third Party(ies)

THIRD PARTY NOTICE

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Filed by:[party(ies)]..... (the “claiming party(ies)”)

To:[name(s) of third party(ies)].....

THIS ACTION has been brought by the plaintiff(s) against the defendant(s) for the relief set out in the notice of civil claim filed in this action.

TAKE NOTICE that the claiming party(ies) claim(s) against you for the relief set out in Part 2 below.

IF YOU INTEND TO RESPOND TO this claim against you, or if you have a set-off or counterclaim that you wish to have taken into account at the trial, YOU MUST FILE a response to third party notice in Form 6 in the above-named registry of this court within the time for response to third party notice provided for below and SERVE a copy of the filed response to third party notice on the claiming party’s(ies’) address for service.

YOU OR YOUR LAWYER may file the response to third party notice.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to third party notice within the time for response to third party notice described below.

Time for response to third party notice

A response to third party notice must be filed and served on the claiming party(ies),

- (a) if you were served with the third party notice anywhere in Canada, within 21 days after that service,
- (b) if you were served with the third party notice anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the third party notice anywhere else, within 49 days after that service, or
- (d) if the time for response to third party notice has been set by order of the court, within that time.

CLAIM OF THE CLAIMING PARTY(IES)

PART 1: STATEMENT OF FACTS

[Using numbered paragraphs, set out a concise statement of the material facts giving rise to the claiming party's(ies)' third party claim.]

1

2

[If any party sues or is sued in a representative capacity, identify the party and describe the representative capacity.]

PART 2: RELIEF SOUGHT

[Using numbered paragraphs, set out the relief sought against the third party(ies). Relief may be sought in the alternative.]

1

2

PART 3: LEGAL BASIS

[Using numbered paragraphs, set out a concise summary of the legal bases on which the claiming party(ies) intend(s) to rely in support of the relief sought and specify any rule or other enactment relied on. The legal bases for the relief sought may be set out in the alternative.]

1

2

Address for service of claiming party(ies): *[Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]*

Fax number address for service (if any):

E-mail address for service (if any):

The address of the registry is:

Date:[dd/mm/yyyy].....

.....
Signature of [] filing party [] lawyer for filing party(ies)

.....[type or print name].....

Rule 7-1 (1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
 - (a) prepare a list of documents in Form 22 that lists
 - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
 - (ii) all other documents to which the party intends to refer at trial, and
 - (b) serve the list on all parties of record.

FORM 6 (RULE 3-5 (9))

[Style of Proceeding]

RESPONSE TO THIRD PARTY NOTICE

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Filed by:[party(ies)]..... (the “third party(ies)”)

PART 1: RESPONSE TO THIRD PARTY NOTICE FACTS

Division 1 – Response to Facts

[Indicate, for each paragraph in Part 1 of the third party notice, whether that fact(s) alleged in that paragraph is(are) admitted, denied or outside the knowledge of the third party(ies).]

- 1 The facts alleged in paragraph(s)[list paragraph numbers]..... of Part 1 of the third party notice are admitted.
- 2 The facts alleged in paragraph(s)[list paragraph numbers]..... of Part 1 of the third party notice are denied.
- 3 The facts alleged in paragraph(s)[list paragraph numbers]..... of Part 1 of the third party notice are outside the knowledge of the third party(ies).

Division 2 – Third Party’s(ies’) Version of Facts

[Using numbered paragraphs, set out the third party’s(ies’) version of the facts alleged in those paragraphs of the third party notice that are listed above in paragraph 2 of Division 1 of this Part.]

- 1
- 2

Division 3 – Additional Facts

[If additional material facts are relevant to the matters raised by the third party notice, set out, in numbered paragraphs, a concise statement of those additional material facts.]

- 1
- 2

PART 2: RESPONSE TO RELIEF SOUGHT

[Indicate, for each paragraph in Part 2 of the third party notice, whether the third party(ies) consent(s) to, oppose(s) or take(s) no position on the granting of that relief.]

- 1 The third party(ies) consent(s) to the granting of the relief sought in paragraphs[list paragraph numbers]..... of Part 2 of the third party notice.
- 2 The third party(ies) oppose(s) the granting of the relief sought in paragraphs[list paragraph numbers]..... of Part 2 of the third party notice.

- 3 The third party(ies) take(s) no position on the granting of the relief sought in paragraphs[list paragraph numbers]..... of Part 2 of the third party notice.

PART 3: LEGAL BASIS

[Using numbered paragraphs, set out a concise summary of the legal bases on which the third party(ies) oppose(s) the relief sought by the party(ies) who filed the third party notice and specify any rule or other enactment relied on. The legal bases for opposing the claimed relief may be set out in the alternative.]

1

2

Address for service of third party(ies): *[Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]*

Fax number address for service (if any):

E-mail address for service (if any):

Date:[dd/mm/yyyy].....

.....
Signature of [] filing party [] lawyer for filing party(ies)

.....[type or print name].....

Rule 7-1 (1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
- (a) prepare a list of documents in Form 22 that lists
 - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
 - (ii) all other documents to which the party intends to refer at trial, and
 - (b) serve the list on all parties of record.

FORM 7 (RULE 3-6 (1))

[Style of Proceeding]

REPLY

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Filed by:[party(ies)].....

In reply to:

Date:[dd/mm/yy].....

.....
Signature of [] filing party [] lawyer for filing
party(ies)

.....[type or print name].....

Rule 7-1 (1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
 - (a) prepare a list of documents in Form 22 that lists
 - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
 - (ii) all other documents to which the party intends to refer at trial, and
 - (b) serve the list on all parties of record.

FORM 8 (RULES 3-8 (2), (3), (5) AND (6))

[Style of Proceeding]

BEFORE A REGISTRAR

DEFAULT JUDGMENT*[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]**[Complete the form in accordance with the instructions found in the bracketed italicized wording and then remove all bracketed italicized wording so that it does not appear in the form when the form is filed.]**[Select whichever one of the 2 following provisions is correct, complete the selected provision and remove the provision that has not been selected so that it does not appear in the form when the form is filed.]*The plaintiff(s) having filed and served a notice of civil claim and the defendant(s)[name(s)]
..... having failed to file and serve a response to civil claim within the time allowed;Pursuant to an order made by[judge/master]..... on[dd/mm/yyyy].....
that this proceeding continue as if no response to civil claim had been filed by the defendant(s)
.....[name(s)].....;*[Select whichever one or more of the 4 following provisions is/are correct, complete the selected provision(s) and remove the provision(s) that has/have not been selected so that it/they do(es) not appear in the form when the form is filed.]**[Select and complete this provision if Rule 3-8 (3) is applicable]* THIS COURT ORDERS that the defendant(s)
.....[name(s)]..... pay to the plaintiff(s) the sum of \$.....;*[Select and complete this provision if Rule 3-8 (5) is applicable]* THIS COURT ORDERS that the defendant(s)
.....[name(s)]..... pay to the plaintiff(s) damages to be assessed;*[Select and complete this provision if Rule 3-8 (6) (a) (i) is applicable]* THIS COURT ORDERS that the
defendant(s)[name(s)]..... deliver to the plaintiff(s) the goods detained by the
defendant(s), being[description of goods]....., or pay to the plaintiff(s) the value of the
goods to be assessed;*[Select and complete this provision if Rule 3-8 (6) (a) (ii) is applicable]* THIS COURT ORDERS that the
defendant(s)[name(s)]..... pay to the plaintiff(s) the value to be assessed of the goods
detained by the defendant(s), being[description of goods].....;THIS COURT FURTHER ORDERS that the defendant(s)[name(s)]..... pay to the
plaintiff(s)[Set out one or more of the following as applicable: interest as claimed in the amount of
\$..... / interest under the Court Order Interest Act in the amount of \$..... / costs in the
amount of \$..... / costs to be assessed]..... .

Date:[dd/mm/yyyy].....

.....
Registrar

FORM 9 (RULES 4-1 (3) AND 6-2 (11))

[Style of Proceeding]

NOTICE OF ADDRESS FOR SERVICE

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

TAKE NOTICE that the address for service of[party(ies)]..... (the “filing party(ies)”) is:

[Check whichever one of the following boxes is correct and complete the required information.]

☐ The filing party(ies)[is/are]..... represented by a lawyer in the proceeding.

Name and office address of party’s lawyer: <i>[This must be an accessible address.]</i>
Additional addresses for service (optional):
Lawyer’s fax number:
Lawyer’s e-mail address:

[OR]

☐ The filing party(ies)[is/are]..... not represented by a lawyer in the proceeding.

Residential address or business address: <i>[This must be an accessible address.]</i>
<i>[If the residential address or business address noted above is more than 30 kilometres from the registry, the filing party must provide at least one of the following in addition to the address noted above. In any case, the filing party may provide one or more of the following as additional addresses for service.]</i>
Postal address in British Columbia:
Fax number:
E-mail address:

Date:[dd/mm/yyyy].....

.....

Signature of ☐ filing party ☐ lawyer for filing party(ies)

.....[type or print name].....

Rule 1-1 (1) of the Supreme Court Civil Rules defines “accessible address” as follows:

“accessible address” means an address that describes a unique and identifiable location in British Columbia that is accessible to the public during normal business hours for the delivery of documents;

FORM 10 (RULE 4-4 (3))

[Style of Proceeding]

ADVERTISEMENT

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

To:[party(ies)].....

TAKE NOTICE THAT on[dd/mm/yyyy]..... an order was made for service on you of a[document]..... issued from the[location]..... Registry of the Supreme Court of British Columbia in proceeding number[registry number]..... by way of this advertisement.

In the proceeding, the[plaintiff/petitioner]..... claim(s) the following relief against you:[describe the relief claimed]..... .

You must file a responding pleading/response to petition within the period required under the Supreme Court Civil Rules failing which further proceedings, including judgment, may be taken against you without notice to you.

You may obtain, from the[location]..... Registry, at[address]....., a copy of the[document]..... and the order providing for service by this advertisement.

This advertisement is placed by[party(ies)]..... whose address for service is[Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]..... .

FORM 11 (RULE 4-5 (2))

**ENDORSEMENT ON ORIGINATING PLEADING OR PETITION
FOR SERVICE OUTSIDE BRITISH COLUMBIA**

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

The[party(ies)].....,[name(s) of party(ies)]....., claim(s) the right to serve this pleading/petition on the[party(ies)].....,[name(s) of party(ies)]....., outside British Columbia on the ground that[state the circumstances, enumerated in section 10 of the Court Jurisdiction and Proceedings Transfer Act, on which the plaintiff/petitioner relies]..... .

FORM 12 (RULE 4-5 (12))

REQUEST

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

FOR SERVICE ABROAD OF JUDICIAL OR EXTRAJUDICIAL DOCUMENTS

Convention on the Service Abroad of Judicial and Extrajudicial Documents
in Civil or Commercial Matters,
signed at The Hague, November 15, 1965.

Identity and address of the applicant

Address of receiving authority

The undersigned applicant has the honour to transmit – in duplicate – the documents listed below and, in conformity with Article 5 of the Convention, requests prompt service of one copy thereof on the addressee, i.e.,[identity and address].....

- (a) in accordance with the provisions of subparagraph (a) of the first paragraph of Article 5 of the Convention*.
- (b) in accordance with the following particular method (subparagraph (b) of the first paragraph of Article 5*)
- (c) by delivery to the addressee, if he or she accepts it voluntarily (second paragraph of Article 5*).

The authority is requested to return or to have returned to the applicant a copy of the documents – and of the annexes* – with a certificate as provided in Form 14.

List of documents:

.....
.....
.....
.....
.....

Done at
.....[dd/mm/yyyy].....

Signature and/or stamp.

*Delete if inappropriate.

FORM 13 (RULE 4-5 (12))

NOTICE AND SUMMARY OF DOCUMENT

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Identity and address of the addressee

IMPORTANT

The enclosed document is of a legal nature and may affect your rights and obligations. The “summary of the document to be served” will give you some information about its nature and purpose. You should, however, read the document itself carefully. It may be necessary to seek legal advice.

If your financial resources are insufficient, you should seek information on the possibility of obtaining legal aid or advice either in the country where you live or in the country where the document was issued.

Inquiries about the availability of legal aid or advice in the country where the document was issued may be directed to:

Legal Services Society
Suite 400 – 510 Burrard Street
Vancouver, BC V6C 3A8
(Phone) (604) 601-6000

Summary of document to be served

Name and address of the requesting authority

.....

*Particulars of the parties

.....

**Judicial document

Nature and purpose of the document

Nature and purpose of the proceedings and if appropriate the amount in dispute

.....

.....

**Date and place for entering response to civil claim

.....

.....

**Court which has given judgment

**Date of judgment

**Time limits stated in the document

.....

**Extrajudicial document

Nature and purpose of the document

.....

**Time limits stated in the document

.....

*If appropriate, identity and address of the person interested in the transmission of the document.

**Delete if inappropriate.

FORM 14 (RULE 4-5 (13))

CERTIFICATE

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

The undersigned authority has the honour to certify, in conformity with Article 6 of the Convention.

1 That the document has been served*

- the[dd/mm/yyyy].....
- at[place, street, number].....
- in one of the following methods authorized by Article 5 –
 - (a) in accordance with the provisions of subparagraph (a) of the first paragraph of Article 5 of the Convention*
 - (b) in accordance with the following particular method*:
.....
 - (c) by delivery to the addressee, who accepted it voluntarily*.

The documents referred to in the request have been delivered to:

- [relationship of person to addressee (family, business or other)]*
.....

2 That the document has not been served, by reason of the following facts*:
.....

In conformity with the second paragraph of Article 12 of the Convention, the applicant is requested to pay or reimburse the expenses detailed in the attached statement*

Annexes

Documents returned:

..... Done at
..... the[dd/mm/yyyy].....

In appropriate cases, documents
establishing the service:
.....

Signature and/or stamp.

*Delete if inappropriate.

FORM 15 (RULE 4-6 (1))

[Style of Proceeding]

AFFIDAVIT OF PERSONAL SERVICE

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address].....,[occupation]....., SWEAR
(OR AFFIRM) THAT:

- 1 On[dd/mmm/yyyy]....., at[time of day]....., I served[name of person served]..... with [Check the correct box(es) and provide the required information.]

[] the following documents that have been filed in this proceeding: *[Using one line for each filed document served by personal service on the named person, describe the document including its date if available – e.g. notice of civil claim between[name(s)]..... and[name(s)]..... bearing court stamp dated[dd/mmm/yyyy]....., affidavit of[name]..... sworn[date]..... and bearing court stamp dated[dd/mmm/yyyy]....., etc.]*

.....[description of document].....

.....[description of document].....

[] the following documents that have not been filed in this proceeding: *[Using one line for each unfilled document served by personal service on the named person, identify and exhibit the document in the following manner.]*

.....[description of document]....., a copy of which is attached to this affidavit and marked as Exhibit A.

.....[description of document]....., a copy of which is attached to this affidavit and marked as Exhibit[B, C, etc.].....

- 2 I served each document referred to in section 1 of this affidavit by handing it to and leaving it with[name of person served]..... at[city and country]..... on[dd/mmm/yyyy]....., at[time of day].....

SWORN (OR AFFIRMED) BEFORE ME)

at[city and country]....., British Columbia)

on[dd/mmm/yyyy].....)

)

.....)

A commissioner for taking)

affidavits for British Columbia)

....[print name or affix stamp of commissioner]....

FORM 16 (RULE 4-6 (1))

*[Style of Proceeding]***AFFIDAVIT OF ORDINARY SERVICE***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*

I,[name]....., of[address].....,[occupation]....., SWEAR
(OR AFFIRM) THAT:

- 1 On[dd/mm/yyyy]....., at[time of day]....., I served[name of person served]..... with [Check the correct box(es) and provide the required information.]

☐ the following documents that have been filed in this proceeding: *[Using one line for each filed document served by personal service on the named person, describe the document including its date if available – e.g. notice of civil claim between[name(s)]..... and[name(s)]..... bearing court stamp dated[dd/mm/yyyy]....., affidavit of[name]..... sworn[date]..... and bearing court stamp dated[dd/mm/yyyy]....., etc.]*

.....[description of document].....

.....[description of document].....

☐ the following documents that have not been filed in this proceeding: *[Using one line for each unfiled document served by personal service on the named person, identify and exhibit the document in the following manner.]*

.....[description of document]....., a copy of which is attached to this affidavit and marked as Exhibit A.

.....[description of document]....., a copy of which is attached to this affidavit and marked as Exhibit[B, C, etc.].....

- 2 I served each document referred to in section 1 of this affidavit by *[Check whichever one of the following boxes is correct.]*

☐ leaving the document at[the party's address for service].....

☐ mailing the document by ordinary mail to[the party's address for service].....

☐ faxing the document to[fax number]..... together with a fax cover sheet

☐ e-mailing the document to[e-mail address].....

SWORN (OR AFFIRMED) BEFORE ME)

at[location], British Columbia)

on[dd/mm/yyyy].....)[signature].....

)

.....[signature].....)

A commissioner for taking)

affidavits for British Columbia)

....[print name or affix stamp of commissioner]....

FORM 17 (RULES 4-6 (1), 5-1 (4), 5-2 (4), 5-4 (1), 8-1 (21.1) AND (22),
9-4 (1), 12-2 (6), 13-3 (25), 16-1 (16.1) AND (17), 20-5 (3), 23-1 (9),
23-3 (10) AND 23-5 (5), 25-5 (6),)

[Style of Proceeding]

REQUISITION – GENERAL

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Filed by:[party(ies)].....

Required:

This requisition is supported by the following:

*[Include a description of supporting document(s). Each affidavit included on the list must be identified as follows:
“Affidavit #.....[sequential number, if any, recorded in the top right hand corner of the affidavit]..... of
.....[name]....., made[dd/mm/yyyy].....”.]*

1

2

Date:[dd/mm/yyyy].....

.....
Signature of

[] filing party [] lawyer for filing party(ies)

.....[type or print name].....

FORM 17.1 (RULE 8-5 (2))

*[Style of Proceeding]***REQUISITION – SHORT NOTICE***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]***Filed by:**[party(ies)].....

Required: an order under Rule 8-5 (1) that the main application be brought on short notice.

This requisition is supported by the following:

[Include a description of supporting document(s). Each affidavit included on the list must be identified as follows: “Affidavit #.....[sequential number, if any, recorded in the top right hand corner of the affidavit]..... of[name]....., made[dd/mm/yyyy].....”.]

1

2

Date:[dd/mm/yyyy].....

.....
Signature of

[] filing party [] lawyer for filing party(ies)

.....[type or print name].....

ORDER BY ENDORSEMENT (to be completed by a judge, master or registrar)

Date set for hearing of main application:[dd/mm/yyyy].....

Conditions for Service:

Service by applicant of Notice of Application and applicant’s affidavits with this order on the respondent(s) beforea.m./p.m..... on[dd/mm/yyyy].....

Service of respondent(s)’s Application Response and affidavits on applicant beforea.m./p.m..... on[dd/mm/yyyy].....

Other Conditions:

.....
.....**Endorsed:**

Judge/Master/Registrar.....

Date[dd/mm/yyyy].....

FORM 17.2 (RULE 2-2 (3))

Court File No.:

Court Registry:

In the Supreme Court of British Columbia

Claimant:

Respondent:

REQUISITION

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Filed by:[party(ies)].....

Required: The filing of the attached tribunal award made under the[name of Act].....

My address for service is [Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]

Address for service:

Fax number address for service (if any):

E-mail address for service (if any):

Date:[dd/mm/yyyy].....

.....
Signature of
[] filing party [] lawyer for filing party(ies)
.....[type or print name].....

FORM 18 (RULE 4-6 (2))

CERTIFICATE OF SERVICE BY SHERIFF

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[*name*]....., certify that on[*dd/mm/yyyy*]....., at[*time of day*]....., I left a copy of this document at[*specify place of service*]..... with

Date:[*dd/mm/yyyy*].....

.....
Signature of sheriff or deputy sheriff

FORM 19 (RULES 5-1 (1) AND 23-2 (4))

[Style of Proceeding]

NOTICE OF CASE PLANNING CONFERENCE

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

A case planning conference has been set for this action:

[Check whichever one of the following boxes is correct and complete any required information.]

☐ at the request of*[party(ies)]*.....

☐ at the direction of the court

The case planning conference will be held at*[address of the registry in which the proceeding is being conducted]*..... at*[time of day]*..... on*[dd/mm/yyyy]*..... .

This case planning conference has been set to consider:

[Check whichever one of the following boxes is correct and complete any required information.]

☐ *[in the case of a first case planning conference]* the matters set out in the parties' respective case plan proposals

☐ *[in the case of a subsequent case planning conference]**[Using numbered paragraphs, set out a brief summary of the matters to be considered.]*.....

1

2

Date:*[dd/mm/yyyy]*.....

.....
Signature of ☐ filing party ☐ lawyer for filing party(ies)

.....*[type or print name]*.....

FORM 20 (RULE 5-1 (6))

*[Style of Proceeding]***CASE PLAN PROPOSAL***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*

Party submitting this case plan proposal:

Indicate the party's proposal with respect to the following steps:

Item	Step	If parties agree, step agreed to and its timing <i>[set out details or refer to attachment]</i>	If parties disagree, party's proposal respecting step and its timing <i>[set out details or refer to attachment]</i>
1	Discovery of documents <i>[when list is to be produced, where documents are to be made available for inspection, electronic document protocol, etc.]</i>		
2	Examinations for discovery <i>[person to be discovered, date of discovery, duration of discovery, etc.]</i>		
3	Dispute resolution procedures under Part 9 of the Supreme Court Civil Rules <i>[what procedures to be used and when, etc.]</i>		
4	Expert witnesses <i>[area of expertise of expert, date report to be served, etc.]</i>		
5	List of witnesses <i>[date list to be served]</i>		
6	Proposed mode of trial		
7	Estimated trial length		
8	Preferred period(s) for trial date		
9	Other <i>[specify]</i>		

Date:*[dd/mm/yyyy]*.....

.....
 Signature of [] party [] lawyer for party
*[type or print name]*.....

FORM 21 (RULE 5-3 (4))

[Style of Proceeding]

BEFORE	{	A JUDGE OF THE COURT	{[dd/mm/yyyy].....
		or		
		A MASTER OF THE COURT		

CASE PLAN ORDER

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

AT A CASE PLANNING CONFERENCE conducted on[dd/mm/yyyy]..... by
.....[judge/master]..... in the presence of[names of attending counsel and parties].....;

THIS COURT ORDERS that the parties comply with the attached case plan.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER [A signature line in the following
form must be completed and signed by or for each approving party.]

.....

Signature of [] party

[] lawyer for[name of party(ies)].....

.....[type or print name].....

.....

Signature of [] party

[] lawyer for[name of party(ies)].....

.....[type or print name].....

By the Court.

.....

Registrar

CASE PLAN

1 DISPUTE RESOLUTION PROCEDURES

The parties have discussed resolution options including those under Part 9 of the Supreme Court Civil Rules and have agreed to the following:

Appendix A – Form 21

[Check the box to the left of each step to be taken and fill in the agreed date.]

	Step	Date by which step to be completed [dd/mm/yyyy]
	Offer to settle	
	Mediation	
	Special Case	
	Proceeding on point of law	
	Summary trial	
	Summary judgment application	
	Other [identify]	

A party may undertake any of the steps provided for in Part 9 of the Supreme Court Civil Rules whether or not the step is noted above.

2 DOCUMENT PRODUCTION (RULE 7-1 OF THE SUPREME COURT CIVIL RULES)

The following steps will be completed by the date set out next to each step:

Step	Date by which step to be completed [if dates differ by party, indicate a date for each party] [dd/mm/yyyy]
Delivery of the lists of documents required under Rule 7-1	
Completion of an electronic document protocol	
Other [identify]	

3 EXAMINATIONS FOR DISCOVERY (RULE 7-2 OF THE SUPREME COURT CIVIL RULES)

The following examinations for discovery will be conducted, not exceed the time limits indicated and be completed by the date indicated:

Examination by (party name)	Examination of (party and person name)	Time Limit	Date by which step to be completed [dd/mm/yyyy]

4 APPLICATIONS

The following applications are anticipated:

[Identify each anticipated application and fill in the proposed date.]

Application	Date by which application anticipated to be brought [dd/mm/yyyy]

A party may bring any other application whether or not that application is noted above.

5 EXPERT WITNESSES (PART 11 OF THE SUPREME COURT CIVIL RULES)

[For the following, complete the following Parts 1 and 2 for any expert evidence that the parties anticipate introducing at trial, and if the parties are unable to provide the information required under Part 1 or 2, complete the following Part 3.]

PART 1

Each party may tender the report of, or call to give oral opinion evidence, an expert with the following expertise:

Name of party who intends to call the expert [if expert is being called jointly, specify "Joint"]	Area of Expertise

PART 2

The following steps will be taken by the date set out next to each step:

Step	Date by which step to be completed [if dates differ by party, indicate a date for each party] [dd/mm/yyyy]
Joint expert's report served	
Expert reports served	
Responding expert reports served	
Notices of objection to expert evidence served (Rule 11-6 (10))	
Experts confer and serve report summarizing points of difference	
Other [identify]	
Other [identify]	

PART 3

If the information set out in the foregoing Part 1 or 2 is incomplete, the parties will apply to amend this order to complete that information by[dd/mm/yyyy]..... .

6 WITNESSES (RULE 7-4 OF THE SUPREME COURT CIVIL RULES)

The following steps will be completed by the date set out next to each step:

Step	Date by which step to be completed [if dates differ by party, indicate a date for each party] [dd/mm/yyyy]
Serve lists of witnesses to be called at trial	
Other [identify]	
Other [identify]	

7 TRIAL (PART 12 OF THE SUPREME COURT CIVIL RULES)

(a) Estimated length of the trial:[days].....;

- (b)[*party(ies)*]....., will file a Notice of Trial in Form 40 to secure the trial date by
.....[*dd/mm/yyyy*]..... .

8 OTHER

FORM 22 (RULE 7-1 (1))

[Style of Proceeding]

LIST OF DOCUMENTS

Prepared by:[party]..... (the “listing party”)

PART 1: DOCUMENTS THAT ARE OR HAVE BEEN IN THE LISTING PARTY’S POSSESSION OR CONTROL AND THAT COULD BE USED BY ANY PARTY AT TRIAL TO PROVE OR DISPROVE A MATERIAL FACT

[Do not include documents listed under Part 2, 3 or 4.]

No.	Date of document [dd/mm/yyyy]	Description of document	Indicate by a check mark if the document is no longer in the listing party’s possession or control	Indicate, for each document listed in this Part by way of an amendment to this List of Documents under Rule 7-1 (9), (12) or (14), the date on which the document was listed
1.1			<input type="checkbox"/>	
1.2			<input type="checkbox"/>	

PART 2: OTHER DOCUMENTS TO WHICH THE LISTING PARTY INTENDS TO REFER AT TRIAL

[Do not include documents listed under Part 1, 3 or 4.]

No.	Date of document [dd/mm/yyyy]	Description of document	Indicate by a check mark if the document is no longer in the listing party’s possession or control	Indicate, for each document listed in this Part by way of an amendment to this List of Documents under Rule 7-1 (9), (12) or (14), the date on which the document was listed
2.1			<input type="checkbox"/>	
2.2			<input type="checkbox"/>	

PART 3: DOCUMENTS THAT RELATE TO A MATTER IN QUESTION IN THE ACTION

[List here all documents that are listed in response to a demand under Rule 7-1 (11) of the Supreme Court Civil Rules, and all documents that are listed in response to a court order under Rule 7-1 (14) of the Supreme Court Civil Rules, that have not been listed under Part 1 or 2. Do not include documents listed under Part 1, 2 or 4.]

No.	Date of document [dd/mm/yyyy]	Description of document	Indicate by a check mark if the document is no longer in the listing party’s possession or control	Indicate, for each document listed in this Part by way of an amendment to this List of Documents under Rule 7-1 (9), (12) or (14), the date on which the document was listed
3.1			<input type="checkbox"/>	
3.2			<input type="checkbox"/>	

PART 4: DOCUMENTS FOR WHICH PRIVILEGE FROM PRODUCTION IS CLAIMED

No.	Date of document [dd/mm/yy]	Description of document	Grounds on which privilege is claimed	Indicate, for each document listed in this Part by way of an amendment to this List of Documents under Rule 7- 1 (9), (12) or (14), the date on which the document was listed
4.1				
4.2				

TAKE NOTICE that the documents listed in Part 1, 2 or 3 of this List of Documents that are not shown as no longer being in the listing party's possession or control may be inspected and copied, during normal business hours, at[specify location]..... .

Date:[dd/mm/yy].....

Implied undertaking to the court

Documents produced are not to be used by the other party(ies) except for the purposes of this litigation unless and until the scope of the undertaking is varied by a court order or other judicial order, consent or statutory override or a situation of immediate and serious danger emerges. This implied undertaking continues despite settlement or completion of the litigation.

.....
Signature of [] listing party [] lawyer for listing
party
.....[type or print name].....

FORM 23 (RULE 7-2 (13))

[Style of Proceeding]

APPOINTMENT TO EXAMINE FOR DISCOVERY

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

To:[name of person to be examined].....

TAKE NOTICE that you are required to attend for your examination for discovery at the place, date and time set out below. If you are not a named party, or a representative of a named party, to this action, you must, unless the court otherwise orders, bring with you all documents in your possession or control, not privileged, relating to the matters in question in this action. Please note the provisions of the Supreme Court Civil Rules reproduced below.

Place:

Date:[dd/mm/yy].....

Time:

Date:[dd/mm/yy].....

Implied undertaking to the court

Documents produced are not to be used by the other party(ies) except for the purposes of this litigation unless and until the scope of the undertaking is varied by a court order or other judicial order, consent or statutory override or a situation of immediate and serious danger emerges. This implied undertaking continues despite settlement or completion of the litigation.

.....
Signature of [] party wishing to conduct
examination [] lawyer for party(ies) wishing to
conduct examination

.....[type or print name].....

Rules 22-7 (5) and 22-8 (4) of the Supreme Court Civil Rules state in part:

“22-7 (5) ... if a person, contrary to these Supreme Court Civil Rules and without lawful excuse,

- (a) refuses or neglects to obey a subpoena or to attend at the time and place appointed for his or her examination for discovery, ...

then

- (f) if the person is the plaintiff or petitioner, a present officer of a corporate plaintiff or petitioner or a partner in or manager of a partnership plaintiff or petitioner, the court may dismiss the proceeding, and
- (g) if the person is a defendant, respondent or third party, a present officer of a corporate defendant, respondent or third party or a partner in or manager of a partnership

defendant, respondent or third party, the court may order the proceeding to continue as if no response to civil claim had been filed.

- 22-8 (4) A person who is guilty of an act or omission described in Rule 12-5 (25) or 22-7 (5), in addition to being subject to any consequences prescribed by those rules, is guilty of contempt of court and subject to the court's power to punish contempt of court."

FORM 24 (RULE 7-3 (1))

[Style of Proceeding]

INTERROGATORIES

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Interrogatories on behalf of[party(ies)]..... for the examination of
.....[person(s) required to answer].....:

[Set out numbered questions to be answered specifying the person to answer, if the questions are directed to more than one person.]

1

2

Date:[dd/mm/yyyy].....

.....
Signature of [] party serving interrogatories
[] lawyer for party(ies) serving interrogatories
.....[type or print name].....

FORM 25 (RULES 7-5 (5), 7-8 (5) AND 12-5 (32) AND (36))

*[Style of Proceeding]***SUBPOENA TO WITNESS***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*

To:[name and address].....

TAKE NOTICE that you are required to attend to testify as a witness at the place, date and time set out below. You are also required to bring with you all documents in your possession or control relating to the matters in question in this proceeding *[and, if applicable, the following physical objects]*:

Please note the provisions of the Supreme Court Civil Rules reproduced below.

Place:

Date:[dd/mm/yyy].....

Time:

Date:[dd/mm/yyy].....

.....
Signature of [] party serving subpoena

[] lawyer for party(ies) serving subpoena

.....[type or print name].....

Rules 22-7 (5) and 22-8 (4) of the Supreme Court Civil Rules state in part:

“22-7 (5) ... if a person, contrary to these Supreme Court Civil Rules and without lawful excuse,

- (a) refuses or neglects to obey a subpoena or to attend at the time and place appointed for his or her examination for discovery,

then

- (f) if the person is the plaintiff or petitioner, a present officer of a corporate plaintiff or petitioner or a partner in or manager of a partnership plaintiff or petitioner, the court may dismiss the proceeding, and

- (g) if the person is a defendant, respondent or third party, a present officer of a corporate defendant, respondent or third party or a partner in or manager of a partnership defendant, respondent or third party, the court may order the proceeding to continue as if no response to civil claim had been filed.

22-8 (4) A person who is guilty of an act or omission described in Rule 12-5 (25) or 22-7 (5), in addition to being subject to any consequences prescribed by those rules, is guilty of contempt of court and subject to the court’s power to punish contempt of court.”

FORM 26 (RULE 7-7 (1))

[Style of Proceeding]

NOTICE TO ADMIT

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

To:[party(ies)].....

TAKE NOTICE that the[party(ies)].....,[name(s) of party(ies)]....., requests the[party(ies)].....,[name(s) of party(ies)]....., to admit, for the purpose of this proceeding only, the facts set out below and the authenticity of the documents referred to below, copies of which are attached.

AND TAKE NOTICE that, unless the court otherwise orders, if the party to whom this notice is directed does not serve a written statement, as provided in Rule 7-7 (2) of the Supreme Court Civil Rules, within 14 days after service of a copy of this notice on him or her, then the truth of the facts and the authenticity of the documents will be deemed to be admitted.

Date:[dd/mm/yyyy].....

.....
Signature of [] party serving notice to admit
[] lawyer for party(ies) serving notice to admit
.....[type or print name].....

The facts, the admission of which is requested, are: *[Set out facts, using a separate numbered paragraph for each fact requested to be admitted.]*

1

2

The documents, the authenticity of which admission is requested, are: *[List documents and attach copies of the documents to this notice to admit.]*

1

2

FORM 27 (RULE 7-8 (9))

*[Style of Proceeding]***ORDER FOR EXAMINATION OF PERSONS OUTSIDE THE JURISDICTION***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*

BEFORE	{	THE HONOURABLE JUSTICE	}	{[dd/mm/yyyy].....	
		or				
		MASTER				

THE APPLICATION of[party(ies)]....., coming on before me on[dd/mm/yyyy]....., and on hearing[name of party/lawyer]..... and[name of party/lawyer].....;

THIS COURT ORDERS that:

- 1[name]..... of[address]..... is appointed an examiner for the purpose of taking the examination, cross-examination and re-examination orally, on oath or affirmation, of[name of person to be examined]..... of[address]..... and[name of person to be examined]..... of[address]..... and of any other persons as the lawyers or agents of the parties mutually request the examiner in writing to examine, at in[name of the province, state, or county].....;
- 2 the lawyer for the applicant give to the lawyer for each of the other parties days' notice in writing of the date on which the lawyer proposes to send this order to the examiner for execution, and that days after service of the notice the lawyers for the parties respectively exchange the names of their lawyers or agents at to whom notice relating to the examination of the persons may be sent;
- 3 days' notice (exclusive of Saturday and Sunday) before the examination of any person must be given by the examiner to the lawyer for or agent of each of the parties and to each person to be examined unless the notice is waived;
- 4 the examination be conducted in accordance with the enclosed instructions, with such modifications as may be necessary;
- 5 the depositions, together with any document referred to in them, or certified copy of or extract from the document, be sent promptly by the examiner to the Registrar of the Supreme Court of British Columbia at the courthouse at[address]....., who must deliver the depositions and documents to the applicants and provide copies to any party on request.

By the Court.

.....
Registrar

FORM 28 (RULE 7-8 (9))

[Style of Proceeding]

INSTRUCTIONS TO EXAMINER

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

To:*[name and address]*.....

You have been appointed Examiner to take the evidence of A copy of the order appointing you is attached. The law of British Columbia will apply to the taking of this evidence.

The party wishing to examine*[name of person to be examined]*..... before you is required to serve*[him/her]*..... with a subpoena and tender the proper fees not fewer than days before the date you fix for the examination.

The witness and any interpreter will be sworn or affirmed in accordance with the form set out below.

After the examination has been held and the evidence transcribed and the transcript certified by you as correct, you are to send the deposition and other documents by registered mail to the registrar, courthouse*[address]*..... .

OATH (OR AFFIRMATION) OF WITNESS

Do you swear that the evidence that you will give in these proceedings will be the truth, the whole truth, and nothing but the truth, so help you God?

[OR]

Do you affirm that the evidence that you will give in these proceedings will be the truth, the whole truth, and nothing but the truth?

INTERPRETER'S OATH

Will you truly, faithfully and without partiality to any party in this proceeding, and to the best of your ability, interpret and translate any oath or affirmation that will be administered and all questions that may be asked of any witness and his or her answers, so help you God?

Date:*[dd/mm/yy]*.....

.....

Signature of [] party [] lawyer for party(ies)

.....*[type or print name]*.....

FORM 29 (RULE 7-8 (10))

[Style of Proceeding]

**ORDER FOR ISSUE OF A LETTER OF REQUEST TO
JUDICIAL AUTHORITY OF ANOTHER JURISDICTION**

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

BEFORE THE HONOURABLE JUSTICE[dd/mm/yyyy]....

ON THE APPLICATION of[party(ies)]....., coming on before me on
.....[dd/mm/yyyy]....., and on hearing[name of party/lawyer]..... and
.....[name of party/lawyer].....;

THIS COURT ORDERS that:

- 1 the attached letter of request be issued;
- 2 the registrar, on receipt of the deposition taken under the letter of request, must deliver them to the applicant and provide copies to any party on request.

By the Court.

.....
Registrar

FORM 30 (RULE 7-8 (10))

[Style of Proceeding]

**LETTER OF REQUEST FOR EXAMINATION
OF WITNESS OUT OF JURISDICTION**

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

To the judicial authority of in the of

Whereas this proceeding is now pending in the Supreme Court of British Columbia in which the plaintiff claims

And whereas it appears to me that it is necessary for the purposes of justice and for the due determination of the matters in question between the parties that the following persons should be examined on oath or affirmation relating to those matters, namely of, and of, and such other persons as the lawyers or agents of the parties mutually request you in writing to examine, and it appears that persons are residents within your jurisdiction:

Now I,, a Judge of the Supreme Court of British Columbia, hereby request that, for the assistance of the court, you will be pleased to summon the lawyers or agents of the parties and the witnesses to be examined, to attend at such time and place as you appoint, either before you or such other person as according to your procedure is competent to take the deposition examination of witnesses, and that you will cause the witnesses to be examined orally or by interrogatories relating to the matters in question, in the presence of the lawyers or agents of the parties or such of them as, on due notice given, attend the examination:

And I further request that you permit the lawyer or agent of any party present to examine any witness called by the lawyer or agent and the lawyer or agent of any opposing party to cross-examine the witness and the lawyer or agent of the party calling the witness to re-examine the witness:

And I further request that you will be pleased to cause the evidence of each witness to be recorded verbatim, and any document produced on the examination to be marked for identification, and that you will be further pleased to authenticate the depositions taken on the examination and any document, or certified copy of the same or any extract therefrom by the seal of your tribunal or in such other way as is in accordance with your procedure, and to return the same, together with any interrogatories and a note of the charges and expenses payable in respect of the execution of this request to the Under Secretary of State for External Affairs of Canada at Ottawa, Canada [*or, if the judicial authority to whom the letter is addressed is in Canada, to the Deputy Attorney General for the Province of British Columbia, Parliament Buildings, Victoria, British Columbia*], for transmission to the Registrar of the Supreme Court of British Columbia at the courthouse at

Dated:

.....

A Judge of the Supreme Court of
British Columbia

FORM 30.1 (RULE 19-5)

*[Style of Proceeding]***REQUEST FOR DOCUMENT REQUIRED BY
JUDICIAL AUTHORITY OF ANOTHER JURISDICTION***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]***Filed by:***[name, address and telephone number of person filing request]*.....*[Check the correct box and provide the required information.]*Requested: ☐ A certified copy with additional formalities, as set out in Part 1**[OR]**☐ The production of certification or formal documentation, as set out in Part 2**PART 1: CERTIFIED COPY WITH ADDITIONAL FORMALITIES**

This request is for a certified copy of *[identify document by nature and, if available, date]*, with the following additional formalities in the circumstance that the formalities are required by the judicial authority of *[name of foreign jurisdiction]* in accordance with *[cite relevant foreign rule, enactment or other requirement]*.

[Using numbered paragraphs, set out the additional formalities that are required for the requested certified copy. If the formalities require supplies other than blue or black ink, a Supreme Court adhesive seal, a Supreme Court impression seal or an ink stamp certifying a document to be a true copy, include those supplies with your submission.]

1

2

[Using numbered paragraphs, provide information about the foreign rule, enactment or other requirement relied on in this request that necessitates additional formalities for the requested certified copy by the judicial authority of another jurisdiction.]

1

2

PART 2: PRODUCTION OF CERTIFICATION OR FORMAL DOCUMENTATION

This request is for the production of certification of the attached document or for other formal documentation for *[identify document by nature and, if available, date]* in the circumstance that the certification or other formal documentation is required by the judicial authority of *[name of foreign jurisdiction]* in accordance with *[cite relevant foreign rule, enactment or other requirement]*.

[Using numbered paragraphs, describe the requested certification or other formal documentation.]

1

2

[Using numbered paragraphs, provide information about the foreign rule, enactment or other requirement relied on in this request that necessitates the requested certification or other formal documentation by the judicial authority of another jurisdiction.]

1

2

Date:[dd/mm/yyyy].....

.....

Signature of person filing request

.....[type or print name].....

FORM 31 (RULES 7-8 (17), 8-3 (1), 8-4 (1), 17-1 (2) AND 25-9 (2))

*[Style of Proceeding]***REQUISITION FOR CONSENT ORDER OR FOR ORDER WITHOUT NOTICE***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]***Filed by:**[party(ies)].....Required: ☐ An order by consent☐ [OR]☐ An order without notice

1 The rule or other enactment relied on is[set out rule or enactment relied on].....

2 Attached to this requisition is a draft of the order required.

*[Check whichever one of the following boxes is correct and complete any required information.]*3 ☐ Each party affected has consented to the order.☐ The evidence in support of the application is*[Check whichever one of the following boxes is correct and complete any required information.]*4 ☐ No party is under a legal disability.☐[name of party]..... is under a legal disability, namely[set out legal disability].....*[Complete the following if the filing of this requisition starts a proceeding]*This requisition is filed by[name]....., the[plaintiff/defendant]..... in this proceeding, whose address for service is as follows: *[Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]*

Fax number address for service (if any):

E-mail address for service (if any):

Date:[dd/mm/yyyy].....

.....
Signature of ☐ filing party ☐ lawyer for filing party(ies)

.....[type or print name].....

FORM 32 (RULE 8-1 (4))

[Style of Proceeding]

NOTICE OF APPLICATION

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Name(s) of applicant(s):

To:*[name(s) of party(ies) or person(s) affected]*.....

TAKE NOTICE that an application will be made by the applicant(s) to the presiding judge or master at the courthouse at*[address of registry in which the proceeding is being conducted]*..... on*[dd/mm/yyyy]*..... at*[time of day]*..... for the order(s) set out in Part 1 below.

PART 1: ORDER(S) SOUGHT

[Using numbered paragraphs, set out the order(s) that will be sought at the application and indicate against which party(ies) the order(s) is(are) sought.]

1

2

PART 2: FACTUAL BASIS

[Using numbered paragraphs, set out a brief summary of the facts supporting the application.]

1

2

[If any party sues or is sued in a representative capacity, identify the party and describe the representative capacity.]

PART 3: LEGAL BASIS

[Using numbered paragraphs, specify any rule or other enactment relied on and provide a brief summary of any other legal arguments on which the applicant(s) intend(s) to rely in support of the orders sought. If appropriate, include citation of applicable cases.]

1

2

PART 4: MATERIAL TO BE RELIED ON

[Using numbered paragraphs, list the affidavits served with the notice of application and any other affidavits and other documents already in the court file on which the applicant(s) will rely. Each affidavit included on the list must be identified as follows: "Affidavit #.....[sequential number, if any, recorded in the top right hand corner of the affidavit]*..... of*[name]*....., made*[dd/mm/yyyy]*.....".]*

1

2

The applicant(s) estimate(s) that the application will take[time estimate]..... .

[Check the correct box.]

☐ This matter is within the jurisdiction of a master.

☐ This matter is not within the jurisdiction of a master.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed application response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
 - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7 (9).

Date:[dd/mmm/yyyy].....

Signature of ☐ applicant ☐ lawyer for
applicant(s)

.....[type or print name].....

To be completed by the court only:

Order made

☐ in the terms requested in paragraphs of Part 1 of this
notice of application

☐ with the following variations and additional terms:

.....
.....
.....

Date:[dd/mmm/yyyy].....

Signature of ☐ Judge ☐ Master

APPENDIX

[The following information is provided for data collection purposes only and is of no legal effect.]

THIS APPLICATION INVOLVES THE FOLLOWING:

[Check the box(es) below for the application type(s) included in this application.]

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ other matters concerning document discovery
- ☐ extend oral discovery
- ☐ other matter concerning oral discovery
- ☐ amend pleadings
- ☐ add/change parties
- ☐ summary judgment
- ☐ summary trial
- ☐ service
- ☐ mediation
- ☐ adjournments
- ☐ proceedings at trial
- ☐ case plan orders: amend
- ☐ case plan orders: other
- ☐ experts
- ☐ none of the above

FORM 33 (RULE 8-1 (10))

*[Style of Proceeding]***APPLICATION RESPONSE***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]***Application response of:**[party(ies)]....., (the “application respondent(s)”) THIS IS A RESPONSE TO the notice of application of[party(ies)]..... filed
.....[dd/mm/yyyy]..... .**PART 1: ORDERS CONSENTED TO**

The application respondent(s) consent(s) to the granting of the orders set out in the following paragraphs of Part 1 of the notice of application on the following terms:[set out paragraph numbers and any proposed terms]..... .

PART 2: ORDERS OPPOSED

The application respondent(s) oppose(s) the granting of the orders set out in paragraphs[list paragraph numbers]..... of Part 1 of the notice of application.

PART 3: ORDERS ON WHICH NO POSITION IS TAKEN

The application respondent(s) take(s) no position on the granting of the orders set out in paragraphs[list paragraph numbers]..... of Part 1 of the notice of application.

PART 4: FACTUAL BASIS*[Using numbered paragraphs, set out a brief summary of the facts on which the orders sought in the application should not be granted.]*

1

2

PART 5: LEGAL BASIS*[Using numbered paragraphs, specify any rule or other enactment relied on and provide a brief summary of any other legal arguments on which the application respondent(s) intend(s) to rely in opposing the orders sought in the application. If appropriate, include citation of applicable cases.]*

1

2

PART 6: MATERIAL TO BE RELIED ON*[Using numbered paragraphs, list the affidavits served with this application response and any other affidavits and other documents already in the court file on which the application respondent(s) will rely. Each affidavit included on the list must be identified as follows: “Affidavit #.....[sequential number, if any, recorded in the top right hand corner of the affidavit]..... of[name]....., made[dd/mm/yyyy].....”.]*

1

2

The application respondent(s) estimate(s) that the application will take[time estimate]..... .

[Check whichever one of the following is correct and complete any required information.]

- ☐ The application respondent has filed in this proceeding a document that contains the application respondent's address for service.
- ☐ The application respondent has not filed in this proceeding a document that contains an address for service. The application respondent's ADDRESS FOR SERVICE is:[Set out the application respondent's address(es) for service in compliance with Rule 4-1 (1) of the Supreme Court Civil Rules and any additional address(es) under Rule 4-1 (2) that the application respondent wishes to include.]..... .

Date:[dd/mm/yy].....

.....
Signature of ☐ application respondent
☐ lawyer for application respondent(s)
.....[type or print name].....

FORM 34 (RULES 8-3 (1), 13-1 (3) AND 17-1 (2))

*[Style of Proceeding]***CONSENT ORDER***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*

BEFORE ☐ A JUDGE OF THE COURT[dd/mm/yyyy].....
 } or
 } ☐ A MASTER OF THE COURT }
 } or
 } ☐ A REGISTRAR }

ON THE APPLICATION of[party(ies)]....., without a hearing and
 by consent;

THIS COURT ORDERS that:

- 1
- 2
- 3

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH
 OF THE ORDERS NOTED ABOVE:

[A signature line in the following form must be completed and signed by or for each consenting party.]

.....
 Signature of ☐ party
☐ lawyer for[name of party(ies)].....
[type or print name].....

.....
 Signature of ☐ party
☐ lawyer for[name of party(ies)].....
[type or print name].....

By the Court.

.....
 Registrar

FORM 35 (RULES 8-4 (1), 13-1 (3), 17-1 (2) AND 25-9 (2))

[Style of Proceeding]

ORDER MADE AFTER APPLICATION

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

[Complete the form in accordance with the instructions found in the bracketed italicized wording and then remove all bracketed italicized wording so that it does not appear in the form when the form is filed.]

BEFORE THE HONOURABLE JUSTICE[dd/mm/yyyy].....

} or A JUDGE OF THE COURT }

} or }

} MASTER }

or A MASTER OF THE COURT

[Select whichever one of the 3 following provisions is correct, complete the selected provision and remove the provisions that have not been selected so that they do not appear in the form when the form is filed.]

ON THE APPLICATION of[party(ies)]..... coming on for hearing at
..... on[dd/mm/yyyy]..... and on hearing[name of party/lawyer]
..... and[name of party/lawyer].....;

ON THE APPLICATION of[party(ies)]..... without notice coming on for
hearing at on[dd/mm/yyyy]..... and on hearing[name of
party/lawyer].....;

ON THE APPLICATION of[party(ies)]..... without a hearing and on reading
the materials filed by[name of party/lawyer]..... and[name of
party/lawyer].....;

THIS COURT ORDERS that:

[If any of the following orders are by consent, indicate that fact by adding the words “By consent,” to the beginning of the description of the order.]

1

2

3

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

[A signature line in the following form must be completed and signed by or for each approving party.]

.....
Signature of [] party

[] lawyer for[name of party(ies)].....

.....[type or print name].....

.....
Signature of [] party
[] lawyer for[*name of party(ies)*].....
.....[*type or print name*].....

By the Court.

.....
Registrar

FORM 36 (RULE 9-8 (1))

[Style of Proceeding]

NOTICE OF DISCONTINUANCE

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Filed by:[party(ies)].....

TAKE NOTICE that[party(ies)].....

[Check whichever one of the following boxes is correct and complete the required information.]

☐ discontinue(s) this proceeding against[party(ies)].....

☐ discontinue(s) the following claim(s) in this proceeding against[party(ies)].....:

(a)

(b)

(c)

[Check the correct box(es).]

☐ Notice of trial has not been filed

☐ Notice of trial has been filed and this discontinuance is

☐ with the consent of all parties of record

☐ by leave of the court

Date:[dd/mm/yyyy].....

.....
Signature of ☐ filing party ☐ lawyer for filing
party(ies)

.....[type or print name].....

FORM 37 (RULE 9-8 (3))

[Style of Proceeding]

NOTICE OF WITHDRAWAL

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Filed by:[party(ies)].....

TAKE NOTICE that the defendant(s),[name(s)].....,

[Check whichever one of the following boxes is correct and complete the required information.]

- ☐ withdraw(s)[his/her/their]..... response to civil claim in this proceeding
- ☐ withdraw(s)[his/her/their]..... response to civil claim in respect of the following claim(s)
in this proceeding:
- (a)
 - (b)
 - (c)

Date:[dd/mm/yyyy].....

.....
Signature of ☐ filing party ☐ lawyer for filing
party(ies)
.....[type or print name].....

FORM 38 (RULE 10-2 (2))

[Style of Proceeding]

SECURITY FOR RECEIVER

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Date of this guarantee:[dd/mm/yyyy].....

Name and address of receiver:

Name and registered office of surety:

Liability of surety under this guarantee: \$......

Annual premium: \$......

This guarantee is made between the RECEIVER, THE SURETY AND HER MAJESTY THE QUEEN in right of British Columbia.

- 1 The receiver and the surety hereby jointly and severally covenant with Her Majesty the Queen in right of British Columbia that the receiver will, from time to time, duly account for what the receiver has already received since the date of the order appointing the receiver and will hereafter receive or for what since the date of the order the receiver has or will hereafter become liable to pay or account for as receiver *[and manager]* and will pay every sum of money and deliver every property that the court may direct.
- 2 If the receiver does not, for every successive 12 months computed from the date of the receiver's appointment, pay at the office of the surety the annual premium noted above, then the surety may apply to be relieved from all further liability under this guarantee, except in respect of any damage or loss occasioned by any act or default of the receiver in relation to the receiver's duties as receiver *[and manager]* prior to the hearing and determination of the application.
- 3 A statement under the hand of the registrar of the amount that the receiver is liable to pay and has not paid under paragraph 1 and that the loss or damage has been incurred through the act or default of the receiver is conclusive evidence in any action by Her Majesty against the receiver and surety, or either of them, or by the surety against the receiver, of the truth of the contents of the statement and constitutes a binding charge not only against the receiver and the receiver's personal representatives, but also against the surety and its funds and property without it being necessary for Her Majesty to take any proceedings against the surety and the surety's funds and property and without it being necessary for Her Majesty to take any proceedings against the receiver for the recovery thereof and without any further or other proof being given in that behalf in any action to enforce this guarantee.
- 4 The liability of the surety under this guarantee is limited to the sum noted above, provided that the registrar may give his or her approval in writing to the reduction of the liability of the surety, in which event the surety's maximum liability with respect to any acts or omissions of the receiver subsequent to the date of the approval is reduced accordingly and provided further that an endorsement executed by the surety increasing the liability of the surety will be binding on the surety with respect to any acts or omissions of the receiver subsequent to the date of that endorsement.

- 5 The receiver will, on being discharged from office or on ceasing to act as receiver [*and manager*], promptly give written notice of that discharge to the surety, and also within 7 days after the notice give the surety a copy of any order discharging the receiver.
- 6 The receiver and the receiver's personal representatives will at all times hereafter indemnify the surety against all loss, damage, costs, and expenses that the surety sustains by reason of the surety having executed this guarantee.

In witness whereof, the receiver has hereunder set his or her hand and seal and the surety has caused its common seal to be affixed[dd/mm/yyyy]..... .

SURETY [SEAL]

RECEIVER [SEAL]

Date:[dd/mm/yyyy].....

Approved:
Registrar

ENDORSEMENT TO GUARANTEE NO.

The liability of the surety under this guarantee has been increased from \$...... to \$......, effective[dd/mm/yyyy]..... with respect to any acts or omissions of the receiver subsequent to that date.

SURETY [SEAL]

FORM 39 (RULE 10-2 (2))

[Style of Proceeding]

SECURITY OF RECEIVER BY UNDERTAKING

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,, of, in the of, the receiver [and manager] appointed by order made on[dd/mm/yyyy]..... by in this proceeding, hereby undertake to the court duly to account for all money and property received by me as receiver [and manager] or for which I may be held liable, and to pay the balance from time to time found due from me and to deliver any property received by me as receiver [and manager] at such times and in such manner as the court directs.

Date:[dd/mm/yyyy].....
Receiver [Manager]

And we[names and addresses of sureties]..... hereby jointly and severally undertake to the court to be answerable for any default by[name of receiver]..... as receiver [and manager] and on such default to pay as the court directs any amounts not exceeding in the whole \$..... that may from time to time be certified by the registrar to be due from the receiver, and we submit to the jurisdiction of the court to determine any claim made under this undertaking.

Date:[dd/mm/yyyy].....
Surety

.....[dd/mm/yyyy].....
Surety

.....[dd/mm/yyyy]..... Approved:
Registrar

ENDORSEMENT TO SECURITY

The liability of the surety under this guarantee has been increased from \$..... to \$....., effective[dd/mm/yyyy]..... with respect to any acts or omissions of the receiver subsequent to that date.

Date:[dd/mm/yyyy].....
Surety

FORM 40 (RULE 12-1 (2))

*[Style of Proceeding]***NOTICE OF TRIAL***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]***Filed by:**[party(ies)].....

TAKE NOTICE that the trial of this proceeding has been set down at the following place, date and time:

City	
Address of Courthouse	
Date [dd/mm/yyyy]	
Time	

.....
Registrar*[Check whichever one of the following boxes is correct and complete any required information.]*

The place of trial set out above is:

- ☐ the place of trial set out in the notice of civil claim.
- ☐ set out in the order of this Honourable Court dated[dd/mm/yyyy].....

[Check whichever one of the following boxes is correct and complete the required information.]

- ☐ All parties of record in this action agree that not more than is a reasonable time for the hearing of all evidence and argument in this action.
- ☐ There is a disagreement as to the estimate of a reasonable time for the hearing of all evidence and argument in this action. The estimates of the parties of record are as follows:

Name of party	Time Estimate

Date:[dd/mm/yyyy].....

.....
Signature of ☐ filing party ☐ lawyer for filing party(ies)

.....[type or print name].....

Contact information for the parties and their lawyers is as follows:

[Set out the full names, addresses and telephone numbers of all lawyers having conduct of this action and of all parties of record who are not represented by a lawyer and, in addition, any email addresses or fax numbers that may be used for contact purposes.]

APPENDIX

[The following information is provided for data collection purposes only and is of no legal effect.]

PART 1: THIS CLAIM INVOLVES THE FOLLOWING:

[Check one box below for the case type that best describes this case.]

- ☐ a motor vehicle accident
- ☐ a personal injury, other than one arising from a motor vehicle accident
- ☐ a dispute about real property (real estate)
- ☐ a dispute about personal property
- ☐ the lending of money
- ☐ the provision of goods or services or other general commercial matters
- ☐ an employment relationship
- ☐ a dispute about a will or other issues concerning the probate of an estate
- ☐ a matter not listed here

PART 2:

[If an enactment is being relied on, specify. Do not list more than 3 enactments.]

FORM 41 (RULE 12-2 (3) AND (3.1))

*[Style of Proceeding]***TRIAL BRIEF***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]***Filed by:**[party]..... (the “filing party”)*[The pages of this trial brief must be consecutively numbered. If this trial brief is more than 5 pages in length, it must include an index.]*

The trial of this action is scheduled for[number of days scheduled for trial]..... days and is scheduled to begin on[dd/mm/yyyy]..... . The total time needed respecting items 2, 4, 5, 9 and 11, as applicable, is[total, in hours, of all times indicated in items 2, 4, 5, 9 and 11 below]..... .

[Check whichever one of the following boxes is correct and complete any required information.]

- ☐ The filing party expects the trial to complete within the scheduled time.
- ☐ The filing party expects the trial to require[number]..... days, and the filing party and counsel are available to continue for[number]..... consecutive days following the currently scheduled completion date.

1 SUMMARY OF ISSUES AND POSITIONS

The following are the issues in dispute and the filing party’s position on each:

Issue in dispute	Filing party's position
1	1
2	2

2 WITNESSES TO BE CALLED

The following are the names and addresses of the witnesses the filing party intends to call at trial, the issue(s) each will address, an estimate of the time each will need for giving direct evidence, and the filing party’s opinion on whether, if the court so orders or the parties all consent, the witness’s direct evidence could conveniently be given by affidavit:

Name	Address	Issue	Time in hours needed	Direct evidence by affidavit (Y/N)

3 EXPERT REPORTS

The following are the expert reports that will be offered as evidence at trial:

Name of expert	Area of expertise	Date of report

4 WITNESSES TO BE CROSS-EXAMINED

The following are the names of the witnesses the filing party anticipates cross-examining at trial, and an estimate of the time the filing party will need for each:

Name	Time in hours needed

5 OBJECTION TO ADMISSIBILITY

The filing party intends to object to the admissibility of all or a part of the following expert reports:

Name of expert	Area of expertise	Date of report	Basis of objection	Time in hours needed

6 DOCUMENTS AND EXHIBITS

- 1 The parties ☐ have agreed on ☐ have not agreed on ☐ have not yet discussed a common book of documents.
- 2 The parties ☐ have reached ☐ have not reached ☐ have not yet discussed an agreement governing the use and admissibility of documents.

7 ADMISSIONS

The filing party will admit the following facts at trial:

- 1
- 2

8 AUTHORITIES

The filing party ☐ expects ☐ does not expect that there will be a joint brief of authorities.

9 TIME REQUIRED FOR SUBMISSIONS

The filing party estimates that[time estimate, in hours]..... will be needed for the filing party's opening statement and[time estimate, in hours]..... will be needed for that party's final submissions.

10 ORDERS THAT MAY AFFECT THE CONDUCT OF THE TRIAL

The following orders may affect the conduct of the trial:

Date of order	Nature of order

11 ORDERS OR DIRECTIONS TO BE APPLIED FOR AT THE TRIAL MANAGEMENT CONFERENCE

The following orders or directions will be applied for at the trial management conference:

Nature of order or direction	Time in hours needed for application

12 SETTLEMENT

- 1 Settlement discussions or mediation sessions ☐ have ☐ have not taken place.
- 2 A mediation ☐ is ☐ is not scheduled before the date set for trial.
- 3 The court at the trial management conference ☐ will ☐ will not be asked to assist the parties' efforts to settle.

13 TRIAL TO BE HEARD WITH OR WITHOUT JURY

[Check the correct box.]

The trial of this action is to be heard by the court

- ☐ without a jury.
☐ with a jury.

Date:[dd/mm/yyyy].....

.....
 Signature of ☐ filing party ☐ lawyer for filing party
[type or print name].....

FORM 42 (RULE 12-4 (1))

[Style of Proceeding]

TRIAL CERTIFICATE

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Filed by:[party].....

I,[name].....,[the plaintiff/lawyer for the plaintiff/defendant/lawyer for the defendant]....., CERTIFY THAT:

- 1 I will be ready to proceed on the scheduled trial date,[date trial is scheduled to begin – dd/mm/yyyy]....., at[place of trial]..... .
- 2 My current estimate is that the trial will last days.
- 3 I have completed all examinations for discovery.
- 4 A trial management conference has been conducted in this action.
- 5 If the action is settled before trial, I will give the registrar prompt notice of the settlement.
- 6 I will give the registrar prompt notice of any proposed adjournment of the trial.

Date:[dd/mm/yyyy].....

.....
Signature of [] filing party [] lawyer for filing
party
.....[type or print name].....

FORM 43 (RULE 12-5 (8))

[Style of Proceeding]

NOTICE TO PRODUCE

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

To:[party(ies)].....

TAKE NOTICE that[party(ies)]..... require(s) you to produce at the trial of this action

[Check the correct box(es) and complete the required information.]

☐ the following document(s) listed by you in your list of documents prepared under Rule 7-1:

.....
.....
.....

☐ the following physical object(s) in your possession or control:

.....
.....
.....

Date:[dd/mm/yyyy].....

.....
Signature of ☐ party requiring production

☐ lawyer for party(ies) requiring production

.....[type or print name].....

FORM 44 (RULES 12-5 (15) AND 22-4 (4) AND (5))

[Style of Proceeding]

NOTICE OF INTENTION TO PROCEED

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Filed by:[party(ies)].....

To:[party(ies)].....

TAKE NOTICE that[party(ies)]..... intend(s) to proceed with this proceeding.

Date:[dd/mm/yy].....

.....
Signature of [] filing party [] lawyer for filing
party(ies)

.....[type or print name].....

FORM 45 (RULE 12-5 (21))

[Style of Proceeding]

NOTICE OF INTENTION TO CALL ADVERSE PARTY AS A WITNESS

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

To:*[name and address]*.....

TAKE NOTICE that*[party(ies)]*..... require(s) you to appear at the trial of this action at*[time of day]*..... on*[dd/mm/yyyy]*..... at*[place of trial]*..... for the purpose of being called as a witness under Rule 12-5 (20), (21) or (22) of the Supreme Court Civil Rules.

Date:*[dd/mm/yyyy]*.....

.....
Signature of ☐ party requiring appearance

☐ lawyer for party requiring appearance

.....*[type or print name]*.....

Rule 12-5 (25) states:

- (25) If a person called as a witness in accordance with subrule (21) or (22) refuses or neglects to attend at the trial, to be sworn or to affirm, to answer a proper question put to the person or to produce a document that the person is required to produce, the court may do one or more of the following:
- (a) grant judgment in favour of the party who called the witness;
 - (b) adjourn the trial;
 - (c) make an order as to costs;
 - (d) make any other order it considers will further the object of these Supreme Court Civil Rules.

FORM 46 (RULE 12-5 (38))

[Style of Proceeding]

WARRANT AFTER SUBPOENA

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

To any Peace Officer

WHEREAS*[name and address of person]*..... was subpoenaed to give evidence at the trial of this proceeding and failed to attend *[or failed to remain in attendance]*;

THIS COURT ORDERS you to apprehend and bring him or her promptly before the court at and, after that, to deal with him or her as directed.

Date:*[dd/mm/yyyy]*.....

.....
A Judge of the Supreme Court of
British Columbia
.....*[type or print name]*.....

FORM 47 (RULE 12-6 (3))

[Style of Proceeding]

NOTICE REQUIRING TRIAL BY JURY

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Filed by:[party(ies)]..... (the “filing party(ies)”)

TAKE NOTICE that the filing party(ies) require(s) the trial of this proceeding to be by a judge with a jury.

Scheduled trial date:[date trial is scheduled to begin – dd/mmm/yyyy]....

Date:[dd/mmm/yyyy].....

.....
Signature of [] filing party [] lawyer for filing
party(ies)

.....[type or print name].....

FORM 48 (RULE 13-1 (3))

[Style of Proceeding]

ORDER AFTER TRIAL

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

BEFORE THE HONOURABLE JUSTICE[dd/mm/yyyy].....

THIS ACTION coming on for trial at, on[dd/mm/yyyy]....., and on hearing[name of party/lawyer]..... and[name of party/lawyer]....., [add the following if applicable: AND JUDGMENT being reserved to this date]:

THIS COURT ORDERS that:

1

2

3

[If any of the following orders are by consent, indicate that fact by adding the words “By consent,” to the beginning of the description of the order.]

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

[A signature line in the following form must be completed and signed by or for each approving party.]

.....

Signature of [] party

[] lawyer for[name of party(ies)].....

.....[type or print name].....

.....

Signature of [] party

[] lawyer for[name of party(ies)].....

.....[type or print name].....

By the Court.

.....
Registrar

FORM 49 (RULES 13-1 (12), 14-1 (21), (24) AND (25) AND 18-1 (6))

*[Style of Proceeding]***APPOINTMENT***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*

I appoint:

Time:

Date:[dd/mm/yyyy].....

Place:

as the time and place for the: *[Check the correct box(es) and complete any required information.]*

- ☐ assessment of the bill of costs of[party(ies)].....
- ☐ review of the bill of[name of lawyer or law firm].....
- ☐ examination of the agreement between[lawyer]..... and[client].....
- ☐ settlement of the terms of the order of[Mr. Justice, Madam Justice or Master]..... made
.....[dd/mm/yyyy].....
- ☐ passing of accounts of[executor, administrator, receiver or other].....
- ☐ reference under the *Court Order Enforcement Act*
- ☐ reference ordered by[Mr. Justice, Madam Justice or Master].....
- ☐ assessment of sheriff's fee
- ☐ other

Attached to this Appointment[is/are]..... the ☐ bill(s) of costs ☐ lawyer's bill(s) ☐ sheriff's bill(s)
☐ agreement(s) ☐ order(s) that[is/are]..... the subject of this Appointment.

Date:[dd/mm/yyyy].....
 Master, Registrar or Special Referee

To:[name].....

TAKE NOTICE of the above appointment.

The person seeking appointment believes the matter for which this appointment was sought:

[Check all of the following boxes that are correct and complete the required information.]

- ☐ is ☐ is not of a time consuming or contentious nature
- ☐ will require approximately[time estimate]..... to complete

Date:[dd/mm/yy].....

.....
Signature of [] person seeking appointment

[] lawyer for person seeking appointment

.....[type or print name].....

Address and telephone number of person seeking appointment or lawyer for person seeking appointment:

Name:

Address:

.....

Telephone:

FORM 50 (RULE 13-2 (1))

*[Style of Proceeding]***WRIT OF SEIZURE AND SALE***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*

Name and address of lawyer or person causing this writ to be issued:

To the Sheriff

You are commanded promptly to seize and sell at public auction or by tender for the best available price sufficient of the goods and chattels of the undermentioned person to realize the sums set out on the back of this writ, that are payable by virtue of the attached order of this Honourable Court, together with your costs, fees and expenses for executing this writ.

After carrying out the above instructions, you must pay to the person specified on the back of this writ from the amount realized the sum or sums that are payable to him or her and account therefor by return to the court.

Date:[dd/mm/yy].....

.....
Registrar*[Back]*

Name and address of person whose goods and chattels are to be seized:

Amount remaining due and payable on judgment: \$.....

Amount of costs remaining due and payable: \$.....

Amount of interest on judgment and costs remaining due and payable: \$.....

Costs of party entitled to execution: \$.....

Sheriff's costs *[to be filled in by Sheriff]*: \$.....Total *[to be filled in by Sheriff]*: \$.....

Identity of person entitled to payment of judgment:

FORM 51 (RULE 13-2 (2) AND (4))

[Style of Proceeding]

WRIT OF SEQUESTRATION

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Name and address of lawyer or person causing this writ to be issued:

To the Sheriff

You are authorized and commanded to enter on and take possession of all the real and personal estate of and to collect and receive the rents and profits of his or her real and personal estate and keep the same under sequestration in your hands until you are satisfied that that person has complied with the attached order and has paid the costs, fees and expenses of execution of the person entitled to execution and the costs, fees and expenses for executing this writ.

Date:[dd/mm/yyyy].....

.....
Registrar

FORM 52 (RULE 13-2 (3))

[Style of Proceeding]

WRIT OF POSSESSION

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Name and address of lawyer or person causing this writ to be issued:

To the Sheriff

WHEREAS it was ordered, on[dd/mm/yyyy]....., that

[Check whichever one of the following boxes is correct and complete the required information.]

☐ the defendant,, deliver to the plaintiff,,

☐ the plaintiff,, recover from the defendant,,

possession of[set out address and, if available, legal description of land]..... (the “land”);

YOU ARE COMMANDED promptly to enter the land and cause[name]..... to have possession of it;

AND YOU ARE ALSO COMMANDED promptly to seize and sell at public auction or tender for the best price available sufficient of the goods and chattels of[name]..... to realize the plaintiff’s costs, fees and expenses of execution and the costs, fees and expenses for executing this writ.

Date:[dd/mm/yyyy].....

.....
Registrar

FORM 53 (RULE 13-2 (4))

[Style of Proceeding]

WRIT OF DELIVERY

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Name and address of lawyer or person causing this writ to be issued:

To the Sheriff

WHEREAS it was, on[dd/mm/yyyy]....., ordered that the defendant,,
deliver to the plaintiff,, the following goods:[describe
the goods].....;

YOU ARE COMMANDED promptly to cause the goods to be delivered to

AND YOU ARE ALSO COMMANDED promptly to seize and sell at public auction or tender for the best
price available sufficient of the goods and chattels of to realize the plaintiff's
costs, fees and expenses of execution and the costs, fees and expenses for executing this writ.

Date:[dd/mm/yyyy].....

.....
Registrar

FORM 54 (RULE 13-2 (4))

[Style of Proceeding]

WRIT OF DELIVERY OR ASSESSED VALUE

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Name and address of lawyer or person causing this writ to be issued:

To the Sheriff

WHEREAS it was, on[dd/mm/yyyy]....., ordered that the defendant,, deliver to the plaintiff,, the following goods:[describe the goods].....;

YOU ARE COMMANDED promptly to cause the goods to be delivered to

AND YOU ARE ALSO COMMANDED promptly to seize and sell at public auction or tender for the best price available sufficient of the goods and chattels of to realize the plaintiff's costs, fees and expenses of execution and the costs, fees and expenses for executing this writ;

If the goods that you are to have delivered to cannot be found within British Columbia, then you are commanded to realize, in addition to any other sums referred to in this writ, from the goods and chattels of, the sum of \$....., together with your costs, fees and expenses of so doing and pay the sum to the plaintiff together with the plaintiff's costs, fees and expenses of execution.

Date:[dd/mm/yyyy].....

.....
Registrar

FORM 55 (RULE 13-2 (29))

[Style of Proceeding]

ACKNOWLEDGMENT OF PAYMENT

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I ACKNOWLEDGE PAYMENT of \$..... in [] full [] partial satisfaction of the judgment dated
.....[dd/mm/yyyy]..... .

Date:[dd/mm/yyyy].....

.....

Signature of party receiving payment

.....[type or print name].....

Signed[dd/mm/yyyy]..... in the presence of

.....[name].....

.....[address].....

.....[occupation].....

FORM 56 (RULES 13-3 (1) AND 14-1 (8) AND SECTION 6 (3) OF APPENDIX B)

*[Style of Proceeding]***SUBPOENA TO DEBTOR***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*

To:[name].....

TAKE NOTICE that the amount set out in the endorsement below is now owing by the debtor[name]..... on the order dated[dd/mm/yyyy]....., a copy of which is attached.

YOU ARE REQUIRED TO APPEAR PERSONALLY at the courthouse at[address]..... at[time of day]..... on[dd/mm/yyyy]..... to be examined on oath as to:

- (a) the income and property of the debtor,
- (b) the debts owed to and by the debtor,
- (c) the disposal the debtor has made of any property, and
- (d) the means the debtor has, or has had, or in future may have, of satisfying the order.

WARNING: Failure to attend at the hearing of this subpoena can result in your arrest and committal to prison WITHOUT DELIVERY TO YOU OF ANY FURTHER NOTICE OR DOCUMENT.

Date:[dd/mm/yyyy].....

.....

Signature of [] creditor [] lawyer for creditor(s)

.....[type or print name].....

Address for service of creditor(s):

ENDORSEMENT OF AMOUNT PAYABLE*[Set out, in the form of an account, the amount of the debt or instalment owing, the costs incurred on the order and of proceedings subsequent to the order, the amounts paid and dates of payment, the interest owing and how computed.]*

Subtotal \$.....

Add Expenses of service by sheriff *[to be
endorsed by officer serving at the time of service]* \$.....Total amount payable \$.....

If the total amount payable is paid to the creditor or into court for the account of the creditor before the date of the hearing, you are excused from attending.

FORM 57 (RULE 13-3 (8))

[Style of Proceeding]

EXAMINER'S REPORT

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,, a registrar designated as an examiner by the Chief Justice of the Supreme Court of British Columbia under Rule 13-3 (5) (c) of the Supreme Court Civil Rules, report:

- 1 that a subpoena was issued under Rule 13-3 (1) directed to A copy of the subpoena is attached;
- 2 that the subpoena was served in accordance with the provisions of Rule 13-3 (3) and proof of service filed;
- 3 that the person subpoenaed:
[Check the correct box(es).]
 - ☐ did not attend as required at the hearing;
 - ☐ refused to be sworn or to affirm or to answer any question put to the person at the hearing;
 - ☐ after an order to that effect, refused or neglected to produce or permit to be inspected any document or property;
 - ☐ did not give answers that were to the satisfaction of the examiner;
- 4 that the lawyer for the creditor appeared at the time and place and on the date fixed for the hearing;
- 5 that under Rule 13-3 (8) I have fixed[dd/mm/yyyy]..... at[time of day]..... at the courthouse at[address]..... as the time and place for appearance before the court.

Date:[dd/mm/yyyy].....

.....
Examiner

FORM 58 (RULES 13-3 (12) AND 14-1 (8) AND SECTION 6 (3) OF APPENDIX B)

*[Style of Proceeding]***NOTICE OF APPLICATION FOR COMMITMENT***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*To:[*name of person*].....

WHEREAS on[*dd/mm/yyyy*]..... the creditor,[*name*]....., obtained against you an order to pay[*set out terms of order*]....., and the creditor alleges that you have failed or neglected to make payment in accordance with the order and that you knew of the order;

TAKE NOTICE that an application will be made by the creditor at the courthouse at[*address*]..... at[*time of day*]..... on[*dd/mm/yyyy*]..... for an order committing you to prison;

AND TAKE NOTICE that the creditor will rely on the following affidavit(s) in support of the application:

*[Using numbered paragraphs, list the affidavits on which the creditor will rely. Each affidavit included on the list must be identified as follows: "Affidavit #..... [*sequential number, if any, recorded in the top right hand corner of the affidavit*]..... of[*name*]....., made[*dd/mm/yyyy*].....".]*

1

2

WARNING: Failure to attend at the hearing of this application can result in your arrest and commitment to prison WITHOUT SERVICE ON YOU OF ANY FURTHER NOTICE OR DOCUMENT.

Date:[*dd/mm/yyyy*]..........
Signature of [] creditor [] lawyer for creditor(s).....[*type or print name*].....

Address for service of creditor(s):

ENDORSEMENT OF AMOUNT PAYABLE

[Set out, in the form of an account, the amount of the debt or instalment owing, the costs incurred on the order and on proceedings subsequent to the order, the amounts paid and the dates of payment and the interest owing and how it was computed.]

Subtotal	\$.....
Add Expenses of service	\$.....
Total amount payable	<u>\$.....</u>

If the total amount payable is paid to the creditor or into court for the account of the creditor before the date of the hearing, you are excused from attending.

FORM 59 (RULES 13-3 (15) AND 14-1 (8) AND SECTION 6 (3) OF APPENDIX B)

[Style of Proceeding]

ORDER OF COMMITTAL

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

BEFORE THE HONOURABLE JUSTICE[dd/mm/yyyy]....

THIS COURT ORDERS that:

- 1 by reason of[grounds of committal].....,[person to be committed]..... be committed to prison for days;
- 2 the sheriff and all peace officers arrest[person to be committed]..... and bring him or her promptly before this court at[address]..... and, unless otherwise ordered, deliver him or her to the warden of[name of prison].....;
- 3 the warden receive[person to be committed]..... and keep him or her for days from his or her arrest under this order or until he or she is sooner discharged by due process of law.

By the Court.

.....
Registrar

This order is in force for one year only from the date of the order.

ENDORSEMENT OF AMOUNT PAYABLE

[Set out, in the form of an account, the amount of the debt or instalment owing, the costs incurred on the order and on the proceedings subsequent to the order, the amounts paid and the dates of payment and the interest owing and how it was computed.]

Subtotal	\$.....
Add –	
1 Expenses of service	\$.....
2 Maintenance money [to be endorsed by warden at the time payment is tendered]	<u>\$.....</u>
Total amount payable	<u><u>\$.....</u></u>

If the total amount payable is paid to the registrar, or to the sheriff or peace officer or warden who has you in his or her custody, then this order will be discharged.

FORM 59.1 (RULE 13-4 (10))

*[Style of Proceeding]***APPOINTMENT FOR EXAMINATION IN AID OF EXECUTION***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*To:*[name of person to be examined]*.....

TAKE NOTICE that you are required to attend for an examination for discovery in aid of execution at the place, date and time set out below. You must, unless the court otherwise orders, bring with you all documents in your possession or control, not privileged, relating to the matters referred to in Rule 13-4 (2), which rule is reproduced below.

Place:

Date:*[dd/mm/yyyy]*.....

Time:

Date:*[dd/mm/yyyy]*.....

.....
Signature of [] party wishing to conduct
examination [] lawyer for party(ies) wishing to
conduct examination

.....*[type or print name]*.....

Rule 13-4 (2) of the Supreme Court Civil Rules states:

Examination of judgment debtor

- (2) If a judgment creditor is entitled to issue execution on or otherwise enforce an order of the court, the judgment creditor may examine the judgment debtor for discovery as to
- (a) any matter pertinent to the enforcement of the order,
 - (b) the reason for nonpayment or nonperformance of the order,
 - (c) the income and property of the judgment debtor,
 - (d) the debts owed to and by the judgment debtor,
 - (e) the disposal the judgment debtor has made of any property either before or after the making of the order,
 - (f) the means the judgment debtor has, had or may have of satisfying the order, and
 - (g) whether the judgment debtor intends to obey the order or has any reason for not doing so.

FORM 60 (RULE 13-5 (6))

This is the[1st/2nd/3rd/etc.]..... affidavit
of[name]..... in this case
and was made on[dd/mm/yyyy].....

[Style of Proceeding]

CERTIFICATE OF RESULT OF SALE

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Property Sold	Name of Purchaser	Price	Amount Received	Date of Sale
Totals				

I,[name]....., of[address].....,[occupation]....., SWEAR
(OR AFFIRM) THAT:

- 1 I did, in accordance with the provisions of the order of this court dated[dd/mm/yyyy]....., sell by[auction or as the case may be]..... the property described in the certificate on the day shown in the certificate.
- 2 The result of the sale is truly set forth in the certificate.

SWORN (OR AFFIRMED) BEFORE)

ME at[address]....., British Columbia)

on[dd/mm/yyyy].....)

.....[signature].....)

A commissioner for taking)
affidavits for British Columbia)

....[print name or affix stamp of commissioner]....

.....[signature].....
Person conducting sale

FORM 61 (RULES 14-1 (1) AND 15-1 (2))

[Style of Proceeding]

NOTICE OF FAST TRACK ACTION

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Filed by:[party(ies)].....

TAKE NOTICE that this action is a fast track action to which Rule 15-1 of the Supreme Court Civil Rules applies.

Date:[dd/mm/yyyy].....

.....
Signature of [☐] person filing notice [☐] lawyer for
person filing notice

.....[type or print name].....

FORM 62 (RULE 14-1 (20))

[Style of Proceeding]

BILL OF COSTS

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

This is the bill of costs of:[name(s)].....

Tariff scale Unit value \$.....

TARIFF ITEMS

Item #	Description	# of Units Claimed	# of Units Allowed
.....
.....
.....
	Total number of units:
	Multiply by unit value:
	Subtotal:	\$.....	\$.....
	Applicable taxes:	\$.....	\$.....
	Total:	\$.....	\$.....

DISBURSEMENTS

Description	Claimed	Allowed
.....	\$.....	\$.....
.....	\$.....	\$.....
.....	\$.....	\$.....
.....	\$.....	\$.....
Applicable taxes:	\$.....	\$.....
Total:	\$.....	\$.....

TOTAL ALLOWED \$.....

Date:[dd/mm/yyyy].....
Signature of assessing officer

FORM 63 (RULE 14-1 (20))

*[Style of Proceeding]***DEFAULT JUDGMENT BILL OF COSTS***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*

This is the default judgment bill of costs of:[name(s)].....

Amount involved \$.....

COSTS

Description	Claimed	Allowed	
To enter judgment under Rule 3-8	\$.....	\$.....	
Additional costs, if any, ordered under section 6 (5) of Appendix B	\$.....	\$.....	
Total:	\$.....	\$.....	\$.....

DISBURSEMENTS

Description	Claimed	Allowed	
.....	\$.....	\$.....	
.....	\$.....	\$.....	
.....	\$.....	\$.....	
.....	\$.....	\$.....	
Applicable taxes:	\$.....	\$.....	
Total:	\$.....	\$.....	\$.....
TOTAL ALLOWED			\$.....

Date:[dd/mm/yyyy].....

.....
Signature of assessing officer

FORM 64 (RULE 14-1 (27))

[Style of Proceeding]

CERTIFICATE OF COSTS

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I CERTIFY

☐ by consent of the parties

☐ following assessment

that on[dd/mm/yyyy]....., the costs of[party(ies)]..... have been allowed
against[party(ies)]..... in the amount of \$..... .

Consented to:

*[If this certificate is filed by consent, a signature line in the following form must be completed and signed by or for
each consenting party.]*

.....
Signature of ☐ party

☐ lawyer for[name of party(ies)].....

.....[type or print name].....

.....
Signature of ☐ party

☐ lawyer for[name of party(ies)].....

.....[type or print name].....

Date:[dd/mm/yyyy].....

.....
Registrar

[This certificate may be set out in a separate document or may be endorsed on the bill of costs.]

FORM 65 (RULE 14-1 (28) AND *LEGAL PROFESSION ACT*, s. 76)*[Style of Proceeding]***CERTIFICATE OF FEES***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*

I certify that on[dd/mm/yyyy]..... the bill(s) delivered by[name of lawyer].....
to[name of person billed]..... and dated[set out date(s) – dd/mm/yyyy]..... have
been reviewed, and that:

- (a) the amount of fees, charges and disbursements allowed was\$.....
- (b) the amount paid on account (if any) was\$.....
- (c) the balance owing to[the lawyer/person charged]..... was\$.....
- (d) the costs of the review allowed to[the lawyer/person charged].... was\$.....
- (e) interest allowed to this date was\$.....
- (f) the total amount due to [the lawyer/person charged] is\$.....

Date:[dd/mm/yyyy].....

.....
Registrar

[NOTE: Under s. 73 (1) of the Legal Profession Act, the registrar may, on application, make an order for payment by instalments, or suspend execution on this certificate.]

FORM 66 (RULE 16-1 (2))

No.

..... Registry

In the Supreme Court of British Columbia

Between

, Petitioner(s)

and

, Respondent(s)

[or, if there is no person against whom relief is sought:

Re:[State the person by whom, or the entity in respect of which, relief is sought.].....]

PETITION TO THE COURT

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

ON NOTICE TO:

.....[name and address of each person to be served].....

This proceeding is brought for the relief set out in Part 1 below, by

[Check whichever one of the following boxes is correct and complete any required information.]

☐ the person(s) named as petitioner(s) in the style of proceedings above

☐[name(s)]..... (the petitioner(s))

If you intend to respond to this petition, you or your lawyer must

(a) file a response to petition in Form 67 in the above-named registry of this court within the time for response to petition described below, and

(b) serve on the petitioner(s)

(i) 2 copies of the filed response to petition, and

(ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.

Time for response to petition

A response to petition must be filed and served on the petitioner(s),

(a) if you were served with the petition anywhere in Canada, within 21 days after that service,

(b) if you were served with the petition anywhere in the United States of America, within 35 days after that service,

(c) if you were served with the petition anywhere else, within 49 days after that service, or

(d) if the time for response has been set by order of the court, within that time.

(1)	The address of the registry is:
(2)	The ADDRESS FOR SERVICE of the petitioner(s) is:[Set out the street address of the address for service for each petitioner. One or both of a fax number and an e-mail address may be given as additional addresses for service.]..... Fax number address for service (if any) of the petitioner(s): E-mail address for service (if any) of the petitioner(s):
(3)	The name and office address of the petitioner's(s') lawyer is:

CLAIM OF THE PETITIONER(S)

Part 1: ORDER(S) SOUGHT

[Using numbered paragraphs, set out the order(s) that will be sought at the hearing of the petition and indicate against which respondent(s) the order(s) is(are) sought.]

1

2

Part 2: FACTUAL BASIS

[Using numbered paragraphs, set out the material facts on which this petition is based.]

1

2

Part 3: LEGAL BASIS

[Using numbered paragraphs, specify any rule or other enactment relied on and provide a brief summary of any other legal bases on which the petitioner(s) intend(s) to rely in support of the orders sought.]

1

2

Part 4: MATERIAL TO BE RELIED ON

[Using numbered paragraphs, list the affidavits served with the petition. Each affidavit included on the list must be identified as follows: "Affidavit #.....[sequential number, if any, recorded in the top right hand corner of the affidavit]..... of[name]....., made[dd/mm/yyyy].....".]

1

2

The petitioner(s) estimate(s) that the hearing of the petition will take[time estimate]..... .

Date:[dd/mm/yyyy].....

.....
Signature of [] petitioner [] lawyer for
petitioner(s)

.....[type or print name].....

To be completed by the court only:

Order made

☐ in the terms requested in paragraphs of Part 1 of this petition

☐ with the following variations and additional terms:

.....
.....
.....

Date:[dd/mm/yyyy].....

.....
Signature of ☐ Judge ☐ Master

FORM 67 (RULE 16-1 (5) AND RULE 25-14 (2))

*[Style of Proceeding]***RESPONSE TO PETITION***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]***Filed by:**[party(ies)]..... (the “petition respondent(s)”)

THIS IS A RESPONSE TO the petition filed[dd/mm/yy]..... .

Part 1: ORDERS CONSENTED TO

The petition respondent(s) consent(s) to the granting of the orders set out in the following paragraphs of Part 1 of the petition:[set out paragraph numbers]..... .

Part 2: ORDERS OPPOSED

The petition respondent(s) oppose(s) the granting of the orders set out in paragraphs[list paragraph numbers]..... of Part 1 of the petition.

Part 3: ORDERS ON WHICH NO POSITION IS TAKEN

The petition respondent(s) take(s) no position on the granting of the orders set out in paragraphs[list paragraph numbers]..... of Part 1 of the petition.

Part 4: FACTUAL BASIS*[Using numbered paragraphs, set out a brief summary of the material facts on which the orders sought in the petition should not be granted.]*

1

2

Part 5: LEGAL BASIS*[Using numbered paragraphs, specify any rule or other enactment relied on and provide a brief summary of any other legal bases on which the petition respondent(s) intend(s) to rely in opposing the orders sought in the petition. In addition, a written argument may be provided to the court in opposition to the petition.]*

1

2

Part 6: MATERIAL TO BE RELIED ON*[Using numbered paragraphs, list the affidavits served with this response to petition and any other affidavits and other documents already in the court file on which the petition respondent(s) will rely. Each affidavit included on the list must be identified as follows: “Affidavit #.....[sequential number, if any, recorded in the top right hand corner of the affidavit]..... of[name]....., made[dd/mm/yy].....”.]*

1

2

The petition respondent(s) estimate(s) that the application will take[time estimate]..... .

Date:[dd/mm/yy].....

.....
Signature of ☐ petition respondent

☐ lawyer for petition respondent(s)

.....[type or print name].....

Petition respondent's(s') address for service: *[Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]*

Fax number address for service (if any):

E-mail address for service (if any):

Name of the petition respondent's(s') lawyer, if any:

FORM 68 (RULE 16-1 (8))

*[Style of Proceeding]***NOTICE OF HEARING***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*To:*[name(s) of petition respondent(s), if any]*.....TAKE NOTICE that the petition of*[party(ies)]*..... dated*[dd/mm/yyyy]*..... will be heard at the courthouse at*[address]*..... on*[dd/mm/yyyy]*..... at*[time of day]*..... .**1 Date of hearing***[Check whichever one of the following boxes is correct.]*

- ☐ The parties have agreed as to the date of the hearing of the petition.
- ☐ The parties have been unable to agree as to the date of the hearing but notice of the hearing will be given to the petition respondents in accordance with Rule 16-1 (8) (b) of the Supreme Court Civil Rules.
- ☐ The petition is unopposed, by consent or without notice.

2 Duration of hearing*[Check the correct box(es) and complete the required information.]*

- ☐ It has been agreed by the parties that the hearing will take*[time estimate]*..... .
- ☐ The parties have been unable to agree as to how long the hearing will take and
- (a) the time estimate of the petitioner(s) is minutes, and
- (b) ☐ the time estimate of the petition respondent(s) is minutes.
- ☐ the petition respondent(s) has(ve) not given a time estimate.

3 Jurisdiction*[Check whichever one of the following boxes is correct.]*

- ☐ This matter is within the jurisdiction of a master.
- ☐ This matter is not within the jurisdiction of a master.

Date:*[dd/mm/yyyy]*..........
Signature of ☐ petitioner ☐ lawyer for
petitioner(s).....*[type or print name]*.....

FORM 69 (RULE 18-1 (18))

[Style of Proceeding]

NOTICE OF ORDER

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

To:*[name and address of each person to be served]*.....

TAKE NOTICE of the order of dated*[dd/mm/yyyy]*....., a copy of which is attached.

You may apply to court within 28 days after service of this notice on you to discharge, vary or add to the order.

Alternatively, you may file a form entitled “Notice of Interest” in the above registry of this court and serve a copy of the “Notice of Interest” on each of the following parties at their respective addresses for service set out below, following which you are entitled to take part in the proceeding taken under the order.

Date:*[dd/mm/yyyy]*.....

.....
Signature of [] party serving this notice
[] lawyer for party(ies) serving this notice
.....*[type or print name]*.....

Name and address for service of each party serving this notice: *[Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]*

Fax number address for service (if any):

E-mail address for service (if any):

FORM 70 (RULES 18-1 (22), 18-2 (8) AND 18-3 (8))

[Style of Proceeding]

NOTICE OF INTEREST

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

TAKE NOTICE that I have an interest in this proceeding.

Name:

Address for service: *[Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]*

Fax number address for service (if any):

E-mail address for service (if any):

Date:[dd/mm/yyyy].....

.....
Signature of ☐ filing person ☐ lawyer for filing
person(s)

.....[type or print name].....

FORM 71 (RULE 18-2 (3))

No.

..... Registry

In the Supreme Court of British Columbia

IN THE MATTER OF A STATED CASE UNDER

.....[insert statutory provision under which the stated case is being referred to in court].....

Between

[Name of person who requested the stated case.]

Applicant

and

[Name of all parties to the original proceeding and, if the original
tribunal is not the Applicant, name of original tribunal.]

Respondent(s)

NOTICE OF STATED CASE

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

To:[Name of each person on whom, under Rule 18-2 (6) (b), this notice of stated case is to be served
and the most recent address provided to the original tribunal for that person.].....

THIS CASE STATED by[name of original tribunal]..... under[name and section number(s) of
the enactment under which the stated case is being referred to the court]..... [If the original tribunal is not the
Applicant, add “, at the request of the Applicant,”.] seeks the determination of the Supreme Court on the
question(s) of law set out below that arise(s) out of the following facts:

PART 1: RELEVANT FACTS

The following facts are relevant to the questions of law to be determined by the Supreme Court: *[Using
numbered paragraphs, set out a concise statement of the relevant facts on which the questions of law are to be
determined.]*

1

2

PART 2: QUESTIONS OF LAW

The question(s) of law to be determined by the Supreme Court[is/are]..... as follows: *[Using
numbered paragraphs, set out the question(s) of law to be determined.]*

1

2

PART 3: EVIDENCE

The evidence relevant to the stated case is as follows: *[Using numbered paragraphs, set out all the evidence that is relevant to the stated case.]*

1

2

Date:[dd/mm/yyyy].....

.....
Signature of authorized signatory for
Original Tribunal

.....[type or print name].....

Address for service of the original tribunal: *[Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]*

Fax number address for service (if any):

E-mail address for service (if any):

[If the original tribunal is not the Applicant, complete the following:]

Address for service of the person requesting the stated case: *[Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]*

Fax number address for service (if any):

E-mail address for service (if any):

FORM 72 (RULE 18-2 (9))

[Style of Proceeding]

NOTICE OF HEARING OF STATED CASE

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Filed by:[party(ies)].....

TAKE NOTICE that this stated case will be heard at[address]..... on
.....[dd/mm/yyyy]..... at[time of day]..... .

Time estimate:

Date:[dd/mm/yyyy].....

.....
Signature of [] filing party [] lawyer for filing
party(ies)
.....[type or print name].....

FORM 73 (RULE 18-3 (2))

No.

..... Registry

In the Supreme Court of British Columbia

Between

Appellant

and

[person or body appealed from]

Respondent

NOTICE OF APPEAL IF DIRECTIONS REQUIRED*[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*

To:[name of person or body appealed from].....

And to:[name(s) of all other persons who may be affected by the order sought].....

WHEREAS on[dd/mm/yyyy].....,[name of person or body from whose decision/direction/order appeal is brought]..... made the following [] decision [] direction [] order [add, if applicable, in[Action Number/File Number].....]:[state concisely the decision, direction or order].....;

AND WHEREAS an appeal lies to [] this court [] a judge of this court under[name and section of enactment allowing appeal].....;

TAKE NOTICE that[name(s) of appellant(s)]..... appeal(s) from the [] decision [] direction [] order on the following grounds:[concisely set out grounds of appeal].....;

AND TAKE NOTICE that on[dd/mm/yyyy]....., at the courthouse at[address]....., an application will be made to the presiding judge at[time of day]..... for directions as to the conduct of the appeal [or as the case may be].

The appellant(s) estimate(s) that the hearing of the appeal will take[time estimate]..... .

If you intend to oppose the appeal, you or your lawyer must

- (a) file a Notice of Interest in Form 70 in the above-named registry of this court within the time for Notice of Interest described below, and
- (b) serve a copy of the Notice of Interest on the appellant's(s') address for service set out in this Notice of Appeal.

Time for Notice of Interest

A Notice of Interest must be filed and served on the appellant(s),

- (a) if you were served with the notice of appeal anywhere in Canada, within 14 days after that service,

SUPREME COURT CIVIL RULES

Appendix A – Form 73

- (b) if you were served with the notice of appeal anywhere in the United States of America, within 28 days after that service,
- (c) if you were served with the notice of appeal anywhere else, within 42 days after that service, or
- (d) if the time for Notice of Interest has been set by order of the court, within that time.

The appellant's(s') address for service is: *[Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]*

Fax number for service (if any):

E-mail address for service (if any):

Date:[dd/mm/yy].....

.....
Signature of ☐ appellant ☐ lawyer for
appellant(s)

.....[type or print name].....

FORM 74 (RULE 18-3 (2))

No.

..... Registry

In the Supreme Court of British Columbia

Between

Appellant

and

[person or body appealed from]

Respondent

NOTICE OF APPEAL – STANDARD DIRECTIONS*[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*To:*[name of person or body appealed from]*.....And to:*[name(s) of all other persons who may be affected by the order sought]*.....

WHEREAS on*[dd/mm/yyyy]*.....,*[name(s) of person or body from whose decision/direction/order appeal is brought]*..... made the following ☐ decision ☐ direction ☐ order *[add, if applicable, in[Action Number/File Number].....]:[state concisely the decision, direction, or order]*.....;

AND WHEREAS an appeal lies to ☐ this court ☐ a judge of this court under*[name and section of enactment allowing appeal]*.....;

TAKE NOTICE that*[name(s) of appellant(s)]*..... appeal(s) from the ☐ decision ☐ direction ☐ order on the following grounds:*[concisely set out grounds of appeal]*..... .

ATTACHED is the standard set of directions, in the form directed by the Chief Justice of the Supreme Court of British Columbia, governing the conduct of the appeal.

The appellant(s) estimate(s) that the hearing of the appeal will take*[time estimate]*..... .

If you intend to oppose the appeal, you or your lawyer must

- (a) file a Notice of Interest in Form 70 in the above-named registry of this court within the time for Notice of Interest described below, and
- (b) serve a copy of the Notice of Interest on the appellant's(s') address for service set out in this Notice of Appeal.

Time for Notice of Interest

A Notice of Interest must be filed and served on the appellant(s),

- (a) if you were served with the notice of appeal anywhere in Canada, within 14 days after that service,

SUPREME COURT CIVIL RULES

Appendix A – Form 74

- (b) if you were served with the notice of appeal anywhere in the United States of America, within 28 days after that service,
- (c) if you were served with the notice of appeal anywhere else, within 42 days after that service, or
- (d) if the time for Notice of Interest has been set by order of the court, within that time.

The appellant's(s') address for service is: *[Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]*

Fax number address for service (if any):

E-mail address for service (if any):

Date:[dd/mm/yyyy].....

.....
Signature of ☐ appellant ☐ lawyer for
appellant(s)

.....[type or print name].....

FORM 75 (RULE 18-3 (9))

[Style of Proceeding]

NOTICE OF HEARING OF APPEAL

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

TAKE NOTICE that this appeal will be heard at*[time of day]*..... on*[dd/mm/yyyy]*....., at
.....*[address]*..... .

.....

Registrar

Time estimate:

.....

Signature of [] appellant [] lawyer for
appellant(s)

.....*[type or print name]*.....

FORM 76 (RULE 18-3 (10))

[Style of Proceeding]

NOTICE OF ABANDONMENT OF APPEAL

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

TAKE NOTICE that the appellant,[*name*]....., abandons this appeal.

[Check the correct box and complete any required information.]

- ☐ This appeal has not yet been set for hearing.
- ☐ The date scheduled for the hearing of this appeal is[*dd/mm/yyyy*]..... .

Date:[*dd/mm/yyyy*].....

.....
Signature of ☐ appellant ☐ lawyer for
appellant(s)
.....[*type or print name*].....

FORM 77 (RULE 19-3 (5))

*[Style of Proceeding]***ORDER TO REGISTER FOREIGN JUDGMENT***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*

BEFORE

.....[dd/mm/yyyy].....

} THE HONOURABLE JUSTICE

}

} or

}

} MASTER

}

ON THE APPLICATION of[party(ies)]..... coming on before me on[dd/mm/yyyy].....
and on hearing[name of party/lawyer]..... and[name of party/lawyer].....;

THIS COURT ORDERS that the judgment dated[dd/mm/yyyy]..... of[name of court].....,
by which it was adjudged that[name and address of judgment creditor]..... recover from
.....[judgment debtor]..... the sum of \$..... for debt [or as the case may be] and [] costs to
be assessed [] \$..... for costs, be registered in this court.

By the Court.

.....
Registrar

FORM 78 (RULE 20-2 (12))

This is the[1st/2nd/3rd/etc.]..... affidavit
of[name]..... in this case
and was made on[dd/mm/yyyy].....

[Style of Proceeding]

AFFIDAVIT OF ATTAINMENT OF MAJORITY

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address].....,[occupation]....., SWEAR (OR
AFFIRM) THAT:

- 1 I attained the age of majority on[dd/mm/yyyy]..... .
- 2 I am under no other legal disability.
- 3 I intend to act in this action without a litigation guardian.

SWORN (OR AFFIRMED) BEFORE)

ME at[name]....., British Columbia)

on[dd/mm/yyyy]..... .)

.....)

A commissioner for taking)

affidavits for British Columbia)

....[print name or affix stamp of commissioner]....

FORM 79 (RULE 20-5 (3))

*[Style of Proceeding]***ORDER TO WAIVE FEES***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]**[Complete the form in accordance with the instructions found in the bracketed italicized wording and then remove all bracketed italicized wording so that it does not appear in the form when the form is filed.]*

BEFORE

.....[dd/mm/yyyy].....

}	THE HONOURABLE JUSTICE	}
}	or	}
}	MASTER	}

ON THE APPLICATION of[name]..... *[add the following if applicable: coming on before me on[dd/mm/yyyy]..... and on hearing[name of party/lawyer]..... and[name of party/lawyer].....];*

[Select whichever one of the 4 following provisions is correct, complete the selected provision and remove the provisions that have not been selected so that they do not appear in the form when the form is filed.]

THIS COURT ORDERS that no fee is payable by[name of person]..... to the government under Schedule 1 of Appendix C of the Supreme Court Civil Rules in relation to this proceeding *[add the following if applicable: subject to the following:[set out any conditions on this order].....].*

THIS COURT ORDERS that no fee is payable by[name of person]..... to the government under Schedule 1 of Appendix C of the Supreme Court Civil Rules in relation to the following part(s) of this proceeding:[describe part(s)]..... *[add the following if applicable: subject to the following:[set out any conditions on this order].....].*

THIS COURT ORDERS that no fee is payable by[name of person]..... to the government under Schedule 1 of Appendix C of the Supreme Court Civil Rules in relation to this proceeding during the following period(s):[describe period(s)]..... *[add the following if applicable: subject to the following:[set out any conditions on this order].....].*

THIS COURT ORDERS that no fee is payable by[name of person]..... to the government under Schedule 1 of Appendix C of the Supreme Court Civil Rules in relation to the following steps in this proceeding:[describe step(s)]..... *[add the following if applicable: subject to the following:[set out any conditions on this order].....].*

By the Court.

.....
Registrar

FORM 80 (RULE 20-5 (3))

This is the[1st/2nd/3rd/etc.]..... affidavit
of[name]..... in this case
and was made on[dd/mm/yy].....

[Style of Proceeding]

AFFIDAVIT IN SUPPORT OF ORDER TO WAIVE FEES

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address].....,[occupation]....., SWEAR
(OR AFFIRM) THAT:

- 1 I am the[party]..... in this proceeding.
- 2 I make this affidavit in support of my application for an order directing that I am not required to pay any fees to the government under Schedule 1 of Appendix C of the Supreme Court Civil Rules.
- 3 I am years old.
- 4 I have the following dependants: [List all the dependants in the household.]
.....
.....
.....
- 5 The following persons contribute to my household expenses: [List all in the household who contribute to expenses.]
.....
- 6 I am ☐ employed ☐ unemployed.
- 7 Attached as Exhibit A is [Check whichever one of the following boxes is correct and attach the required exhibit.]
☐ a financial statement that accurately sets out the monthly income, expenses and assets of my household.
☐ proof that I receive benefits under the *Employment and Assistance Act* or the *Employment and Assistance for Persons with Disabilities Act*.
- 8 Attached as Exhibit B is an accurate description of my educational and employment history.
- 9 Attached as Exhibit C is an accurate description of my workplace skills.
- 10 Attached as Exhibit D is a copy of the document I wish to file or with which I wish to proceed.

SWORN (OR AFFIRMED) BEFORE)
ME at, British Columbia)
on[dd/mm/yy].....)

.....)
 A commissioner for taking)
 affidavits for British Columbia)
[print name or affix stamp of commissioner]....

This is Exhibit A referred to in the affidavit of
, sworn (or affirmed)
 before me on[dd/mm/yyyy].....

 A commissioner for taking affidavits for
 British Columbia

FINANCIAL STATEMENT**ESTIMATED NET MONTHLY INCOME**

[Attach proof – i.e. most recent pay stubs or payment advice, etc., if available.]

Estimated net monthly income from all sources:

Employment	\$.....
Pension	\$.....
Dividends	\$.....
Interest	\$.....
Other	<u>\$.....</u>
TOTAL (Estimated net monthly income)	<u><u>\$.....</u></u>

ESTIMATED MONTHLY EXPENSES

[Attach receipts for the following, if available.]

Estimated monthly expenses related to housing	\$.....
Estimated monthly expenses related to transportation	\$.....
Estimated monthly expenses related to household expenses	\$.....
Estimated monthly expenses related to medical and dental expenses	\$.....
Estimated monthly expenses, not included in above, related to dependent children	\$.....
Estimated monthly debt payments [specify].....	\$.....
Estimate of other monthly expenses [specify].....	<u>\$.....</u>
TOTAL (Estimated monthly expenses)	<u><u>\$.....</u></u>

ASSETS

[Specify assets and set out their estimated value.]

.....	\$.....
.....	\$.....
.....	\$.....
.....	\$.....
.....	\$.....
TOTAL (Estimated asset values) \$.....	

This is Exhibit B referred to in the affidavit of
....., sworn (or affirmed)
before me on[dd/mm/yyyy].....
.....
A commissioner for taking affidavits for
British Columbia

EDUCATIONAL AND EMPLOYMENT HISTORY

[Set out details of education and employment history.]

1 Highest level of education attained and date completed:

.....
.....
.....

2 Employment history:

Employer	Dates	Position
.....
.....
.....

This is Exhibit C referred to in the affidavit of
....., sworn (or affirmed)
before me on[dd/mm/yyyy].....
.....
A commissioner for taking affidavits for
British Columbia

WORKPLACE SKILLS

[specify]

.....
.....
.....
.....

FORM 81 (RULE 21-1 (3))

No.

..... Registry

In the Supreme Court of British Columbia

Admiralty Action in Rem Against

The Ship[specify]..... (and/or property)

Between

Plaintiff(s)

and

The Owners and all Others Interested in the Ship
(and/or other property)

Defendant(s)

NOTICE OF CIVIL CLAIM – ADMIRALTY (IN REM)

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Name and address of each plaintiff:

Description of Ship and/or other property:

To the defendant(s):

TAKE NOTICE that this action has been started against you by the plaintiff(s) for the claim(s) set out in this notice of civil claim.

IF YOU INTEND TO RESPOND TO this action, or if you have a set-off or counterclaim that you wish to have taken into account at the trial, YOU MUST FILE a response to civil claim in Form 2 in the above registry of this court within 21 days after being served with a copy of the filed notice of civil claim and SERVE a copy of the filed response to civil claim on the plaintiff's(s') address for service.

YOU OR YOUR LAWYER may file the response to civil claim.

APPLICATION FOR JUDGMENT AGAINST THE SHIP OR OTHER PROPERTY MAY BE MADE IF YOU FAIL to file the response to civil claim within 21 days after being served with a copy of the filed notice of civil claim.

CLAIM OF THE PLAINTIFF

Part 1: STATEMENT OF FACTS

[Using numbered paragraphs, set out a concise statement of the material facts giving rise to the plaintiff's(s') claim.]

1

2

[If any party sues or is sued in a representative capacity, identify the party and describe the representative capacity.]

Part 2: RELIEF SOUGHT

[Using numbered paragraphs, set out the relief sought and indicate against which defendant(s) that relief is sought. Relief may be sought in the alternative.]

1

2

Part 3: LEGAL BASIS

[Using numbered paragraphs, set out a concise summary of the legal bases on which the plaintiff(s) intend(s) to rely in support of the relief sought and specify any rule or other enactment relied on. The legal bases for the relief sought may be set out in the alternative.]

1

2

Plaintiff's(s') address for service: *[Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]*

Fax number address for service (if any):

E-mail address for service (if any):

Place of trial:

The address of the registry is:

Date:[dd/mm/yyyy].....

.....

Signature of [] plaintiff [] lawyer for plaintiff(s)

.....[type or print name].....

FORM 82 (RULE 21-1 (4))

No.

..... Registry

In the Supreme Court of British Columbia

Admiralty Action in Rem Against

The Ship[specify]..... (and/or property)

And in Personam

Between

Plaintiff(s)

and

The Owners and all Others Interested in the Ship
(and/or other property)

Defendant(s)

NOTICE OF CIVIL CLAIM – ADMIRALTY (IN REM AND IN PERSONAM)

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Name and address of each plaintiff:

Description of ship and/or other property:

Name and address of the defendant(s) in personam:

To the defendant(s):

TAKE NOTICE that this action has been started against you by the plaintiff(s) for the claim(s) set out in this notice of civil claim.

IF YOU INTEND TO RESPOND TO this action, or if you have a set-off or counterclaim that you wish to have taken into account at the trial, YOU MUST FILE a response to civil claim in Form 2 in the above registry of this court within the time for response to civil claim described below and SERVE a copy of the filed response to civil claim on the plaintiff's(s') address for service.

YOU OR YOUR LAWYER may file the response to civil claim.

APPLICATION FOR JUDGMENT AGAINST THE SHIP OR OTHER PROPERTY MAY BE MADE AND JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

Service on ship:

The time for response to civil claim is 21 days from the service of this notice of civil claim on the ship or other property described in this notice of civil claim (not including the day of service).

Service on defendant in personam:

A response to civil claim must be filed and served on the plaintiff(s),

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,
- (b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

A response to civil claim filed on behalf of a ship or other property must set out the nature of the interest that you claim in the ship or other property.

CLAIM OF THE PLAINTIFF

Part 1: STATEMENT OF FACTS

[Using numbered paragraphs, set out a concise statement of the material facts giving rise to the plaintiff's(s') claim.]

1

2

[If any party sues or is sued in a representative capacity, identify the party and describe the representative capacity.]

Part 2: RELIEF SOUGHT

[Using numbered paragraphs, set out the relief sought and indicate against which defendant(s) that relief is sought. Relief may be sought in the alternative.]

1

2

Part 3: LEGAL BASIS

[Using numbered paragraphs, set out a concise summary of the legal bases on which the plaintiff(s) intend(s) to rely in support of the relief sought and specify any rule or other enactment relied on. The legal bases for the relief sought may be set out in the alternative.]

1

2

Plaintiff's(s') address for service: *[Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]*

Fax number address for service (if any):

E-mail address for service (if any):

The address of the registry is:

Date:[dd/mm/yy].....

.....

Signature of [] plaintiff [] lawyer for plaintiff(s)

.....[type or print name].....

FORM 83 (RULE 21-1 (8))

This is the[1st/2nd/3rd/etc.]..... affidavit
of[name]..... in this case
and was made on[dd/mm/yy].....

[Style of Proceeding]

AFFIDAVIT TO LEAD WARRANT

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address].....,[occupation]....., SWEAR
(OR AFFIRM) THAT:

- 1 I[describe relationship to the party at whose instance the ship or other property is to be arrested and the basis of the knowledge of the person swearing or affirming the affidavit]..... and accordingly have knowledge of the facts to which I depose in this affidavit save and except where such are stated to be on information and belief.
- 2 The party making application for a warrant for the arrest of the ship or other property named in this affidavit is[name]..... of[address]..... .
- 3 The nature of the claim that is the subject of the action against the ship or other property named in this affidavit is[describe the claim and state the amount if known]..... .
- 4 The claim has not been satisfied.
- 5 The property to be arrested is[Describe the ship or other property in sufficient detail to facilitate an arrest.]..... .

[Check whichever one of the following boxes is correct and attach the exhibit if required.]

- 6 ☐ No notice of this action is required.
- ☐ The notice of this action required has been given and a copy of the notice is attached to this my affidavit and marked Exhibit A.

SWORN (OR AFFIRMED) BEFORE)

ME at[name]....., British Columbia)

on[dd/mm/yy]..... .)

.....)

A commissioner for taking affidavits)

for British Columbia)

....[print name or affix stamp of commissioner]....

FORM 84 (RULE 21-1 (10))

[Style of Proceeding]

WARRANT TO ARREST SHIP

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

You are commanded to arrest the ship*[name of ship]*....., her cargo and freight etc. *[or as the case may be]*, and to keep the same under arrest until you are otherwise ordered.

Date:*[dd/mm/yyyy]*.....
Registrar

This warrant is taken out by*[name of person at whose instance this warrant is issued or his or her lawyer]*..... of*[Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]*..... .

Fax number address for service (if any):

E-mail address for service (if any):

FORM 85 (RULE 21-1 (18))

[Style of Proceeding]

CAVEAT – ADMIRALTY

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Caveat filed[dd/mm/yy]....., against the issue of a release from arrest of the ship[*name of ship*]....., her cargo and freight etc. [*or as the case may be*], or the payment out of court of the proceeds of any sale of the ship[*name of ship*]....., her cargo and freight etc. [*or as the case may be*], by[*name*]..... .

Date:[dd/mm/yy].....

.....
Signature of [] person filing caveat [] lawyer for
person(s) filing caveat

.....[*type or print name*].....

Address for service of person filing caveat: [*Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.*]

Fax number address for service (if any):

E-mail address for service (if any):

FORM 86 (RULE 21-1 (19))

[Style of Proceeding]

NOTICE OF WITHDRAWAL OF CAVEAT

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

TAKE NOTICE that[*name*]..... withdraws the caveat filed in this proceeding on
.....[*dd/mm/yyyy*]..... .

Date caveat is withdrawn:[*dd/mm/yyyy*]....

.....
Signature of [☐] filing party [☐] lawyer for filing
party(ies)

.....[*type or print name*].....

FORM 87 (RULE 21-1 (24))

[Style of Proceeding]

PAYMENT INTO COURT AS BAIL

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

The amount of \$..... is hereby paid into court as bail to answer judgment granted against*[name of defendant ship or as the case may be]*..... together with interest and costs.

Given at, British Columbia, on*[dd/mm/yyyy]*..... .

.....
Signature of [] person making payment
[] lawyer for person(s) making payment
.....*[type or print name]*.....

FORM 88 (RULE 21-1 (24))

[Style of Proceeding]

BANK GUARANTEE OR BAILBOND

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

We,*[name of bank or surety company]*....., submit to the jurisdiction of this court and consent that if a judgment granted in this proceeding against*[name of defendant ship or as the case may be]*..... is not satisfied or stayed, execution may issue against us for a sum not exceeding \$..... inclusive of interest and costs.

Given on*[dd/mm/yyyy]*.....

.....

Signature of authorized signatory for bank or
surety company

.....*[type or print name and title]*.....

Contact information for Bank or Surety Company

Bank or Surety Name:

Attention:

Address:

Fax:

E-mail:

FORM 89 (RULE 21-1 (28))

[Style of Proceeding]

RELEASE

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

WHEREAS, by our warrant issued in this action on[dd/mm/yyyy]....., you were commanded to arrest the ship[name]....., her cargo and freight etc. [or as the case may be], and to keep the same under arrest until you should receive a further order, you are commanded to release the ship[name]....., her cargo and freight etc. [or as the case may be], from arrest on payment being made to you of all fees due and all charges incurred by you in respect of the arrest and custody of the ship[name]....., her cargo and freight etc. [or as the case may be].

Date:[dd/mm/yyyy].....

.....
Registrar

FORMS 90 TO 107

Repealed. [B.C. Reg. 149/2013, s. 13.]

FORM 108 (RULE 21-8 (1) AND (3))

[Style of Proceeding]

JURISDICTIONAL RESPONSE

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

The defendant,[*name*].....,

[Check one or both of the following boxes as applicable.]

- ☐ disputes that this court has jurisdiction over this defendant
- ☐ submits that this court ought not to exercise its jurisdiction over this defendant

Date:[*dd/mm/yyyy*].....

.....
Signature of ☐ defendant ☐ lawyer for
defendant

.....[*type or print name*].....

Defendant's address for service: *[Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]*

Fax number address for service (if any):

E-mail address for service (if any):

FORM 109 (RULE 22-2 (2) AND (7))

This is the[1st/2nd/3rd/etc.]..... affidavit
of[name]..... in this case
and was made on[dd/mm/yyyy].....

[Style of Proceeding]

AFFIDAVIT

[Rule 22-2 applies to affidavits and Rule 22-3 applies to all forms.]

I,[name]....., of[address].....,[occupation]....., SWEAR
(OR AFFIRM) THAT:

- 1
- 2
- 3

SWORN (OR AFFIRMED) BEFORE)
ME at[address]....., British Columbia)
on[dd/mm/yyyy].....)
.....)
A commissioner for taking affidavits)
for British Columbia)
....[print name or affix stamp of commissioner]....

[The following endorsement must be completed if required under Rule 22-2 (7) of the Supreme Court Civil Rules.]

ENDORSEMENT OF INTERPRETER

[if applicable]

I,[name]....., of[address].....,[occupation]..... certify
that:

- 1 I have a knowledge of the English and languages and I am competent to interpret from one to the other.
- 2 I am advised by the person swearing or affirming the affidavit and believe that the person swearing or affirming the affidavit understands the language.
- 3 Before the affidavit on which this endorsement appears was made by the person swearing or affirming the affidavit I correctly interpreted it for the person swearing or affirming the affidavit from the English language into the language and the person swearing or affirming the affidavit appeared to fully understand the contents.

Date:[dd/mm/yyyy].....
Signature of interpreter

FORM 110 (RULE 22-6 (1))

[Style of Proceeding]

NOTICE OF APPOINTMENT OR CHANGE OF LAWYER

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

TAKE NOTICE that[*name of new lawyer*]..... has been appointed to act as the lawyer for[*party(ies)*]..... in place of[*name of former lawyer, or, if the party was previously acting personally, omit reference to previous lawyer*]..... .

Date:[*dd/mm/yyyy*].....

.....
Signature of new lawyer

Party's address for service: [*Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.*]

Fax number address for service (if any):

E-mail address for service (if any):

FORM 111 (RULE 22-6 (1))

[Style of Proceeding]

NOTICE OF INTENTION TO ACT IN PERSON

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

TAKE NOTICE that I now intend to act personally in this proceeding in place of*[name of lawyer]*..... .

Date:*[dd/mm/yyyy]*.....

.....

Signature of party

.....*[type or print name]*.....

My address for service is: *[Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]*

Fax number address for service (if any):

E-mail address for service (if any):

FORM 112 (RULE 22-6 (4))

*[Style of Proceeding]***NOTICE OF INTENTION TO WITHDRAW AS LAWYER***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*

TAKE NOTICE that[*name of lawyer*]..... intends to withdraw as lawyer of record for[*name of party*].....in this proceeding.

Notice to the client and to all parties of record

If you object to the lawyer withdrawing from this proceeding you may, within 7 days after service of this notice, file in the registry and serve on the lawyer an objection in Form 113.

Notice to the client

If you do not object to the lawyer withdrawing from the proceeding, then you may file in the registry and serve on the other parties of record a notice of change of lawyer in Form 110, or a notice of intention to act in person in Form 111.

If you fail either to object or to file a notice in Form 110 or Form 111, service of all further documents on you may be made by other parties to the proceeding by mail to your last known address which is[*set out last known address of the client*]..... .

Lawyer's address for service: [*Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.*]

Fax number address for service (if any):

E-mail address for service (if any):

Date:[*dd/mm/yyy*].....

.....
Signature of lawyer intending to withdraw

FORM 113 (RULE 22-6 (5))

[Style of Proceeding]

OBJECTION

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

.....*[party(ies)]*..... object(s) to*[name of the lawyer]*..... withdrawing
from this proceeding.

Date:*[dd/mm/yyyy]*.....

.....
Signature of ☐ objecting party ☐ lawyer for
objecting party(ies)

.....*[type or print name]*.....

FORM 114 (RULE 22-6 (6))

[Style of Proceeding]

NOTICE OF WITHDRAWAL OF LAWYER

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

TAKE NOTICE that[*name of lawyer*]..... has ceased to be the lawyer acting for[*party(ies)*]..... and that for purposes of Rule 4-2 (7) of the Supreme Court Civil Rules the last known address of[*party(ies)*]..... is[*set out last known address of each party for whom the lawyer has ceased to act*]..... .

Date:[*dd/mm/yyyy*].....

.....
Signature of lawyer

FORM 115 (RULE 22-8 (5) AND (7))

[Style of Proceeding]

WARRANT – CONTEMPT

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

To any Peace Officer

WHEREAS this court is of the opinion that*[name and address of person or corporation]*.....
may be guilty of contempt of court;

YOU are hereby ordered to apprehend*[name and address of person or director, officer, or employee of corporation]*..... and promptly bring him or her before a judge of the Supreme Court, and, after that, to deal with him or her as directed.

Date:*[dd/mm/yyyy]*.....

.....
Signature of a Judge of the Supreme Court of
British Columbia
.....*[type or print name]*.....

FORM 116 (RULES 22-8 (9) AND 25-12 (7))

*[Style of Proceeding]***UNDERTAKING***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*

I,[*name*]....., of[*address*]....., understand that I have been apprehended and placed in custody on an allegation that I have failed to obey the attached order of the Supreme Court, dated[*dd/mm/yyyy*]..... .

To be released from custody, I give the following undertaking to the court:

- (a) I promise that I will attend before a judge of the Supreme Court on[*dd/mm/yyyy*]..... at[*time of day*]..... at[*location*]..... and will attend at the other times required by the court to be dealt with according to law,
- (b) I promise that I will strictly comply with the terms of the attached order and will otherwise keep the peace, and
- (c) I promise that [*add conditions here*].

[OR]

- (c) I promise that I will obey the attached conditions.

I understand that if I breach any of the promises made in this undertaking I may be arrested and brought before the court to be imprisoned or otherwise dealt with according to the law.

Date:[*dd/mm/yyyy*].....

.....
Signature of person being released

FORM 117 (RULES 22-8 (10) AND 25-12 (7))

[Style of Proceeding]

RELEASE ORDER

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

BEFORE THE HONOURABLE JUSTICE[dd/mm/yyyy].....

ON THE APPLICATION of[name]..... who has been apprehended on an allegation that[he/she].... violated an order of the Supreme Court dated[dd/mm/yyyy].....;

THIS COURT ORDERS that be released from custody on[his/her].... undertaking made and dated[dd/mm/yyyy]....., a copy of which undertaking is attached to this order.

By the Court.

.....
Registrar

FORM 118 (RULE 23-2 (3))

FORM 118
(RULE 23-2 (3))

No. _____

*In the Supreme Court of British Columbia***FAX COVER SHEET***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]***This form must be used when transmitting documents to the court registry by fax for filing.**
This Form is not to be emailed.

The ability to transmit documents by fax to a court registry for filing is subject to the limitations set out in the Supreme Court Civil Rules and Practice Directives. Additional information on this filing service is available on the Court Services Branch website at <https://www2.gov.bc.ca/gov/content/justice/courthouse-services/documents-forms-records/court-forms/sup-civil-forms>.

It is the responsibility of the person transmitting a document by fax to ensure that the document is filed in the court registry within the required filing time. The registry takes no responsibility for difficulty experienced when transmitting a document by fax to the registry. The registry cannot guarantee that any document will be filed on the day it is received by fax in the registry.

Documents transmitted to the court registry by fax will be processed in the order they are received. Confirmation of acceptance or refusal will be forwarded as soon as possible to you at the return fax number set out below or by mail if indicated.

To:

Fax numbers for transmitting documents to court registries are available through the Court Services Branch website at www.ag.gov.bc.ca/courts/fax/index.htm or through Enquiry BC at 1-800-663-7867

_____ court location

_____ fax number

From:

_____ name – firm or individual

_____ address

_____ contact name

_____ city

_____ phone number

_____ province

_____ postal code

Confirmation of acceptance or refusal of this filing will be sent as follows:

[Check whichever one of the following boxes is correct and complete any required information.]

☐ by fax to _____ ; or
[insert fax number to which confirmation is to be sent]

☐ by mail to the address provided above.

Last Updated: 18/June/2019

Attached:

file number or name (style of proceeding)
e.g. - 013654 or "Steward vs. Parakeet"

Comments:

Type of document: (eg. notice of application, notice of civil claim, response to civil claim)	No. of pages in document	Statutory fee amount
		Delete
Add Row		Fee total
total no. of pages in submission (maximum 30 including the cover sheet)		
	plus confirmation fee	\$10.00
	total statutory fees due	
Registry use only - imprint		

Court Services Branch may use your contact information for the purposes of conducting an evaluation of the fax service.

Payment Information:

I authorize you to bill my credit card or BC Online Account the total of the statutory fee for filing and the confirmation fee. I include the payment information for that purpose. *(Note: BC Online is available only in the Prince George Court Registry)*

card type (Visa/
MasterCard/AMEX): or
BC OnLine account number

print name as it appears on credit card or print name of BC OnLine account

authorizing signature (Credit Card) or authorizing signature (BC OnLine account)

credit card account number expiry date on credit card
Please note: The credit card information provided on this form will not be retained. Upon authorization of the payment request, all credit card information will be destroyed.

Last Updated: 18/June/2019

FORM 119 (RULE 23-3 (6))

*[Style of Proceeding]***ELECTRONIC FILING STATEMENT***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]**[Check whichever one of the following is correct and complete the required information.]*

- ☐ I,[*name*]....., am the lawyer acting for the[*party(ies)*].....
.....[*name(s) of party(ies)*]..... .
- ☐ I,[*name*]....., am the[*party*]..... and I am not represented by a lawyer.

I advise as follows:

- 1 The[*type and identifying description of document*]..... is being submitted for filing electronically [*add the following if applicable*] on behalf of the[*party(ies)*].....,[*name(s) of party(ies)*]..... .
- 2 The original paper version of the document being submitted for filing electronically appears to bear an original signature of the person identified as the signatory and I have no reason to believe that the signature placed on the document is not the signature of the identified signatory.
- 3 The version of the document that is being submitted for filing electronically appears to be a true copy of the original paper version of the document and I have no reason to believe that it is not a true copy of the original paper version.

Date:[*dd/mm/yyyy*].....

.....
Signature of ☐ party ☐ lawyer for party(ies)
.....[*type or print name*].....

FORM 120 (RULE 23-4 (17))

[Style of Proceeding]

DECLARATION

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

RE APPLICATION FOR PAYMENT OUT OF INFANT'S FUNDS

I,[current name in full]....., of[address]....., DO SOLEMNLY
DECLARE:

- 1 that I am the person for whom funds are held in court and I am the person named in the order of
..... made on[dd/mm/yyyy].....;
- 2 that I attained the full age of 19 years on[dd/mm/yyyy]..... and submitted with this declaration is a copy of my birth certificate [or] my birth certificate for examination by the registry;
- 3 that I am entitled to payment of the funds;

[If the applicant's name has changed since the date of the order referred to in paragraph 1 of this declaration, check the following and provide the required proof.]

- 4 ☐ that my name has been changed from that shown on the original court order. Proof is attached.

I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of the *Canada Evidence Act*.

DECLARED BEFORE ME at)
....., British Columbia)
on[dd/mm/yyyy].....)
.....)
A commissioner for taking)
affidavits for British Columbia)
....[print name or affix stamp of commissioner]....

If cheque is to be mailed to other than above address, state here:

AUTHORIZATION FOR PAYMENT OUT

[to be completed by the registry]

Original name [if changed]:

Registry: Proceeding No.:

Date paid into court:[dd/mm/yyyy]..... Treasury No.:

Amount (including accrued interest): \$.....

Date:[dd/mm/yyyy].....
Registrar

FORM 121 (RULE 23-6 (8.1))

[Style of Proceeding]

NOTICE OF APPEAL FROM MASTER, REGISTRAR OR SPECIAL REFEREE

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

WHEREAS on[dd/mm/yyyy].....[name of master, registrar or special referee]..... made the following [] decision [] order:[state concisely the decision or order].....;

TAKE NOTICE that[party(ies)]..... appeal(s) from that [] decision [] order on the following grounds:[set out concisely the grounds of appeal].....;

This appeal will be heard at[time of day]..... on[dd/mm/yyyy]..... at the courthouse at by the presiding judge.

The appellant(s) estimate(s) that the hearing of the appeal will take[time estimate]..... .

Date:[dd/mm/yyyy].....

.....
Signature of [] appellant [] lawyer for
appellant(s)
.....[type or print name].....

FORM 121.1 (RULE 23-6 (8.2))

No.

..... Registry

In the Supreme Court of British Columbia

Between

Appellant

and

Respondent

APPELLANT'S STATEMENT OF ARGUMENT

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]
[Not to exceed 10 pages]

Part 1: STATEMENT OF FACTS

The facts of this case are as follows:

[Using numbered paragraphs, set out a concise statement of the material facts giving rise to the appellant's statement of argument.]

1

2

Part 2: ISSUES ON APPEAL

The appellant agrees with the order appealed from except as follows:

[Using numbered paragraphs, set out a concise statement of the legal bases from the decision or order which give rise to the appellant's appeal.]

1

2

Part 3: STANDARD OF REVIEW

[This part must set out the standard of review that the appellant says governs the appeal.]

Part 4: ARGUMENT

The decision or order appealed from is opposed because:

[Using numbered paragraphs, set out a concise statement of the appellant's argument in opposition to the decision or order.]

1

2

Part 5: ORDER SOUGHT

[This part must set out the order sought by the appellant.]

Date:[dd/mm/yy].....

.....
Signature of [] filing person(s) [] lawyer for
filing person(s)
.....[type or print name].....

FORM 121.2 (RULE 23-6 (8.4))

No.

..... Registry

In the Supreme Court of British Columbia

Between

Appellant

and

Respondent

RESPONDENT'S STATEMENT OF ARGUMENT

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]
[Not to exceed 10 pages]

Part 1: STATEMENT OF FACTS

The respondent's position on the appellant's statement of facts is as follows:

[Using numbered paragraphs, set out a concise statement of the opposed relevant material facts in the appellant's statement of argument and a concise statement of any other relevant facts to be considered.]

1

2

Part 2: ISSUES ON APPEAL

The respondent's position on the appellant's statement of issues on appeal is as follows:

[Using numbered paragraphs, set out a concise statement of the opposed legal bases in the decision or order.]

1

2

Part 3: STANDARD OF REVIEW

[This part must set out the standard of review which the respondent says governs the appeal.]

Part 4: ARGUMENT

The appellant's argument is opposed because:

[Using numbered paragraphs, set out a concise statement of the respondent's argument in opposition to the decision or order sought by the appellant.]

1

2

Part 5: ORDER SOUGHT

[This part must set out the order sought by the respondent.]

Date:[dd/mm/yy].....

.....
Signature of [] filing person(s) [] lawyer for
filing person(s)
.....[type or print name].....

FORM 122 (RULE 24-1 (10))

[Style of Proceeding]

DEMAND

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

To:[party].....

YOU ARE HEREBY REQUIRED to amend the[specify document to be amended – e.g. notice of civil claim, response to civil claim, etc.]..... in accordance with Rule 24-1 (10) of the Supreme Court Civil Rules.

Date:[dd/mm/yyyy].....

.....

Signature of [] party making demand

[] lawyer for party(ies) making demand

.....[type or print name].....

Rule 24-1 (10) of the Supreme Court Civil Rules states:

Demand for amendment

- (10) A party to a transitional proceeding may, by demand in Form 122, demand that a document that is deemed under this rule to be a pleading, petition or response to petition be amended by the party who filed it to make it accord with these Supreme Court Civil Rules.

FORM 123 (APPENDIX B, SECTION 8)

[Style of Proceeding]

OFFER TO SETTLE COSTS

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

To:[party(ies)].....

TAKE NOTICE that[party(ies)]..... offer(s) to settle the amount of the bill of costs of
.....[party(ies)]..... for the sum of \$..... .

Date:[dd/mm/yyy].....

.....
Signature of [] offering party [] lawyer for
offering party(ies)
.....[type or print name].....

FORM 124 (APPENDIX C, SCHEDULE 1, SECTION 2 (2))

CERTIFICATE OF MEDIATION

[Rule 22-3 (2) of the Supreme Court Civil Rules applies to this form.]

I,[*name of mediator*]....., certify that:

- 1 I am a member of a roster organization as defined in the Notice to Mediate (General) Regulation, B.C. Reg. 4/2001.
- 2 I conducted a mediation session in which the following persons participated:
.....[*if a participant in the mediation attended in a representative capacity, indicate that and identify the person(s) on whose behalf the representative participated*]..... .
- 3 The parties to the mediation were unable to resolve all of the issues at the mediation session and I terminated the mediation.

Date:[*dd/mm/yyyy*].....

.....

Signature of mediator

.....[*type or print name, address and phone number of mediator*].....

APPENDIX A.1 – LIST OF PROBATE FORMS

[en. B.C. Reg. 149/2013, Sch. 1, s. 16.]

Form P1	Notice of Proposed Application in Relation to Estate [am. B.C. Reg. 44/2014, Sch. 1, s. 15.]
Form P2	Submission for Estate Grant [am. B.C. Regs. 44/2014, Sch. 1, s. 16; 103/2015, s. 11; 115/2019, s. 12.]
Form P3	Affidavit of Applicant for Grant of Probate or Grant of Administration with Will Annexed (Short Form) [am. B.C. Regs. 44/2014, Sch. 1, s. 17; 103/2015, s. 12.]
Form P4	Affidavit of Applicant for Grant of Probate or Grant of Administration with Will Annexed (Long Form) [am. B.C. Regs. 44/2014, Sch. 1, s. 18; 103/2015, s. 13; 115/2019, s. 13.]
Form P5	Affidavit of Applicant for Grant of Administration without Will Annexed [am. B.C. Regs. 44/2014, Sch. 1, s. 19; 103/2015, s. 14; 115/2019, s. 14.]
Form P6	Affidavit of Applicant for Ancillary Grant of Probate or Ancillary Grant of Administration with Will Annexed [am. B.C. Regs. 44/2014, Sch. 1, s. 20; 103/2015, s. 15.]
Form P7	Affidavit of Applicant for Ancillary Grant of Administration without Will Annexed [am. B.C. Reg. 44/2014, Sch. 1, s. 21.]
Form P8	Affidavit in Support of Application for Estate Grant [am. B.C. Reg. 44/2014, Sch. 1, s. 22.]
Form P9	Affidavit of Delivery [am. B.C. Regs. 44/2014, Sch. 1, s. 23; 103/2015, s. 16; 115/2019, s. 15.]
Form P10	Affidavit of Assets and Liabilities for Domiciled Estate Grant [am. B.C. Regs. 44/2014, Sch. 1, s. 24; 103/2015, s. 17.]
Form P11	Affidavit of Assets and Liabilities for Non-Domiciled Estate Grant [am. B.C. Reg. 44/2014, Sch. 1, s. 25.]
Form P12	Affidavit of Translator
Form P13	Direction of Public Guardian and Trustee [am. B.C. Reg. 44/2014, Sch. 1, s. 26.]
Form P14	Supplemental Affidavit of Assets and Liabilities for Domiciled Estate Grant [am. B.C. Regs. 44/2014, Sch. 1, s. 27; 103/2015, s. 18.]
Form P15	Supplemental Affidavit of Assets and Liabilities for Non-Domiciled Estate Grant [am. B.C. Regs. 44/2014, Sch. 1, s. 28; 103/2015, s. 19.]
Form P16	Affidavit of Interlineation, Erasure, Obliteration or Other Alteration [am. B.C. Reg. 44/2014, Sch. 1, s. 29.]
Form P17	Notice of Renunciation
Form P18	Authorization to Obtain Estate Information [am. B.C. Reg. 44/2014, Sch. 1, s. 30.]
Form P19	In Probate [am. B.C. Regs. 44/2014, Sch. 1, s. 31; 103/2015, s. 20.]
Form P20	Correction Record [am. B.C. Reg. 103/2015, s. 21.]
Form P20.1	Correction Record for Style of Proceeding [en. B.C. Reg. 115/2019, s. 16.]
Form P21	Submission for Resealing [am. B.C. Regs. 44/2014, Sch. 1, s. 32; 103/2015, s. 22; 115/2019, s. 17.]
Form P22	Affidavit of Applicant for Resealing of Grant of Probate or Grant of Administration with Will Annexed [am. B.C. Reg. 44/2014, Sch. 1, s. 33.]
Form P23	Affidavit of Applicant for Resealing of Grant of Administration without Will Annexed [am. B.C. Reg. 44/2014, Sch. 1, s. 34.]
Form P24	Affidavit in Support of Application for Resealing
Form P25	Affidavit of Assets and Liabilities for Resealing [am. B.C. Reg. 44/2014, Sch. 1, s. 35.]
Form P26	Supplemental Affidavit of Assets and Liabilities for Resealing [am. B.C. Reg. 44/2014, Sch. 1, s. 36.]
Form P27	Authorization to Obtain Resealing Information [am. B.C. Reg. 44/2014, Sch. 1, s. 37.]
Form P28	In Probate [am. B.C. Reg. 44/2014, Sch. 1, s. 38.]
Form P29	Notice of Dispute
Form P30	Withdrawal of Notice of Dispute [am. B.C. Reg. 44/2014, Sch. 1, s. 39.]
Form P31	Order for Removal of Notice of Dispute [am. B.C. Reg. 44/2014, Sch. 1, s. 40.]

SUPREME COURT CIVIL RULESAppendix A.1 – List of Probate Forms

Form P32	Citation [am. B.C. Reg. 44/2014, Sch. 1, s. 41.]
Form P33	Answer to Citation
Form P34	Affidavit of Deemed Renunciation [am. B.C. Reg. 44/2014, Sch. 1, s. 42.]
Form P35	Requisition for Subpoena [am. B.C. Reg. 44/2014, Sch. 1, s. 43.]
Form P36	Warrant After Subpoena
Form P37	Subpoena
Form P38	Affidavit in Support of Application to Pass Accounts
Form P39	Certificate
Form P40	Statement of Account Affidavit [am. B.C. Reg. 44/2014, Sch. 1, s. 44.]
Form P41	Requisition – Estates [am. B.C. Reg. 44/2014, Sch. 1, s. 45.]
Form P42	Notice of Application (Spousal Home or Deficiencies in Will) [am. B.C. Reg. 44/2014, Sch. 1, s. 46.]
Form P43	Petition to the Court – Estate Proceedings [en. B.C. Reg. 115/2019, s. 18.]

NOTICE OF PROPOSED APPLICATION IN RELATION TO ESTATE

TAKE NOTICE THAT:

AND TAKE NOTICE THAT:

SUPREME COURT CIVIL RULES

Appendix A.1 – Form P1

- (1) Before obtaining the foregoing grant or resealing, the applicant may be granted an authorization to obtain estate information or an authorization to obtain resealing information, as the case may be, in relation to that grant or resealing for the purposes of obtaining financial information in relation to the grant or resealing.
- (2) You have a right to oppose, by filing a notice of dispute in accordance with Rule 25-10 (1),
 - (a) if the intended application is for an estate grant, the granting of either or both of an authorization to obtain estate information and the estate grant, or
 - (b) if the intended application is for a resealing, the granting of either or both of an authorization to obtain resealing information and the resealing.
- (3) You may or may not be entitled to claim against the estate for relief, including a claim under
 - (a) the *Family Law Act*, or
 - (b) Division 6 of Part 4 of the *Wills, Estates and Succession Act*.
- (4) If you choose to take a step referred to in paragraph (2) or (3), you must do so within the time limited by any relevant rule of court or other enactment.
- (5) You may consult with your own lawyer concerning your interest in, or rights against, the estate.
- (6) After the applicant has filed a submission for estate grant or submission for resealing, you may apply for an order requiring the applicant to provide security unless the applicant is the Public Guardian and Trustee. Filing a notice of dispute will prevent a grant from being issued before you are able to apply for the order requiring security.
- (7) An authorization to obtain estate information, an authorization to obtain resealing information or a grant may issue to the applicant, or a foreign grant may be resealed, on any date that is at least 21 days after the date on which this notice is delivered to you or on any earlier date ordered by the court.
- (8) If an authorization to obtain estate information issues to the applicant, the applicant may apply for a grant without further notice. If an authorization to obtain resealing information issues to the applicant, the applicant may apply for the resealing of the foreign grant without further notice to you.
- (9) If a grant issues to the applicant, the applicant must provide, if there is a will, to the beneficiaries or, if there is no will, to intestate successors of the deceased, an accounting as to how the estate was administered and how the estate assets were distributed, and if a foreign grant is resealed as a result of the application, the intended applicant must provide, if there is a will, to the beneficiaries or, if there is no will, to intestate successors of the deceased, an accounting as to how the estate comprising the assets to which the resealed grant applies was administered and how those assets were distributed.

[If this notice of proposed application is required to be delivered to the Public Guardian and Trustee under Rule 25-2, ensure all additional information required under Rule 25-2 (13) is provided to the Public Guardian and Trustee.]

[A copy of the deceased's will, if any, identified above, must be delivered with this notice if the application is for a grant of probate or a grant of administration with will annexed. A copy of the foreign grant, and, if a copy of the will is not attached to the foreign grant, a copy of the will, must be delivered with this notice if the application is for a resealing of a foreign grant or for an ancillary grant of probate or an ancillary grant of administration with will annexed. Note that a reference to "will" includes all documents that are included within the definition of "will" in the *Wills, Estates and Succession Act*.]

INFORMATION ABOUT EACH APPLICANT

[Complete the following for each applicant. Add additional sheets as required.]

Name:

[first name] [middle name(s)] [last name/family name]

Mailing address: *[Include street number or post office box, city/town, province, country and postal code.]*.....
.....*[Check whichever one of the immediately following 2 boxes is correct.]*

- ☐ This applicant is not an individual
- ☐ This applicant is an individual and ordinarily lives

[If you checked the second of the immediately preceding 2 boxes, check whichever one of the immediately following 2 boxes is correct and provide any required information.]

- ☐ at the mailing address noted above
- ☐ in the following city and country:

ADDRESS FOR SERVICE OF APPLICANT(S)

[Check whichever one of the immediately following 2 boxes is correct and provide any required information. If there are 2 or more applicants, they must share the same address(es) for service.]

- ☐ The applicant's(s') address for service is the mailing address noted above.
- ☐ The applicant's(s') address for service is

[You must set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]

Street address for service:

Fax number address for service (if any):

E-mail address for service (if any):

Telephone number:

Date:[dd/mm/yyyy].....

Signature of ☐ applicant ☐ lawyer for
applicant(s)

.....[type or print name].....

FORM P2 (RULE 25-3 (2))

No.

..... Registry

In the Supreme Court of British Columbia

In the Matter of the Estate of[*legal name of deceased*]....., deceased

SUBMISSION FOR ESTATE GRANT

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

This submission for estate grant is submitted by/on behalf of:[*name(s) of applicant(s)*].....

I am/We are/I, ...[*name of lawyer for applicant(s)*]...., am applying for the following in relation to the estate of the deceased described in Part 1 of this submission for estate grant (the “deceased”):

[Check whichever one of the immediately following 5 boxes is correct and complete and attach the required schedule.]

- ☐ Grant of probate [*Complete and attach the Schedule for Grant of Probate or Grant of Administration with Will Annexed.*]
- ☐ Grant of administration with will annexed [*Complete and attach the Schedule for Grant of Probate or Grant of Administration with Will Annexed.*]
- ☐ Grant of administration without will annexed [*Complete and attach the Schedule for Grant of Administration without Will Annexed.*]
- ☐ Ancillary grant of probate or ancillary grant of administration with will annexed [*Complete and attach the Schedule for Ancillary Grant of Probate or Ancillary Grant of Administration with Will Annexed.*]
- ☐ Ancillary grant of administration without will annexed [*Complete and attach the Schedule for Ancillary Grant of Administration without Will Annexed.*]

[Check whichever one of the immediately following 2 boxes is correct.]

- ☐ I am/We are submitting with this submission for estate grant an affidavit of assets and liabilities in Form P10 or P11 and therefore do not require an authorization to obtain estate information.
- ☐ I am/We are seeking an authorization to obtain estate information so that I/we can secure the information necessary to prepare and submit an affidavit of assets and liabilities for estate grant.

[INDICATE HOW MANY COURT CERTIFIED COPIES OF THE ESTATE GRANT/AUTHORIZATION TO OBTAIN ESTATE INFORMATION YOU REQUIRE.]

- ☐ I/we request ...[*number of copies*]... certified copy(ies) of the estate grant.
- ☐ I/we request ...[*number of copies*]... certified copy(ies) of the authorization to obtain estate information.
- ☐ I/We request ...[*number of copies*]... certified copy(ies) of the affidavit of assets and liabilities for domiciled estate grant.

☐ I/We request ...[number of copies]... certified copy(ies) of the affidavit of assets and liabilities for non-domiciled estate grant.

This submission for estate grant has 4 Parts:

Part 1 – Information about the Deceased

Part 2 – Contact Information for the Applicant(s)

Part 3 – Documents filed with this submission for estate grant

Part 4 – Schedule

Date:[dd/mm/yyyy].....

Signature of ☐ applicant ☐ lawyer for
applicant(s)

.....[type or print name].....

PART 1 – INFORMATION ABOUT THE DECEASED

Full legal name of deceased:

.....
[first name] [middle name(s)] [last name/family name]

Other names in which the deceased held or may have held an interest in property:

- 1
- 2
- 3 etc.

Last residential address of the deceased:

Street number and street name:

[OR]

Post office box:

City/Town:

Province:

Country:

Postal Code:

Deceased's date of death:[dd/mm/yyyy].....

[Check whichever one of the immediately following 3 boxes is correct and provide any required information.]

☐ The deceased was neither a Nisga'a citizen nor a member of a treaty first nation.

☐ The deceased was a Nisga'a citizen.

☐ The deceased was a member of the[name]..... treaty first nation.

PART 2 – CONTACT INFORMATION FOR THE APPLICANT(S)

[You must set out the street address of the address for service. This may be your lawyer's office if you are represented by a lawyer. One or both of a fax number and an e-mail address may be given as additional addresses for service. If there is more than one applicant, all applicants must share the same address(es) for service.]

Street address for service:

Fax number address for service (if any):

E-mail address for service (if any):

Telephone number:

PART 3 – DOCUMENTS FILED WITH THIS SUBMISSION FOR ESTATE GRANT

- 1 *[Check whichever one of the immediately following 2 boxes is correct and file the specified affidavit(s).]*

☐ There is one applicant to this submission for estate grant and

(a) the applicant has made an affidavit in Form*[Select whichever one of the following 5 choices is correct – P3/P4/P5/P6/P7]....*, and

(b) that affidavit is filed with this submission for estate grant.

☐ There are 2 or more applicants to this submission for estate grant and

(a) at least one of the applicants has made an affidavit in Form ...*[Select whichever one of the following 5 choices is correct – P3/P4/P5/P6/P7]....*,

(b) that/those affidavit(s) is/are filed with this submission for estate grant, and

(c) the remaining applicant(s) has/have made (an) affidavit(s) in Form P8 and that/those affidavit(s) is/are filed with this submission for estate grant.

- 2 *[CHECK THE BOX FOR WHICHEVER ONE OF THE IMMEDIATELY FOLLOWING SECTION 2'S IS CORRECT AND PROVIDE ANY REQUIRED INFORMATION.]*

☐ Filed with this submission for estate grant is/are the following Affidavit(s) of Delivery in Form P9 that confirms/collectively confirm that the documents referred to in Rule 25-2 were delivered to all of the persons to whom, under that rule, the documents were required to be delivered:

Affidavit of*[name]*..... sworn*[dd/mm/yy]*.....

Affidavit of*[name]*..... sworn*[dd/mm/yy]*.....

Affidavit of*[name]*..... sworn*[dd/mm/yy]*.....

☐ No affidavit of delivery is attached. In accordance with Rule 25-2, no one, other than the applicant(s), is entitled to notice.

- 3 Filed with this submission for estate grant are 2 copies of the certificate of the chief executive officer under the *Vital Statistics Act* indicating the results of a search for a wills notice filed by or on behalf of the deceased.

- 4 *[Check whichever one of the immediately following 5 boxes is correct, provide any required information and file any specified documents.]*

☐ This application is for a grant of probate, or a grant of administration with will annexed, in relation to the will of the deceased dated*[dd/mm/yy]*....., and filed with this submission for estate grant is the originally signed version of the will.

- ☐ This application is for a grant of probate, or a grant of administration with will annexed, in relation to the will of the deceased dated[dd/mm/yyyy]....., and filed with this submission for estate grant is a copy of the will.
- ☐ This application is for a grant of administration without will annexed.
- ☐ This application is for an ancillary grant of probate, or an ancillary grant of administration with will annexed, in relation to the grant issued by the[name of issuing court]..... of[province or country of issuing court].... on[dd/mm/yyyy].... (the “foreign grant”), which grant was issued in relation to the will of the deceased dated[dd/mm/yyyy]....., and filed with this submission for estate grant is a copy of the following, each of which is certified by the court out of which probate or administration with will annexed has been granted:
- (a) the foreign grant;
 - (b) if a copy of the will to which the foreign grant relates is not attached to the foreign grant, a copy of the will.
- ☐ This application is for an ancillary grant of administration without will annexed in relation to the grant issued by the[name of issuing court]..... of[province or country of issuing court]..... on[dd/mm/yyyy].... (the “foreign grant”), and filed with this submission for estate grant is a copy of the foreign grant certified by the court out of which administration without will annexed has been granted.

[Check the box for whichever one of the immediately following section 5's is correct and provide any required information.]

- 5 ☐ This application is for a grant of probate or a grant of administration with will annexed and there are no orders affecting the validity or content of the will referred to in section 4.
- 5 ☐ This application is for a grant of probate or a grant of administration with will annexed and the following order(s) affect(s) the validity or content of the will referred to in section 4:

[If you checked the immediately preceding box, describe any applicable orders, indicate if they have been filed in this proceeding and file any described orders that have not yet been filed in this proceeding.]

- 1 Order dated[dd/mm/yyyy]....
 - ☐ This order has been filed in this proceeding
 - ☐ This order has not yet been filed in this proceeding and I am/we are therefore filing a copy of the order with this submission for estate grant
- 2 Order dated[dd/mm/yyyy]....
 - ☐ This order has been filed in this proceeding
 - ☐ This order has not yet been filed in this proceeding and I am/we are therefore filing a copy of the order with this submission for estate grant
- 3 *etc.*

- 5 ☐ This application is for an ancillary grant of probate or an ancillary grant of administration with will annexed and there are no orders affecting the validity or content of the will referred to in section 4.
- 5 ☐ This application is for an ancillary grant of probate or an ancillary grant of administration with will annexed and the following order(s) affect(s) the validity or content of the will referred to in section 4:

[If you checked the immediately preceding box, describe any applicable orders, indicate if they have been filed in this proceeding and file any described orders that have not yet been filed in this proceeding.]

- 1 Order dated[dd/mm/yyyy].....
 - ☐ This order has been filed in this proceeding
 - ☐ This order has not yet been filed in this proceeding and I am/we are therefore filing a copy of the order with this submission for estate grant
 - 2 Order dated[dd/mm/yyyy].....
 - ☐ This order has been filed in this proceeding
 - ☐ This order has not yet been filed in this proceeding and I am/we are therefore filing a copy of the order with this submission for estate grant
 - 3 *etc.*
- 5 ☐ This application is for a grant of administration without will annexed or an ancillary grant of administration without will annexed.
- 6 *[Check whichever one or more of the immediately following 5 boxes is correct and provide any required information.]*
- ☐ This application is for a grant of probate, a grant of administration with will annexed, an ancillary grant of probate or an ancillary grant of administration with will annexed and the will referred to in section 4 does not refer to any documents or refers only to documents attached to the will.
 - ☐ This application is for a grant of probate, a grant of administration with will annexed, an ancillary grant of probate or an ancillary grant of administration with will annexed and filed with this submission for estate grant is/are the following document(s), which document(s) is/are all of the documents referred to in, but not attached to, the will referred to in section 4:
 - 1
 - 2
 - 3 *etc.*
 - ☐ This application is for a grant of administration without will annexed or an ancillary grant of administration without will annexed.
 - ☐ The will refers to one or more documents not attached to the will that cannot be obtained by the applicant(s).
 - ☐ The will refers to one or more of the following documents not attached to the will that are not filed because the document mentioned in the will is not testamentary:
 - 1 *[Enter document name and briefly state why the document is not testamentary, for example, not witnessed or not related to the disposition of the deceased's estate.]*
 - 2
 - 3 *etc.*
- 7 *[Check whichever one of the immediately following 2 boxes is correct and describe and file any specified documents.]*
- ☐ No documents other than those described elsewhere in this submission for estate grant are filed with this submission for estate grant.

☐ In addition to the documents described elsewhere in this submission for estate grant, the following documents are filed with this submission for estate grant:

- 1
- 2
- 3 etc.

8 *[Check whichever one of the immediately following 2 boxes is correct, provide any required information and file any specified documents.]*

☐ All documents filed with this submission for estate grant are written in the English language.

☐ Filed with this submission for estate grant is an affidavit of translator in Form P12 of[*name*]....., who translated the[*identify document*]..... filed with this submission for estate grant.

PART 4 – SCHEDULE

1 *[Check whichever one of the immediately following 4 boxes is correct and attach the specified Schedule.]*

☐ Attached to this submission for estate grant is a Schedule for Grant of Probate or Grant of Administration with Will Annexed.

☐ Attached to this submission for estate grant is a Schedule for Grant of Administration without Will Annexed.

☐ Attached to this submission for estate grant is a Schedule for Ancillary Grant of Probate or Ancillary Grant of Administration with Will Annexed.

☐ Attached to this submission for estate grant is a Schedule for Ancillary Grant of Administration without Will Annexed.

[This Schedule is to be completed and attached to the submission for estate grant only if the application is for a grant of probate or a grant of administration with will annexed.]

SCHEDULE FOR GRANT OF PROBATE OR GRANT OF ADMINISTRATION WITH WILL ANNEXED

1 *[Indicate if there is any person, other than the applicant, who meets all of the following criteria and therefore is an executor whose right should be reserved on the grant.]*

Criteria

- (a) he or she is named in the will as executor or alternate executor;
- (b) he or she is a co-executor with the applicant(s) (i.e. has a right to make an application for an estate grant that is equal to the applicant's(s') right to make that application);
- (c) he or she has not renounced executorship;
- (d) he or she is alive at the date of this submission for estate grant;
- (e) he or she has not become incapable of managing his or her affairs.

☐ There is no person who meets all of the foregoing criteria.

☐ The following person(s) meet(s) all of the foregoing criteria:

1

2

3 *etc.*

- 2 Listed in each of the following paragraphs is every person who falls within the class of persons identified by that paragraph:

[Provide under each of the following paragraphs the full name of each person to whom the paragraph applies, whether or not that person is named elsewhere in this submission for estate grant.] [List each

named person on a separate line. Do not leave any paragraph blank or indicate “Not applicable”; clearly state why a paragraph does not apply.]

- (a) spouse, if any, of the deceased *[see section 2 of the Wills, Estates and Succession Act]* *[Provide the appropriate response(s), as applicable: spouse [provide name of spouse]/no currently living spouse as defined by section 2 of the Wills, Estates and Succession Act [provide name of spouse and indicate “(deceased)”/never married.];*
- (b) child(ren), if any, of the deceased *[Provide the appropriate response(s), as applicable: living child(ren) of deceased [provide name(s) of child(ren)]/any child(ren) of the deceased who died before the deceased [provide name(s) of child(ren) and indicate “(deceased)”/no children.];*
- (c) each person, if any, who is a beneficiary under the will and is not named in paragraph (a) or (b) *[List each living beneficiary and all beneficiaries who have died before the deceased in this application and indicate “(living)” or “(deceased)”, as applicable.];*
- (d) each person, if any, who would have been an intestate successor if the deceased had not left a will and who is not named in paragraph (a), (b) or (c) *[List all living persons who would be entitled to inherit on intestacy and their relationship to the deceased.];*
- (e) each citor, if any, not named in paragraph (a), (b), (c) or (d) *[see Rule 25-11]* *[List anyone who has filed a citation or indicate that no citation has been received.];*

[This Schedule is to be completed and attached to the submission for estate grant only if the application is for a grant of administration without will annexed.]

SCHEDULE FOR GRANT OF ADMINISTRATION WITHOUT WILL ANNEXED

- 1 Listed in each of the following paragraphs is every person who falls within the class of persons identified by that paragraph:

[Provide under each of the following paragraphs the full name of each person to whom the paragraph applies, whether or not that person is named elsewhere in this submission for estate grant.] [List each named person on a separate line.]

- (a) spouse, if any, of the deceased *[see section 2 of the Wills, Estates and Succession Act]* *[Provide the appropriate response(s), as applicable: spouse [provide name of spouse]/no currently living spouse as defined by section 2 of the Wills, Estates and Succession Act [provide name of spouse and indicate “(deceased)”/never married.];*
- (b) child(ren), if any, of the deceased *[Provide the appropriate response(s), as applicable: living child(ren) of deceased [provide name(s) of child(ren)]/any child(ren) of the deceased who died before the deceased [provide name(s) of child(ren) and indicate “(deceased)”/no children.];*
- (c) each person, if any, not named in paragraph (a) or (b), who is entitled to receive all or part of the estate of a person who dies without a will *[see section 23 of the Wills, Estates*

and Succession Act] *[List all living persons who would be entitled to inherit on intestacy and their relationship to the deceased.]:*

- (d) each creditor of the deceased, if any, not named in paragraph (a), (b) or (c) whose claim exceeds \$10 000:
- (e) each citor, if any, not named in paragraph (a), (b), (c) or (d) *[see Rule 25-11]* *[List anyone who has filed a citation or indicate that no citation has been received.]:*

[This Schedule is to be completed and attached to the submission for estate grant only if the application is for an ancillary grant of probate or an ancillary grant of administration with will annexed.]

SCHEDULE FOR ANCILLARY GRANT OF PROBATE OR ANCILLARY GRANT OF ADMINISTRATION WITH WILL ANNEXED

- 1 Each person to whom the foreign grant was issued is an applicant under this submission for estate grant or is represented by an attorney who is an applicant under this submission for estate grant.
- 2 Listed in each of the following paragraphs is every person who falls within the class of persons identified by that paragraph:

[Provide under each of the following paragraphs the full name of each person to whom the paragraph applies, whether or not that person is named elsewhere in this submission for estate grant.] [List each named person on a separate line.]

- (a) spouse, if any, of the deceased *[see section 2 of the Wills, Estates and Succession Act]* *[Provide the appropriate response(s), as applicable: spouse [provide name of spouse]/no currently living spouse as defined by section 2 of the Wills, Estates and Succession Act [provide name of spouse and indicate “(deceased)”/never married.]:*
- (b) child(ren), if any, of the deceased *[Provide the appropriate response(s), as applicable: living child(ren) of deceased [provide name(s) of child(ren)]/any child(ren) of the deceased who died before the deceased [provide name(s) of child(ren) and indicate “(deceased)”/no children.]:*
- (c) each person, if any, who is a beneficiary under the will and is not named in paragraph (a) or (b) *[List each living beneficiary and all beneficiaries who have died before the deceased in this application and indicate “(living)” or “(deceased)”, as applicable.]:*
- (d) each person, if any, who would have been an intestate successor if the deceased had not left a will and who is not named in paragraph (a), (b) or (c) *[List all living persons who would be entitled to inherit on intestacy and their relationship to the deceased.]:*
- (e) each citor, if any, not named in paragraph (a), (b), (c) or (d) *[see Rule 25-11]* *[LIST ANYONE WHO HAS FILED A CITATION OR INDICATE THAT NO CITATION HAS BEEN RECEIVED.]:*

[This Schedule is to be completed and attached to the submission for estate grant only if the application is for an ancillary grant of administration without will annexed.]

SCHEDULE FOR ANCILLARY GRANT OF ADMINISTRATION WITHOUT WILL ANNEXED

- 1 Each person to whom the foreign grant was issued is an applicant under this submission for estate grant or is represented by an attorney who is an applicant under this submission for estate grant.

- 2 Listed in each of the following paragraphs is every person who falls within the class of persons identified by that paragraph:

[Provide under each of the following paragraphs the full name of each person to whom the paragraph applies, whether or not that person is named elsewhere in this submission for estate grant.] [List each named person on a separate line.]

- (a) spouse, if any, of the deceased *[see section 2 of the Wills, Estates and Succession Act]*
[Provide the appropriate response(s), as applicable: spouse [provide name of spouse]/no currently living spouse as defined by section 2 of the Wills, Estates and Succession Act [provide name of spouse and indicate “(deceased)”/never married.]:
- (b) child(ren), if any, of the deceased *[Provide the appropriate response(s), as applicable: living child(ren) of deceased [provide name(s) of child(ren)]/any child(ren) of the deceased who died before the deceased [provide name(s) of child(ren) and indicate “(deceased)”/no children.]:*
- (c) each person, if any, not named in paragraph (a) or (b), who is entitled to receive all or part of the estate of a person who dies without a will *[see section 23 of the Wills, Estates and Succession Act]* *[List all living persons who would be entitled to inherit on intestacy and their relationship to the deceased.]:*
- (d) each creditor of the deceased, if any, not named in paragraph (a), (b) or (c) whose claim exceeds \$10 000:
- (e) each creditor, if any, not named in paragraph (a), (b), (c) or (d) *[see Rule 25-11]* *[List anyone who has filed a citation or indicate that no citation has been received.]:*

FORM P3 (RULE 25-3 (2))

This is the[1st/2nd/3rd/etc.]..... affidavit
of[name]..... in this case
and was made on[dd/mm/yyyy].....

[Style of Proceeding]

**AFFIDAVIT OF APPLICANT FOR GRANT OF PROBATE OR
GRANT OF ADMINISTRATION WITH WILL ANNEXED (SHORT FORM)**

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address].....,[occupation]....., SWEAR (OR
AFFIRM) THAT:

- 1 I am the applicant/one of the applicants referred to in the submission for estate grant in relation to the estate of[legal name of deceased]..... (the “deceased”) and in relation to the document that is identified in section 4 of Part 3 of the submission for estate grant as the will (the “will”), and am applying for:

[Check whichever one of the following 2 boxes is correct.]

- ☐ a grant of probate.
☐ a grant of administration with will annexed.

- 2 *[Check whichever one of the immediately following 2 boxes is correct and provide any required information.]*

☐ The applicant on whose behalf this affidavit is sworn is not an individual and I am authorized by the applicant to swear this affidavit on the applicant’s behalf.

☐ I am an individual and ordinarily live at the following location:

City/town:

Province/state:

Country:

- 3 All of paragraphs (a) to (k) of Rule 25-3 (6) are true and I am therefore authorized under Rule 25-3 (6) to swear this affidavit.

[Check the box for whichever one of the immediately following section 4’s is correct and provide any required information.]

- 4 ☐ I am named as an executor or alternate executor as[name as it appears in the will]..... in the will and my appointment has not been revoked under section 56 (2) of the *Wills, Estates and Succession Act* or by a codicil to the will.

[If you checked the immediately preceding box, check whichever one of the immediately following 3 boxes is correct and complete any required information.]

- ☐ No other persons are named in the will as executor.
☐ No other persons are named in the will as executor who are not parties to this application.

☐ Other persons are named in the will as executor and, of those, the following person(s) is/are not named as an applicant on the submission for estate grant for the reason shown after his/her/their name(s):

[Complete the following for each named person.]

.....[name]..... is not named as an applicant on the submission for estate grant because he/she ☐ has renounced executorship ☐ is deceased ☐ other[briefly set out reason].....

4 ☐ I am not named as an executor or alternate executor in the will, and am a person referred to in paragraph of section 131 of the *Wills, Estates and Succession Act*.

5 [Check whichever one of the immediately following 2 boxes is correct.]

☐ I am not obliged under Rule 25-3 (11) to deliver a filed copy of this submission for estate grant to the Public Guardian and Trustee.

☐ I am obliged under Rule 25-3 (11) to deliver a filed copy of this submission for estate grant to the Public Guardian and Trustee.

6 I am satisfied that a diligent search for a testamentary document of the deceased has been made in each place that could reasonably be considered to be a place where a testamentary document may be found, including, without limitation, in all places where the deceased usually kept his or her documents and that no testamentary document that is dated later than the date of the will has been found.

7 I believe that the will is the last will of the deceased that deals with property in British Columbia.

8 I am not aware of any grant of probate or administration, or equivalent, having been issued, in relation to the deceased, in British Columbia or in any other jurisdiction.

9 I believe that the will complies with the requirements of Division 1 of Part 4 of the *Wills, Estates and Succession Act* and I am not aware of any issues that would call into question the validity or contents of the will.

10 I have read the submission for estate grant and the other documents referred to in that document and I believe that the information contained in that submission for estate grant and those documents is correct and complete.

11 I will administer according to law all of the deceased's estate, I will prepare an accounting as to how the estate was administered and I acknowledge that, in doing this, I will be subject to the legal responsibility of a personal representative.

SWORN (OR AFFIRMED) BEFORE)

ME at, British Columbia)

on[dd/mm/yyyy].....)

)

.....)

A commissioner for taking)

affidavits for British Columbia)

....[print name or affix stamp of commissioner]....

FORM P4 (RULE 25-3 (2))

This is the[1st/2nd/3rd/etc.].... affidavit
of[name]..... in this case
and was made on[dd/mm/yyyy].....

[Style of Proceeding]

**AFFIDAVIT OF APPLICANT FOR GRANT OF PROBATE OR
GRANT OF ADMINISTRATION WITH WILL ANNEXED (LONG FORM)**

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address].....,[occupation]....., SWEAR (OR
AFFIRM) THAT:

- 1 I am the applicant/one of the applicants referred to in the submission for estate grant in relation to the estate of[legal name of deceased]..... (the “deceased”) and in relation to the document that is identified in section 4 of Part 3 of the submission for estate grant as the will (the “will”), and am applying for:

[Check whichever one of the immediately following 2 boxes is correct.]

- ☐ a grant of probate.
☐ a grant of administration with will annexed.

- 2 *[Check whichever one of the immediately following 2 boxes is correct and provide any required information.]*

☐ The applicant on whose behalf this affidavit is sworn is not an individual and I am authorized by the applicant to swear this affidavit on the applicant’s behalf.

☐ I am an individual and ordinarily live at the following location:

City/town:

Province/state:

Country:

[Check the box for whichever one of the immediately following section 3’s is correct and provide any required information.]

- 3 ☐ I am named as an executor or alternate executor as[name as it appears in the will]..... in the will and my appointment has not been revoked under section 56 (2) of the *Wills, Estates and Succession Act* or by a codicil to the will.

[If you checked the immediately preceding box, check whichever one of the immediately following 3 boxes is correct and complete any required information.]

- ☐ No other persons are named in the will as executor.
☐ No other persons are named in the will as executor who are not parties to this application.

- ☐ Other persons are named in the will as executor and, of those, the following person(s) is/are not named as an applicant on the submission for estate grant for the reason shown after his/her/their name(s):

[Complete the following for each named person.]

.....[name].....is not named as an applicant on the submission for estate grant because he/she ☐ has renounced executorship ☐ is deceased ☐ other
.....[briefly set out reason].....

- 3 ☐ I am not named as an executor or alternate executor in the will, and am a person referred to in paragraph of section 131 of the *Wills, Estates and Succession Act*.
- 3 ☐ I am an attorney of a foreign personal representative and am making application under section 139 of the *Wills, Estates and Succession Act*.

- 4 [Check whichever one of the immediately following 2 boxes is correct.]

- ☐ I am not obliged under Rule 25-3 (11) to deliver a filed copy of this submission for estate grant to the Public Guardian and Trustee.
- ☐ I am obliged under Rule 25-3 (11) to deliver a filed copy of this submission for estate grant to the Public Guardian and Trustee.

- 5 I am satisfied that a diligent search for a testamentary document of the deceased has been made in each place that could reasonably be considered to be a place where a testamentary document may be found, including, without limitation, in all places where the deceased usually kept his or her documents and

[Check whichever one of the immediately following 2 boxes is correct and provide any required information.]

- ☐ no testamentary document of the deceased dated later than the will has been found.
- ☐ one or more testamentary documents dated later than the will have been found. A copy of the testamentary document(s) is attached as an exhibit to the affidavit. I believe that the later testamentary document(s) is/are invalid or otherwise not relevant to this application for the following reasons:[briefly state the reasons].....

- 6 [Check whichever one of the immediately following 2 boxes is correct.]

- ☐ I am not aware of there being any issues respecting execution of the will. [Go to section 7.]
- ☐ I believe that the following issue(s) respecting execution apply(ies) to the will and I am not aware of there being any other issues respecting execution of the will:

[If you checked the second of the immediately preceding 2 boxes, complete each of the following paragraphs (a) to (d) as required.]

- (a) Attestation Clause [the portion of the will that identifies the persons who signed the will as witnesses to the will-maker's signature]

[Check whichever one of the immediately following 2 boxes is correct.]

- ☐ None of this paragraph (a) applies to the will.
- ☐ The will does not contain an attestation clause or contains an attestation clause that is not sufficient to show that the requirements of Division 1 of Part 4 of the *Wills, Estates and Succession Act* were met when the will was signed.

Appendix A.1 – Form P4

[If you checked the second of the immediately preceding 2 boxes, check whichever one of the immediately following 5 boxes is correct and provide any required information.]

- ☐ pursuant to Rule 25-3 (15), submitted for filing with the submission for estate grant is an affidavit of[name]..... sworn[dd/mm/yyyy]..... who was a subscribing witness.
- ☐ an affidavit from a subscribing witness cannot be obtained, and pursuant to Rule 25-3 (16) (a), submitted for filing with the submission for estate grant, is an affidavit of[name]..... sworn[dd/mm/yyyy]..... who was a person present when the will was signed.
- ☐ neither an affidavit from a subscribing witness nor an affidavit sworn by a person present when the will was signed can be obtained, and pursuant to Rule 25-3 (16) (b), submitted for filing with the submission for estate grant is/are the following affidavit(s) confirming the signatures of the will-maker and subscribing witnesses:
 - 1 the affidavit of[name]..... sworn[dd/mm/yyyy].....
 - 2 the affidavit of[name]..... sworn[dd/mm/yyyy].....
- ☐ none of an affidavit from a subscribing witness, an affidavit sworn by a person present when the will was signed and an affidavit confirming the signatures of the will-maker and subscribing witnesses can be obtained, and pursuant to Rule 25-3 (16) (c), submitted for filing with the submission for estate grant, is an affidavit of[name]..... sworn[dd/mm/yyyy]..... which affidavit sets out circumstances intended to raise a presumption in favour of the proper execution of the will.
- ☐ the will is valid as to the formal requirements for making the will and is admissible to probate under section 80 of the *Wills, Estates and Succession Act*, and submitted for filing with the submission for estate grant is/are the following affidavit(s) confirming that validity:
 - 1 the affidavit of[name]..... sworn[dd/mm/yyyy].....
 - 2 the affidavit of[name]..... sworn[dd/mm/yyyy].....

(b) Military Will

[Check whichever one of the immediately following 2 boxes is correct.]

- ☐ This paragraph (b) does not apply to the will.
- ☐ I believe that the will was made by a person referred to in Rule 25-3 (17) and is in a form permitted by section 38 of the *Wills, Estates and Succession Act*, and attached as Exhibit to this affidavit is[describe nature of evidence attached]..... as evidence that the will-maker was authorized to make a will in that form at the time the will was made and that the will was executed in accordance with the requirements of section 38 of the *Wills, Estates and Succession Act*.

(c) Special circumstances

[Check whichever one of the immediately following 2 boxes is correct.]

- ☐ None of this paragraph (c) applies to the will.
- ☐ I believe that at the time of the making of the will, the will-maker

[If you checked the second of the immediately preceding 2 boxes, check whichever one or more of the immediately following 5 boxes is correct.]

- ☐ was blind
- ☐ was illiterate
- ☐ did not fully understand the language in which the will was written
- ☐ signed by a means of a mark instead of handwritten words
- ☐ directed another person to sign the will on behalf of the will-maker in the will-maker's presence

and

[If you checked one or more of the immediately preceding 5 boxes, check whichever one of the immediately following 3 boxes is correct and provide any required information.]

- ☐ the attestation clause in the will indicates that the circumstance(s) referred to above applied to the will-maker at the time of the signing of the will.
- ☐ the following affidavit(s) is/are submitted for filing with the submission for estate grant as evidence that the requirements of the *Wills, Estates and Succession Act* relating to the execution of the will were met and that the will-maker knew and approved of the content of the will:
 - 1 the affidavit of[name]..... sworn[dd/mm/yyyy].....
 - 2 the affidavit of[name]..... sworn[dd/mm/yyyy].....
- ☐ the will is valid as to the formal requirements for making the will and is admissible to probate under section 80 of the *Wills, Estates and Succession Act*, and submitted for filing with the submission for estate grant is/are the following affidavit(s) confirming that validity:
 - 1 the affidavit of[name]..... sworn[dd/mm/yyyy].....
 - 2 the affidavit of[name]..... sworn[dd/mm/yyyy].....

(c.1) Copy of the Will

[Check whichever one of the immediately following 2 boxes is correct.]

- ☐ The will being filed is the original.
- ☐ The will being filed is a copy. The applicant(s) cannot file the originally signed version of the will. Attached is an affidavit explaining why a copy is available but the original is not.

(c.2) Foreign Will

[Check whichever one of the immediately following 3 boxes is correct.]

- ☐ The will was made in British Columbia.
- ☐ The will was made outside of British Columbia, but complies with the requirements for making a will that are set out in Division 1 of Part 4 of the *Wills, Estates and Succession Act*.
- ☐ The will was made outside of British Columbia and does not comply with the requirements for making a will that are set out in Division 1 of Part 4 of the *Wills, Estates and Succession Act*, but the will was validly made in accordance with

Appendix A.1 – Form P4

paragraph... [set out paragraph]... of section 80 of that Act. Attached is an affidavit explaining why section 80 applies.

(d) Other Issues

[Check whichever one of the immediately following 2 boxes is correct.]

☐ There are no other issues relating to proper execution of the will.

☐ The following is/are the other issue(s) relating to proper execution of the will:

.....[set out the issue]..... and attached as Exhibit to this affidavit is[describe]..... .

7 [Check whichever one of the immediately following 2 boxes is correct and provide any required information.]

☐ I am not aware of there being any interlineations, erasures or obliterations in, or other alterations to, the will. [Go to section 8.]

☐ There are interlineations, erasures or obliterations in, or other alterations to, the will.

[If you checked the second of the immediately preceding 2 boxes, complete whichever one or more of the immediately following paragraphs that apply. Complete paragraph (a) if there are one or more interlineations in the will, paragraph (b) if there are one or more erasures or obliterations in the will, and paragraph (c) if there are one or more alterations in the will.]

(a) Interlineations

☐ There are one or more interlineations in the will, and the following applies to each of those interlineations:

[If you checked the immediately preceding box, check whichever one of the immediately following 4 boxes is correct and provide any required information.]

☐ I believe that the interlineation was made in accordance with the requirements of Division 1 of Part 4 of the *Wills, Estates and Succession Act* relating to the execution of a will.

☐ I believe that the interlineation was authenticated by the re-execution of the will or by the subsequent execution of a codicil.

☐ I cannot check either of the 2 immediately preceding boxes but believe that the interlineation should form part of the will as it was present when the will was signed, and, pursuant to Rule 25-3 (20) (a), submitted for filing with the submission for estate grant is/are the following affidavit(s):

1 the affidavit of[name]..... sworn[dd/mm/yyy].....

2 the affidavit of[name]..... sworn[dd/mm/yyy].....

☐ I have no information to suggest that the interlineation reflects the will-maker's intentions.

☐ There are one or more interlineations in the will, and none of the foregoing boxes applies to all of those interlineations.

(b) Words Erased or Obliterated

☐ Words in the will were erased or obliterated and

[If you checked the immediately preceding box, check whichever one of the immediately following 2 boxes is correct and provide any required information.]

☐ in each erasure or obliteration in the will, the words erased or obliterated are entirely effaced and cannot be ascertained on inspection.

☐ the will contains at least one erasure or obliteration in which the words erased or obliterated are not entirely effaced and can be read, and the following applies to each of the erasures or obliterations that are not entirely effaced and can be read:

[If you checked the second of the immediately preceding 2 boxes, check whichever one of the immediately following 4 boxes is correct and provide any required information.]

☐ I believe that the erasure or obliteration was made in accordance with the requirements of Division 1 of Part 4 of the *Wills, Estates and Succession Act* relating to the execution of a will.

☐ I believe that the erasure or obliteration was authenticated by the re-execution of the will or by the subsequent execution of a codicil.

☐ I believe that the words erased or obliterated should not form part of the will and, pursuant to Rule 25-3 (21) (a), submitted for filing with the submission for estate grant is/are the following affidavit(s):

1 the affidavit of[name]..... sworn[dd/mm/yyyy].....

2 the affidavit of[name]..... sworn[dd/mm/yyyy].....

☐ I have no information to suggest that the erasures or obliterations reflect the will-maker's intentions.

☐ There are one or more erasures or obliterations in the will in which the words erased or obliterated are not entirely effaced and can be read, and none of the foregoing boxes applies to all of those erasures or obliterations.

(c) Other issues

☐ I believe that the following issue(s) arise from the appearance of the will:

[If you checked the immediately preceding box, check whichever one or more of the immediately following 5 boxes are correct.]

☐ It appears that an attempt was made to revoke the will.

☐ It appears that a page or document was previously attached to the will but is missing.

☐ It appears that the will is incomplete.

☐ It appears that the will has been altered by an alteration that was not made by the will-maker in compliance with the *Wills, Estates and Succession Act*.

☐ It appears that[specify].....

and submitted for filing in support of the submission for estate grant is/are the following affidavit(s):

1 the affidavit of[name]..... sworn ...[dd/mm/yyyy]..... .

2 the affidavit of[name]..... sworn ...[dd/mm/yyyy]..... .

8 *[Check whichever one of the immediately following 2 boxes is correct.]*

☐ The will does not refer to any documents or refers only to documents attached to the will.

☐ The will refers to one or more documents not attached to the will and

Appendix A.1 – Form P4

[If you checked the second of the immediately preceding 2 boxes, complete the following for each document that is referred to in, but not attached to, the will.]

☐ a copy of*[identify document]*....,

[Check whichever one of the immediately following 3 boxes is correct.]

☐ is attached as Exhibit to this affidavit

☐ cannot be obtained by the applicant

☐ is not attached, because it is not testamentary

9 *[Check whichever one of the immediately following 2 boxes is correct.]*

☐ I am not aware of any grant of probate or administration, or equivalent, having been issued, in relation to the deceased, in British Columbia or in any other jurisdiction.

☐ The following grant(s) of probate or administration, or equivalent, has/have been issued, in relation to the deceased, in British Columbia or in another jurisdiction:
.....
..... I believe that that grant is/those grants are not relevant to this application for the following reasons:*[briefly state the reasons]*.....

10 I have read the submission for estate grant and the other documents referred to in that document and I believe that the information contained in that submission for estate grant and those documents is correct and complete.

11 I will administer according to law all of the deceased's estate, I will prepare an accounting as to how the estate was administered and I acknowledge that, in doing this, I will be subject to the legal responsibility of a personal representative.

SWORN (OR AFFIRMED) BEFORE)

ME at, British Columbia)

on*[dd/mm/yy]*.....))

.....)

A commissioner for taking)

affidavits for British Columbia)

....*[print name or affix stamp of commissioner]*....

FORM P5 (RULE 25-3 (2))

This is the[1st/2nd/3rd/etc.]..... affidavit
of[name]..... in this case
and was made on[dd/mm/yyyy].....

[Style of Proceeding]

**AFFIDAVIT OF APPLICANT FOR GRANT OF
ADMINISTRATION WITHOUT WILL ANNEXED**

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address].....,[occupation].....,
SWEAR (OR AFFIRM) THAT:

- 1 I am the applicant/one of the applicants referred to in the submission for estate grant in relation to the estate of[legal name of deceased]..... (the “deceased”) and am applying for a grant of administration without will annexed.
- 2 *[Check whichever one of the immediately following 2 boxes is correct and provide any required information.]*

☐ The applicant on whose behalf this affidavit is sworn is not an individual and I am authorized by the applicant to swear this affidavit on the applicant’s behalf.

☐ I am an individual and ordinarily live at the following location:
City/town:
Province/state:
Country:
- 3 *[Check whichever one of the immediately following 2 boxes is correct and indicate the paragraph that applies]*

☐ I am a person referred to in paragraph of section 130 of the *Wills, Estates and Succession Act*.

☐ I am a person nominated under paragraph[select (a) or (c)] of section 130 of the *Wills, Estates and Succession Act*.
- 4 *[Check whichever one of the immediately following 2 boxes is correct.]*

☐ I am not obliged under Rule 25-3 (11) to deliver a filed copy of this submission for estate grant to the Public Guardian and Trustee.

☐ I am obliged under Rule 25-3 (11) to deliver a filed copy of this submission for estate grant to the Public Guardian and Trustee.
- 5 I am satisfied that a diligent search for a testamentary document of the deceased has been made in each place that could reasonably be considered to be a place where a testamentary document may be found, including, without limitation, in all places where the deceased usually kept his or her documents and

[Check whichever one of the immediately following 2 boxes is correct and provide any required information.]

- ☐ no testamentary document of the deceased has been found.
- ☐ one or more testamentary documents have been found. A copy of the testamentary document(s) is attached as an exhibit to the affidavit. I believe that the testamentary document(s) is/are invalid or otherwise not relevant to this application for the following reasons:
.....[briefly state the reasons].....
- 6 I believe that there is no will of the deceased.
- 7 [Check whichever one of the immediately following 2 boxes is correct and provide any required information.]
- ☐ I am not aware of any grant of probate or administration, or equivalent, having been issued in relation to the deceased in British Columbia or in any other jurisdiction.
- ☐ The following grant(s) of probate or administration, or equivalent, has/have been issued in relation to the deceased in British Columbia or in another jurisdiction:
..... I believe that that grant is/those grants are not relevant to this application for the following reasons:[briefly state the reasons].....
- 8 I have read the submission for estate grant and the other documents referred to in that document and I believe that the information contained in that submission for estate grant and those documents is correct and complete.
- 9 I will administer according to law all of the deceased's estate, I will prepare an accounting as to how the estate was administered and I acknowledge that, in doing this, I will be subject to the legal responsibility of a personal representative.

SWORN (OR AFFIRMED) BEFORE)
ME at, British Columbia)
on[dd/mm/yyyy].....)
.....)
A commissioner for taking)
affidavits for British Columbia)
....[print name or affix stamp of commissioner]....

FORM P6 (RULE 25-3 (2))

This is the[1st/2nd/3rd/etc.]..... affidavit
of[name]..... in this case
and was made on[dd/mm/yyyy].....

[Style of Proceeding]

**AFFIDAVIT OF APPLICANT FOR ANCILLARY GRANT OF PROBATE OR
ANCILLARY GRANT OF ADMINISTRATION WITH WILL ANNEXED**

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address].....,[occupation].....,
SWEAR (OR AFFIRM) THAT:

- 1 I am the applicant/one of the applicants referred to in the submission for estate grant in relation to the estate of[legal name of deceased]..... (the “deceased”) and in relation to the document that is identified in section 4 of Part 3 of the submission for estate grant as the will (the “will”), and am applying for an ancillary grant of probate or an ancillary grant of administration with will annexed.
- 2 *[Check whichever one of the immediately following 2 boxes is correct and provide any required information.]*
☐ The applicant on whose behalf this affidavit is sworn is not an individual and I am authorized by the applicant to swear this affidavit on the applicant’s behalf.
☐ I am an individual and ordinarily live at the following location:
City/town:
Province/state:
Country:
- 3 All of the persons to whom the foreign grant was issued are applicants in the submission for estate grant.
- 4 *[Check whichever one of the immediately following 2 boxes is correct.]*
☐ I am not obliged under Rule 25-3 (11) to deliver a filed copy of this submission for estate grant to the Public Guardian and Trustee.
☐ I am obliged under Rule 25-3 (11) to deliver a filed copy of this submission for estate grant to the Public Guardian and Trustee.
- 5 I am satisfied that a diligent search for a testamentary document of the deceased has been made in each place that could reasonably be considered to be a place where a testamentary document may be found, including, without limitation, in all places where the deceased usually kept his or her documents and

[Check whichever one of the immediately following 2 boxes is correct and provide any required information.]

- [] no testamentary document of the deceased other than the will has been found.
- [] one or more testamentary documents other than the will have been found. A copy of the testamentary document(s) is attached as an exhibit to the affidavit. I believe that the other testamentary document(s) is/are invalid or otherwise not relevant to this application for the following reasons:[*briefly state the reasons*]..... .
- 6 I have read the submission for estate grant and the other documents referred to in that document and I believe that the information contained in that submission for estate grant and those documents is correct and complete.
- 7 I will administer according to law the deceased's estate to which the submission for estate grant relates and I acknowledge that, in doing this, I will be subject to the legal responsibility of a personal representative.

SWORN (OR AFFIRMED) BEFORE)
 ME at, British Columbia)
 on[*dd/mm/yyyy*].....)
)
 A commissioner for taking)
 affidavits for British Columbia)
[*print name or affix stamp of commissioner*]....

FORM P7 (RULE 25-3 (2))

This is the[1st/2nd/3rd/etc.]..... affidavit
of[name]..... in this case
and was made on[dd/mm/yyyy].....

[Style of Proceeding]

**AFFIDAVIT OF APPLICANT FOR ANCILLARY GRANT
OF ADMINISTRATION WITHOUT WILL ANNEXED**

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address].....,[occupation].....,
SWEAR (OR AFFIRM) THAT:

- 1 I am the applicant/one of the applicants referred to in the submission for estate grant in relation to the estate of[legal name of deceased]..... (the “deceased”), and am applying for an ancillary grant of administration without will annexed in relation to the grant of administration without will annexed (the “foreign grant”) issued by the[name and province or country of issuing court]..... on[dd/mm/yyyy]..... in relation to the estate of the deceased.
- 2 *[Check whichever one of the immediately following 2 boxes is correct and provide any required information.]*

☐ The applicant on whose behalf this affidavit is sworn is not an individual and I am authorized by the applicant to swear this affidavit on the applicant’s behalf.

☐ I am an individual and ordinarily live at the following location:
City/town:
Province/state:
Country:
- 3 All of the persons to whom the foreign grant was issued are applicants in the submission for estate grant.
- 4 *[Check whichever one of the immediately following 2 boxes is correct.]*

☐ I am not obliged under Rule 25-3 (11) to deliver a filed copy of this submission for estate grant to the Public Guardian and Trustee.

☐ I am obliged under Rule 25-3 (11) to deliver a filed copy of this submission for estate grant to the Public Guardian and Trustee.
- 5 I am satisfied that a diligent search for a testamentary document of the deceased has been made in each place that could reasonably be considered to be a place where a testamentary document may be found, including, without limitation, in all places where the deceased usually kept his or her documents and

[Check whichever one of the immediately following 2 boxes is correct and provide any required information.]

- [] no testamentary document of the deceased has been found.
- [] one or more testamentary documents have been found. I believe that the testamentary document(s) is/are invalid or otherwise not relevant to this application for the following reasons:[*briefly state the reasons*]..... .
- 6 I have read the submission for estate grant and the other documents referred to in that document and I believe that the information contained in that submission for estate grant and those documents is correct and complete.
- 7 I will administer according to law the deceased's estate to which the submission for estate grant relates and I acknowledge that, in doing this, I will be subject to the legal responsibility of a personal representative.

SWORN (OR AFFIRMED) BEFORE)
 ME at, British Columbia)
 on[*dd/mm/yyyy*].....)
)
 A commissioner for taking)
 affidavits for British Columbia)
[*print name or affix stamp of commissioner*]....

FORM P8 (RULE 25-3 (2))

This is the[1st/2nd/3rd/etc.]..... affidavit
of[name]..... in this case
and was made on[dd/mm/yy].....

[Style of Proceeding]

AFFIDAVIT IN SUPPORT OF APPLICATION FOR ESTATE GRANT

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address].....,[occupation].....,
SWEAR (OR AFFIRM) THAT:

- 1 I am one of the applicants referred to in the submission for estate grant in relation to the estate of[legal name of deceased]..... (the “deceased”).
- 2 I have read the affidavit in Form[Set out whichever one of the following 5 choices is correct – P3/P4/P5/P6/P7]..... sworn[dd/mm/yy]..... by[name of person who swore that affidavit]..... and there is nothing in that affidavit that I know to be inaccurate.
- 3 I have read the submission for estate grant and the other documents referred to in that document and I believe that the information contained in that submission for estate grant and those documents is correct and complete.
- 4 I will administer according to law the deceased’s estate to which the submission for estate grant relates and I acknowledge that, in doing this, I will be subject to the legal responsibility of a personal representative.

SWORN (OR AFFIRMED) BEFORE)
ME at[address]....., British Columbia)
on[dd/mm/yy].....)
.....)
A commissioner for taking)
affidavits for British Columbia)
....[print name or affix stamp of commissioner]....

FORM P9 (RULE 25-3 (2))

This is the[1st/2nd/3rd/etc.]..... affidavit
of[name]..... in this case
and was made on[dd/mm/yyyy].....

[Style of Proceeding]

AFFIDAVIT OF DELIVERY

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address].....,[occupation].....,
SWEAR (OR AFFIRM) THAT:

- 1 Attached to this affidavit and marked as Exhibit A is a copy of a notice of proposed application in Form P1 (the “notice”).
- 2 I delivered a copy of the notice, along with[identify the document(s), if any, that the applicant is required to deliver under Rule 25-2 (1) (b)]..... to the following persons as follows:

[Check whichever one or more of the immediately following 3 boxes are correct and provide the required information.]

☐ by mailing it/them to the following persons by ordinary mail:

.....[name of person who received delivery by ordinary mail]..... on ...[date of delivery – dd/mm/yyyy]...

.....[name of person who received delivery by ordinary mail]..... on ...[date of delivery – dd/mm/yyyy]...

☐ by handing it/them to and leaving it/them with the following persons:

.....[name of person who received personal delivery]..... on ...[date of delivery – dd/mm/yyyy]...

.....[name of person who received personal delivery]..... on ...[date of delivery – dd/mm/yyyy]...

☐ by sending it/them to the following persons by e-mail, fax or other electronic means to that person:

.....[name of person who received delivery by e-mail, fax or other electronic means]..... on ...[DATE OF DELIVERY – DD/MM/YYYY]...

.....[name of person who received delivery by e-mail, fax or other electronic means]..... on ...[DATE OF DELIVERY – DD/MM/YYYY]...

[If you checked the third of the immediately preceding 3 boxes, check both of the immediately following boxes. If you cannot check both of the immediately following boxes in relation to any person to whom the notice was sent by e-mail, fax or other electronic means because he or she has not provided the required acknowledgement, you must re-deliver the notice and Rule 25-2 (1) (b) documents by mail or personal delivery and swear to that delivery under the first or second of the boxes in this section 2.]

SUPREME COURT CIVIL RULES

Appendix A.1 – Form P9

☐ Each of the persons who received delivery by e-mail, fax or other electronic means has, in writing, acknowledged receipt of the document(s) referred to in this section.

☐ I will retain a copy of those acknowledgements until the personal representative of the deceased is discharged and will produce those acknowledgements promptly after being requested to do so by the registrar.

3 *[Complete the following phrase for each person referred to in section 2 who received delivery of the notice on behalf of another person under Rule 25-2 (8), (10) or (12).]*

I delivered the document(s) referred to in section 2 to[NAME]..... in his/her capacity as the[IDENTIFY CAPACITY, E.G. PARENT, GUARDIAN, COMMITTEE, ETC.]..... of[name of person to whom, under Rule 25-2 (2), the document(s) referred to in section 2 was (were) required to be delivered and on whose behalf the person referred to in this section received delivery of the document(s)]..... .

[Include the following section if applicable.]

4 In accordance with Rule 25-2, I delivered a copy of the document(s) referred to in section 2 to the Public Guardian and Trustee as follows:

[Check whichever one or more of the immediately following 3 boxes are correct.]

☐ by mailing it/them to the Public Guardian and Trustee by ordinary mail.

☐ by handing it/them to and leaving it/them with the Public Guardian and Trustee.

☐ by sending it/them to the Public Guardian and Trustee by e-mail, fax or other electronic means to that person.

SWORN (OR AFFIRMED) BEFORE)

ME at, British Columbia)

on[dd/mm/yyyy].....)

.....)

A commissioner for taking)

affidavits for British Columbia)

....[print name or affix stamp of commissioner]....

FORM P10 (RULE 25-3 (2))

This is the[1st/2nd/3rd/etc.]..... affidavit
of[name]..... in this case
and was made on[dd/mm/yyyy].....

[Style of Proceeding]

AFFIDAVIT OF ASSETS AND LIABILITIES FOR DOMICILED ESTATE GRANT

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address].....,[occupation].....,
SWEAR (OR AFFIRM) THAT:

- 1 I am an applicant for[Set out whichever one of the following 6 choices is correct: a grant of probate/a grant of administration with will annexed/a grant of administration without will annexed/an ancillary grant of probate/an ancillary grant of administration with will annexed/an ancillary grant of administration without will annexed]..... in relation to the estate of[legal name of deceased]..... (the “deceased”).
- 2 I have made a diligent search and inquiry to find the property and liabilities of the deceased.
- 3 Attached to this affidavit as Exhibit A is a Statement of Assets, Liabilities and Distribution that discloses
 - (a) all of the property of the deceased, irrespective of its location, nature or value, that passes to the applicant in the applicant’s capacity as the deceased’s personal representative,
 - (b) the value of that property, and
 - (c) the liabilities that charge or encumber that property.
- 4 If I determine that there is any property or liability that has not been disclosed in Exhibit A, or that information contained in this affidavit is incorrect or incomplete, I will promptly after learning of the same file an affidavit of assets and liabilities in Form P14 to disclose the correct and complete information.
- 5 In addition to the probate fees payable in relation to any property disclosed in Exhibit A, I promise to pay the Minister of Finance the probate fees payable with respect to the value of any property that passes to me as the deceased’s personal representative, and that is not disclosed in Exhibit A, on a determination being made as to the value of that asset.

SWORN (OR AFFIRMED) BEFORE)

ME at[address]....., British Columbia)

on[dd/mm/yyyy].....)

.....[Signature].....)

A commissioner for taking)
affidavits for British Columbia)

....[print name or affix stamp of commissioner]....

This is Exhibit A referred to in the affidavit of
....., sworn (or affirmed)
before me on[dd/mm/yyyy].....

.....

A commissioner for taking affidavits for
British Columbia

Statement of Assets, Liabilities and Distribution

Part I Real Property (including mortgages and vendors' and purchasers' interests in agreements for sale)	Within or Without British Columbia	Value at Death
TOTAL		
Part II Personal Property (all assets except real property)	Within or Without British Columbia	Value at Death
TOTAL		
GROSS VALUE OF ESTATE		
Part III Liabilities	Paid or Unpaid	Amount
TOTAL		

FORM P11 (RULE 25-3 (2))

This is the[1st/2nd/3rd/etc.]..... affidavit
of[name]..... in this case
and was made on[dd/mm/yyy].....

[Style of Proceeding]

AFFIDAVIT OF ASSETS AND LIABILITIES FOR NON-DOMICILED ESTATE GRANT

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address].....,[occupation].....,
SWEAR (OR AFFIRM) THAT:

- 1 I am an applicant for[Set out whichever one of the following 6 choices is correct: a grant of probate/a grant of administration with will annexed/a grant of administration without will annexed/an ancillary grant of probate/an ancillary grant of administration with will annexed/an ancillary grant of administration without will annexed]..... in relation to the estate of[legal name of deceased]..... (the “deceased”).
- 2 The deceased was not ordinarily resident in British Columbia at the time of death.
- 3 All property of the deceased situated outside British Columbia, if any, has been, is being or will be administered by a foreign personal representative or otherwise under the law of a foreign jurisdiction.
- 4 I have made a diligent search and inquiry to find the property and liabilities of the deceased within British Columbia.
- 5 Attached to this affidavit as Exhibit A is a Statement of Assets, Liabilities and Distribution that discloses
 - (a) all of the property of the deceased within British Columbia, irrespective of its nature or value, that passes to the applicant in the applicant’s capacity as the deceased’s personal representative in accordance with section 138 of the *Wills, Estates and Succession Act*,
 - (b) the value of that property, and
 - (c) the liabilities that charge or encumber that property.
- 6 If I determine that there is any property or liability within British Columbia that has not been disclosed in Exhibit A or that information contained in this affidavit is incorrect or incomplete, I will promptly after learning of the same file a supplemental affidavit of assets and liabilities for non-domiciled estate grant in Form P15 to disclose the correct and complete information.
- 7 In addition to the probate fees payable in relation to any property disclosed in Exhibit A, I promise to pay the Minister of Finance the probate fees payable with respect to the value of any property that passes to me as the deceased’s personal representative, and that is not disclosed in Exhibit A, on a determination being made as to the value of that asset.

SWORN (OR AFFIRMED) BEFORE)

ME at[name]....., British Columbia)

SUPREME COURT CIVIL RULES

Appendix A.1 – Form P11

on[dd/mm/yyyy].....)
)
 A commissioner for taking)
 affidavits for British Columbia)
[print name or affix stamp of commissioner]....

This is Exhibit A referred to in the affidavit of
, sworn (or affirmed)
 before me on[dd/mm/yyyy].....

A commissioner for taking affidavits for
 British Columbia

Statement of Assets, Liabilities and Distribution

Part I Real Property (including mortgages and vendors' and purchasers' interests in agreements for sale) within British Columbia		Value at Death
TOTAL		
Part II Personal Property (all assets except real property) within British Columbia		Value at Death
TOTAL		
GROSS VALUE OF ESTATE		
Part III Liabilities	Paid or Unpaid	Amount
TOTAL		

FORM P12 (RULE 25-3 (2))

This is the[1st/2nd/3rd/etc.]..... affidavit
of[name]..... in this case
and was made on[dd/mm/yy].....

[Style of Proceeding]

AFFIDAVIT OF TRANSLATOR

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address].....,[occupation].....,
SWEAR (OR AFFIRM) THAT:

- 1 I have a knowledge of the English and languages and I am competent to translate from one to the other.
- 2 Attached to this affidavit as Exhibit A is a[identify document]..... which document is written in the language and attached to this affidavit as Exhibit B is my translation of Exhibit A which, to the best of my ability, accurately translates Exhibit A into the English language. [Repeat this section for each document for which a translation has been prepared by this deponent, providing new Exhibit letters as required.]

SWORN (OR AFFIRMED) BEFORE)

ME at , British Columbia)

on[dd/mm/yy].....)

.....)

A commissioner for taking)

affidavits for British Columbia)

....[print name or affix stamp of commissioner]....

FORM P13 (RULE 25-3 (13))

[Style of Proceeding]

DIRECTION OF PUBLIC GUARDIAN AND TRUSTEE

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Pursuant to Rule 25-3 (13) of the Supreme Court Civil Rules, the Public Guardian and Trustee hereby directs that the court file in this proceeding *[add, if required: including the following related material[identify].....]* be sealed in the manner and for the period referred to in section 125 of the *Wills, Estates and Succession Act*.

Date:[dd/mm/yyyy].....

.....
Signature of [] Public Guardian and Trustee
[] authorized signatory for the Public Guardian
and Trustee
.....[type or print name].....

FORM P14 (RULE 25-3 (9))

This is the[1st/2nd/3rd/etc.]..... affidavit
of[name]..... in this case
and was made on[dd/mm/yyyy].....

[Style of Proceeding]

**SUPPLEMENTAL AFFIDAVIT OF ASSETS
AND LIABILITIES FOR DOMICILED ESTATE GRANT**

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address].....,[occupation].....,
SWEAR (OR AFFIRM) THAT:

- 1 I am an applicant for[Set out whichever one of the following 6 choices is correct: a grant of probate/a grant of administration with will annexed/a grant of administration without will annexed/an ancillary grant of probate/an ancillary grant of administration with will annexed/an ancillary grant of administration without will annexed]..... in relation to the estate of[legal name of deceased]..... (the “deceased”).
- 2 An affidavit of assets and liabilities for estate grant has been filed in this proceeding.
- 3 Attached to this affidavit as Exhibit A is a Supplemental Statement of Assets, Liabilities and Distribution that discloses
 - (a) all of the property of the deceased that was not disclosed or was inaccurately disclosed in any earlier affidavit of assets and liabilities filed in this proceeding,
 - (b) the value of that property, and
 - (c) the liabilities that charge or encumber that property.
- 4 If I determine that there is any property or liability that has not been disclosed in Exhibit A or in any previous affidavit of assets and liabilities in Form P10 or P14 filed in this proceeding or that information contained in this affidavit or in any of those previous affidavits is incorrect or incomplete, I will promptly after learning of the same file a supplemental affidavit of assets and liabilities for domiciled estate grant in Form P14 to disclose the correct and complete information.
- 5 In addition to the probate fees payable in relation to any property disclosed in Exhibit A, I promise to pay the Minister of Finance the probate fees payable with respect to the value of any property that passes to me as the deceased’s personal representative, and that is not disclosed in Exhibit A, on a determination being made as to the value of that asset.

SWORN (OR AFFIRMED) BEFORE)

ME at[address]....., British Columbia)

on[dd/mm/yyyy].....)

.....)

A commissioner for taking)

affidavits for British Columbia)

....[print name or affix stamp of commissioner]....

This is Exhibit A referred to in the affidavit of
....., sworn (or affirmed)
before me on[dd/mm/yyyy].....

.....
A commissioner for taking affidavits for
British Columbia

Supplemental Statement of Assets, Liabilities and Distribution

Part I Real Property not disclosed or inaccurately disclosed in any earlier affidavit of assets and liabilities (including mortgages and vendors' and purchasers' interests in agreements for sale)	Within or Without British Columbia	Value at Death
TOTAL		
Part II Personal Property not disclosed or inaccurately disclosed in any earlier affidavit of assets and liabilities (all assets except real property)	Within or Without British Columbia	Value at Death
TOTAL		
GROSS VALUE OF ESTATE		
Part III Liabilities not disclosed or inaccurately disclosed in any earlier affidavit of assets and liabilities	Paid or Unpaid	Amount
TOTAL		

FORM P15 (RULE 25-3 (9))

This is the[1st/2nd/3rd/etc.]..... affidavit
of[name]..... in this case
and was made on[dd/mm/yyyy].....

[Style of Proceeding]

**SUPPLEMENTAL AFFIDAVIT OF ASSETS
AND LIABILITIES FOR NON-DOMICILED ESTATE GRANT**

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address].....,[occupation].....,
SWEAR (OR AFFIRM) THAT:

- 1 I am an applicant for[Set out whichever one of the following 5 choices is correct: a grant of probate/a grant of administration with will annexed/a grant of administration without will annexed/an ancillary grant of probate/an ancillary grant of administration]..... in relation to the estate of[legal name of deceased]..... (the “deceased”).
- 2 The deceased was not ordinarily resident in British Columbia at the time of death.
- 3 An affidavit of assets and liabilities for estate grant has been filed in this proceeding.
- 4 Attached to this affidavit as Exhibit A is a Supplemental Statement of Assets, Liabilities and Distribution that discloses
 - (a) all of the property of the deceased within British Columbia that was not disclosed or was inaccurately disclosed in any earlier affidavit of assets and liabilities filed in this proceeding,
 - (b) the value of that property, and
 - (c) the liabilities that charge or encumber that property.
- 5 If I determine that there is any property or liability that has not been disclosed in Exhibit A or in any earlier affidavit of assets and liabilities filed in this proceeding or that information contained in this affidavit or in any of those previous affidavits is incorrect or incomplete, I will promptly after learning of the same file a supplemental affidavit of assets and liabilities for non-domiciled estate grant in Form P15 to disclose the correct and complete information.
- 6 In addition to the probate fees payable in relation to any property disclosed in Exhibit A, I promise to pay the Minister of Finance the probate fees payable with respect to the value of any property that passes to me as the deceased’s personal representative, and that is not disclosed in Exhibit A, on a determination being made as to the value of that asset.

SWORN (OR AFFIRMED) BEFORE)

ME at[name], British Columbia)
on[dd/mm/yyyy].....)
.....)
A commissioner for taking)
affidavits for British Columbia)

....[print name or affix stamp of commissioner]....

This is Exhibit A referred to in the affidavit of
....., sworn (or affirmed)
before me on[dd/mm/yy].....

.....
A commissioner for taking affidavits for
British Columbia

Supplemental Statement of Assets, Liabilities and Distribution

Part I Real Property not disclosed or inaccurately disclosed in any earlier affidavit of assets and liabilities (including mortgages and vendors' and purchasers' interests in agreements for sale) in British Columbia	Value at Death	
TOTAL		
Part II Personal Property not disclosed or inaccurately disclosed in any earlier affidavit of assets and liabilities (all assets except real property) in British Columbia	Value at Death	
TOTAL		
GROSS VALUE OF ESTATE		
Part III Liabilities not disclosed or inaccurately disclosed in any earlier affidavit of assets and liabilities	Paid or Unpaid	Amount
TOTAL		

FORM P16 (RULE 25-3 (20))

This is the[1st/2nd/3rd/etc.]..... affidavit
of[name]..... in this case
and was made on[dd/mm/yyyy].....

[Style of Proceeding]

AFFIDAVIT OF INTERLINEATION, ERASURE, OBLITERATION OR OTHER ALTERATION

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address].....,[occupation].....,
SWEAR (OR AFFIRM) THAT:

- 1 The will of[legal name of deceased]....., deceased (the “will-maker”), dated[dd/mm/yyyy]..... contains an interlineation, erasure, obliteration or other alteration at[describe the location of the interlineation, erasure, obliteration or other alteration in the text of the will by reference to page number and line number or by other exact reference]..... .
- 2 I was present when the will was signed and the will contained the interlineation, erasure, obliteration or other alteration when the will was signed.

SWORN (OR AFFIRMED) BEFORE)

ME at[location], British Columbia)
on[dd/mm/yyyy].....)
.....)
A commissioner for taking)
affidavits for British Columbia)
....[print name or affix stamp of commissioner]....

[Note that a reference to “will” in this affidavit includes all documents that are included within the definition of “will” in the Wills, Estates and Succession Act.]

FORM P17 (RULE 25-3 (2))

In the Matter of the Estate of[*legal name of deceased*]....., deceased

NOTICE OF RENUNCIATION

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

WHEREAS the deceased, formerly of[*city, province*]....., died on[*dd/mm/yyyy*]....., having made and duly executed a last will dated[*dd/mm/yyyy*]..... (the “will”), and appointed[*name*]..... executor [*add, if applicable: and trustee*] of it:

I,[*name*]....., hereby renounce executorship in relation to the will and declare that I have not intermeddled in the estate of the deceased and will not intermeddle in it with the intent to defraud creditors.

Date:[*dd/mm/yyyy*].....

.....
Signature of renouncing executor

.....[*type or print name*].....

This notice of renunciation was signed by the renouncing executor in the presence of

WITNESS [*The witness to this acknowledgement must be at least 19 years of age.*]

Name:

Address:

.....
.....

.....
Signature of witness

Occupation:

.....[*type or print name*].....

FORM P18 (RULE 25-4 (1))

*[Style of Proceeding]***AUTHORIZATION TO OBTAIN ESTATE INFORMATION***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*TAKE NOTICE THAT[*name(s)*].....(the applicant(s))

- 1 has/have applied for[*Set out whichever one of the following 6 choices is correct: a grant of probate/a grant of administration with will annexed/a grant of administration without will annexed/an ancillary grant of probate/an ancillary grant of administration with will annexed/an ancillary grant of administration without will annexed*]..... in respect of the estate of[*legal name of deceased*]....., also known as[*indicate any other names by which the deceased was known*]..... (the “deceased”), whose last residential address was
- 2 is/are recognized as the person(s) to whom the grant will be issued once the court is satisfied that all remaining filings and fee payments have been made, and
- 3 is/are authorized to obtain information about the assets and liabilities of the deceased.

AND TAKE NOTICE THAT, unless you provide to the applicant(s), within 30 days after the date on which this authorization to obtain estate information is delivered to you, information respecting the nature and value of any assets of the estate of the deceased that are in your possession or control, the applicant(s) may make application under Rule 25-8 (2), set out below, for an order requiring delivery of that information and seeking costs from you for that application.

THIS AUTHORIZATION TO OBTAIN ESTATE INFORMATION DOES NOT AUTHORIZE THE APPLICANT(S) TO TAKE DELIVERY OF ANY OF THE ASSETS OF THE DECEASED.

.....
Registrar

Rule 25-8 (2) of the Supreme Court Civil Rules states:

Order to provide information

- (2) A person to whom a copy of an authorization to obtain estate information or an authorization to obtain resealing information is delivered under subrule (1) must, within 30 days after the date of delivery,
 - (a) deliver to the applicant information as to the nature and value of those assets of the deceased’s estate that are in the person’s possession or control, or
 - (b) if the person
 - (i) has possession or control of a safety deposit box, a safe, a storage locker or any other thing or place where the deceased kept or may have kept records or assets, and
 - (ii) does not have a document that itemizes the contents of that thing or place,

allow the holder of the authorization to obtain estate information or authorization to obtain resealing information to have access to that thing or place for the purposes of listing its contents.

FORM P19 (RULE 25-4 (1))

No.

..... Registry

*In the Supreme Court of British Columbia*In the Matter of the Estate of[*legal name of deceased*]....., deceased**In Probate***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*

WHEREAS[*legal name of deceased*]....., also known as[*indicate any other names by which the deceased was known*]..... (the “deceased”), whose last known address was died on[*date of death – dd/mmm/yyyy*]..... [add, if this grant applies to a grant of probate or a grant of administration with will annexed: and left a will dated[*dd/mmm/yyyy*]....., a copy of which is attached.]

Administration of the estate of the deceased is granted to[*name(s)*].....*[If this grant is a grant of probate, add the following if required.]*

reserving the right of[*name(s)*]..... to apply for and obtain a grant of probate at a later date if that executor/those executors should so desire.

[Add whichever of the following is/are correct.]

The will in relation to which this grant is issued is to be read in conjunction with an order dated[*dd/mmm/yyyy*]....., a copy of which is attached.

This grant is limited pursuant to an order dated[*dd/mmm/yyyy*]....., a copy of which is attached.

This grant is issued pursuant to an order dated[*dd/mmm/yyyy*]....., a copy of which is attached.

This grant is ancillary to a foreign grant dated[*dd/mmm/yyyy*]....., a copy of which is attached, and is limited to property in British Columbia.

Sealed by the Supreme Court of British Columbia on[*dd/mmm/yyyy*].....

By the Court.

.....
Registrar

FORM P20 (RULE 25- 5 (2))

[Style of Proceeding]

CORRECTION RECORD

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

The*[Set out whichever one of the following 9 choices is correct: grant of probate/grant of administration with will annexed/grant of administration without will annexed/ancillary grant of probate/ancillary grant of administration with will annexed/ancillary grant of administration without will annexed/resealing of a foreign grant/authorization to obtain resealing information/authorization to obtain estate information].....*
dated*[dd/mm/yyyy].....* is corrected by*[indicate the correction].....* .

Date:*[dd/mm/yyyy]*.....

.....
Registrar

FORM P20.1 (RULE 25-5 (1.1))

[Style of Proceeding]

CORRECTION RECORD FOR STYLE OF PROCEEDING

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

The*[Set out whichever one of the following 2 choices is correct: submission for estate grant/submission for resealing].....* dated*[dd/mm/yyyy].....* with the current style of proceeding *[current style of proceeding].....*is corrected to read*[new style of proceeding].....* .

Date:*[dd/mm/yyyy]*.....

.....
Registrar

FORM P21 (RULE 25-6 (2))

No.

..... Registry

In the Supreme Court of British Columbia

In the Matter of the Estate of[*legal name of deceased*]....., deceased

SUBMISSION FOR RESEALING

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

This submission for resealing is submitted by:[*name of applicant(s)*].....

I am/We are applying for the resealing under Part 6 of the *Wills, Estates and Succession Act* of the grant issued by the[*name and province or country of issuing court*]..... on[*dd/mm/yyyy*]..... (the “foreign grant”) in relation to the deceased described in Part 1 of this submission for resealing.

[Check whichever one of the immediately following 5 boxes is correct.]

- ☐ I am/We are submitting with this submission for resealing an affidavit of assets and liabilities for resealing in Form P25 and therefore do not require an authorization to obtain resealing information.
- ☐ I am/We are seeking an authorization to obtain resealing information so that I/we can secure the information necessary to prepare and submit an affidavit of assets and liabilities for resealing.
- ☐ I/We request ...[*number of copies*]... certified copy(ies) of the resealed estate grant.
- ☐ I/We request ...[*number of copies*]... certified copy(ies) of the authorization to obtain resealing information.
- ☐ I/We request ...[*number of copies*]... certified copy(ies) of the Affidavit of Assets and Liabilities for Resealing.

This submission for resealing has 4 Parts:

Part 1: Information about the Deceased

Part 2: Information about the Applicant(s)

Part 3: Documents Filed with this Submission for Resealing

Part 4: Schedule

Date:[*dd/mm/yyyy*].....

.....
Signature of ☐ applicant ☐ lawyer for
applicant(s)

.....[*type or print name*].....

PART 1 – INFORMATION ABOUT THE DECEASED

Name of the deceased as it appears on the foreign grant to be resealed:

.....
[first name] [middle name(s)] [last name/family name]

Last residential address of the deceased:

Street number and street name:

[OR]

Post office box:

City/Town:

Province/State:

Country:

Postal Code/Zip Code:

Deceased's date of death:[dd/mm/yy].....

Deceased's place of ordinary residence at the date of death:[location].....

[Check whichever one of the immediately following 3 boxes is correct and provide any required information.]

☐ The deceased was neither a Nisga'a citizen nor a member of a treaty first nation.

☐ The deceased was a Nisga'a citizen.

☐ The deceased was a member of the[name]..... treaty first nation.

PART 2 – INFORMATION ABOUT THE APPLICANT(S)

Applicant's(s') address for service:

[You must set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service. If there is more than one applicant, all applicants must share the same address(es) for service.]

Street address for service:

Fax number address for service (if any):

E-mail address for service (if any):

Telephone number:

PART 3 – DOCUMENTS FILED WITH THIS SUBMISSION FOR RESEALING

1 [Check whichever one of the immediately following 2 boxes is correct and file the specified affidavit(s).]

☐ There is one applicant to this submission for resealing and

(a) the applicant has sworn an affidavit in Form[Set out whichever one of the following 2 choices is correct – P22/P23]....., and

(b) that affidavit is filed with this submission for resealing.

☐ There are 2 or more applicants to this submission for resealing and

(a) at least one of the applicants has sworn an affidavit in Form[Set out whichever one of the following 2 choices is correct – P22/P23].....,

(b) that/those affidavit(s) is/are filed with this submission for resealing, and

- (c) the remaining applicant(s) has/have sworn (an) affidavit(s) in Form P24 and that/those affidavit(s) is/are filed with this submission for resealing.
- 2 Filed with this submission for resealing is/are the following Affidavit(s) of Delivery in Form P9 that confirms/collectively confirm that the documents referred to in Rule 25-2 were delivered to all of the persons to whom, under that rule, the documents were required to be delivered:
- Affidavit of ...[name]... sworn ...[dd/mm/yy]...
- Affidavit of ...[name]... sworn ...[dd/mm/yy]...
- Affidavit of ...[name]... sworn ...[dd/mm/yy]...
- 3 Filed with this submission for resealing are 2 copies of the certificate of the chief executive officer under the *Vital Statistics Act* indicating the results of a search for a wills notice filed by or on behalf of the deceased.
- 4 *[Check whichever one of the immediately following 2 boxes is correct, provide any required information and file any specified documents.]*
- ☐ The foreign grant was issued in relation to the will of the deceased dated[dd/mm/yy]..... and filed with this submission for resealing is a copy of the following, each of which is certified by the court out of which probate or administration with will annexed has been granted:
- (a) the foreign grant;
- (b) if a copy of the will to which the foreign grant relates is not attached to the foreign grant, a copy of the will.
- ☐ The foreign grant is a grant of administration without will annexed and filed with this submission for resealing is a copy of the foreign grant certified by the court out of which administration without will annexed has been granted.
- [Check the box for whichever one of the immediately following section 5's is correct and provide any required information.]*
- 5 ☐ The foreign grant is a grant of probate or a grant of administration with will annexed and there are no orders affecting the validity or content of the will referred to in section 4.
- 5 ☐ The foreign grant is a grant of probate or a grant of administration with will annexed and the following orders affect the validity or content of the will referred to in section 4:
- [If you checked the second of the immediately preceding 2 boxes, describe any applicable orders, indicate if they have been filed in this proceeding and file any described orders that have not yet been filed in this proceeding.]*
- 1 Order dated[dd/mm/yy].....
- ☐ This order has been filed in this proceeding.
- ☐ This order has not yet been filed in this proceeding and I am/we are therefore filing a copy of the order with this submission for resealing.
- 2 Order dated[dd/mm/yy].....
- ☐ This order has been filed in this proceeding.
- ☐ This order has not yet been filed in this proceeding and I am/we are therefore filing a copy of the order with this submission for resealing.
- 3 *etc.*
- 5 ☐ The foreign grant is a grant of administration without will annexed.

6 [Check whichever one of the immediately following 4 boxes is correct and provide any required information.]

☐ The will referred to in section 4 does not refer to any documents or refers only to documents attached to the will.

☐ Filed with this submission for resealing is/are the following document(s):

- 1
- 2
- 3 etc.

which document(s) is/are referred to in, but not attached to, the will referred to in section 4.

☐ Not filed with this submission for resealing is/are the following document(s),

- 1
- 2
- 3 etc.

which document(s) is/are referred to in, but not attached to, the will referred to in section 4, but which are not testamentary and are not relevant to this application for the following reasons:[briefly state the reasons].....

☐ The foreign grant is a grant of administration without will annexed.

7 [Check whichever one of the immediately following 2 boxes is correct and describe and file any specified documents.]

☐ No documents other than those described elsewhere in this submission for resealing are filed with this submission for resealing.

☐ In addition to the documents described elsewhere in this submission for resealing, the following documents are filed with this submission for resealing:

- 1
- 2
- 3 etc.

8 [Check whichever one of the immediately following 2 boxes is correct, provide any required information and file any specified documents.]

☐ All documents filed with this submission for resealing are written in the English language.

☐ Filed with this submission for resealing is an affidavit of translator in Form P12 of[name]....., who translated the[identify document]..... filed with this submission for resealing.

PART 4 – SCHEDULE

1 [Check whichever one of the immediately following 2 boxes is correct and attach the specified Schedule.]

☐ Attached to this submission for resealing is a Schedule for Resealing of Grant of Probate or Grant of Administration with Will Annexed.

☐ Attached to this submission for resealing is a Schedule for Resealing of Grant of Administration without Will Annexed.

[This Schedule is to be completed and attached to the submission for resealing only if the application is for the resealing of a grant of probate or for the resealing of a grant of administration with will annexed.]

SCHEDULE FOR RESEALING OF GRANT OF PROBATE OR GRANT OF ADMINISTRATION WITH WILL ANNEXED

- 1 Each person to whom the foreign grant was issued is an applicant under the submission for resealing.
- 2 Listed in each of the following paragraphs is every person who falls within the class of persons identified by that paragraph:

[Provide under each of the following paragraphs the full name of each person to whom the paragraph applies, whether or not that person is named elsewhere in this submission for resealing.] [List each named person on a separate line.]

- (a) spouse, if any, of the deceased *[see section 2 of the Wills, Estates and Succession Act]*
[Provide the appropriate response(s), as applicable: spouse [provide name of spouse]/no currently living spouse as defined by section 2 of the Wills, Estates and Succession Act [provide name of spouse and indicate “(deceased)”]/never married.]:
- (b) child(ren), if any, of the deceased *[Provide the appropriate response(s), as applicable: living child(ren) of deceased [provide name(s) of child(ren)]/any child(ren) of the deceased who died before the deceased [provide name(s) of child(ren) and indicate “(deceased)”]/no children.]:*
- (c) each person, if any, who is a beneficiary under the will and who is not named in paragraph (a) or (b) *[List each living beneficiary and all beneficiaries who have died before the deceased in this application and indicate “(living)” or “(deceased)”, as applicable.]:*
- (d) each person, if any, who would have been an intestate successor if the deceased had not left a will and who is not named in paragraph (a), (b) or (c) *[List all living persons who would be entitled to inherit on intestacy and their relationship to the deceased.]:*
- (e) each citor, if any, not named in paragraph (a), (b), (c) or (d) *[see Rule 25-11]* *[List anyone who has filed a citation or indicate that no citation has been received.]:*

[This Schedule is to be completed and attached to the submission for resealing only if the application is for the resealing of a grant of administration without will annexed.]

SCHEDULE FOR RESEALING OF GRANT OF ADMINISTRATION WITHOUT WILL ANNEXED

- 1 Each person to whom the foreign grant was issued is an applicant under the submission for resealing.
- 2 Listed in each of the following paragraphs is every person who falls within the class of persons identified by that paragraph:

[Provide under each of the following paragraphs the full name of each person to whom the paragraph applies, whether or not that person is named elsewhere in this submission for resealing.] [List each named person on a separate line.]

- (a) spouse, if any, of the deceased *[see section 2 of the Wills, Estates and Succession Act]*
[Provide the appropriate response(s), as applicable: spouse [provide name of spouse]/no

currently living spouse as defined by section 2 of the Wills, Estates and Succession Act [provide name of spouse and indicate “(deceased)”/never married.]:

- (b) *child(ren), if any, of the deceased [Provide the appropriate response(s), as applicable: living child(ren) of deceased [provide name(s) of child(ren)]/any child(ren) of the deceased who died before the deceased [provide name(s) of child(ren) and indicate “(deceased)”/no children.]:*
- (c) *each person, if any, not named in paragraph (a) or (b), who is entitled to receive all or part of the estate of a person who dies without a will [see section 23 of the Wills, Estates and Succession Act] [List all living persons who would be entitled to inherit on intestacy and their relationship to the deceased.]:*
- (d) *each creditor of the deceased, if any, not named in paragraph (a), (b) or (c) whose claim exceeds \$10 000:*
- (e) *each creditor, if any, not named in paragraph (a), (b), (c) or (d) [see Rule 25-11] [List anyone who has filed a citation or indicate that no citation has been received.]:*

FORM P22 (RULE 25-6 (2))

This is the[1st/2nd/3rd/etc.]..... affidavit
of[name]..... in this case
and was made on[dd/mm/yyyy].....

[Style of Proceeding]

**AFFIDAVIT OF APPLICANT FOR RESEALING OF GRANT OF PROBATE
OR GRANT OF ADMINISTRATION WITH WILL ANNEXED**

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address].....,[occupation].....,
SWEAR (OR AFFIRM) THAT:

- 1 I am the applicant/one of the applicants referred to in the submission for resealing in relation to the estate of[legal name of deceased]..... (the “deceased”) and in relation to the document that is identified in section 4 of Part 3 of the submission for resealing as the will (the “will”), and am applying for the resealing of a grant of probate/grant of administration with will annexed issued by the ...[name and province or country of issuing court]... on ...[dd/mm/yyyy]... in relation to the estate of the deceased.
- 2 *[Check whichever one of the immediately following 2 boxes is correct and provide any required information.]*

☐ The applicant on whose behalf this affidavit is sworn is not an individual and I am authorized by the applicant to swear this affidavit on the applicant’s behalf.

☐ I am an individual and ordinarily live at the following location:
City/town:
Province/state:
Country:
- 3 All of the persons to whom the foreign grant was issued are applicants in the submission for resealing.
- 4 *[Check whichever one of the immediately following 2 boxes is correct.]*

☐ I am not obliged under Rule 25-6 (9) to deliver a filed copy of this submission for resealing to the Public Guardian and Trustee.

☐ I am obliged under Rule 25-6 (9) to deliver a filed copy of this submission for resealing to the Public Guardian and Trustee.
- 5 I am satisfied that a diligent search for a testamentary document of the deceased has been made in each place that could reasonably be considered to be a place where a testamentary document may be found, including, without limitation, in all places where the deceased usually kept his or her documents and

[Check whichever one of the immediately following 2 boxes is correct and provide any required information.]

- ☐ no testamentary document of the deceased other than the will has been found.
- ☐ one or more testamentary documents other than the will have been found. I believe that the other testamentary document(s) is/are invalid or otherwise not relevant to this application for the following reasons:[briefly state the reasons]..... .

- 6 I have read the submission for resealing and the other documents referred to in that document and I believe that the information contained in that submission for resealing and those documents is correct and complete.
- 7 I will administer according to law the deceased's estate to which the submission for resealing relates and I acknowledge that, in doing this, I will be subject to the legal responsibility of a personal representative.

SWORN (OR AFFIRMED) BEFORE)

ME at, British Columbia)

on[dd/mm/yyyy]..... .)

.....)

A commissioner for taking)

affidavits for British Columbia)

....[print name or affix stamp of commissioner]....

FORM P23 (RULE 25-6 (2))

This is the[1st/2nd/3rd/etc.]..... affidavit
of[name]..... in this case
and was made on[dd/mm/yyyy].....

[Style of Proceeding]

**AFFIDAVIT OF APPLICANT FOR RESEALING OF GRANT
OF ADMINISTRATION WITHOUT WILL ANNEXED**

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address].....,[occupation].....,
SWEAR (OR AFFIRM) THAT:

- 1 I am the applicant/one of the applicants referred to in the submission for resealing in relation to the estate of[legal name of deceased]..... (the “deceased”) and am applying for the resealing of a grant of administration without will annexed (the “foreign grant”) issued by the[name and province or country of issuing court]..... on ...[dd/mm/yyyy]... in relation to the estate of the deceased.
- 2 *[Check whichever one of the immediately following 2 boxes is correct and provide any required information.]*

☐ The applicant on whose behalf this affidavit is sworn is not an individual and I am authorized by the applicant to swear this affidavit on the applicant’s behalf.

☐ I am an individual and ordinarily live at the following location:
City/town:
Province/state:
Country:
- 3 All of the persons to whom the foreign grant was issued are applicants in the submission for resealing.
- 4 *[Check whichever one of the immediately following 2 boxes is correct.]*

☐ I am not obliged under Rule 25-6 (9) to deliver a filed copy of this submission for resealing to the Public Guardian and Trustee.

☐ I am obliged under Rule 25-6 (9) to deliver a filed copy of this submission for resealing to the Public Guardian and Trustee.
- 5 I am satisfied that a diligent search for a testamentary document of the deceased has been made in each place that could reasonably be considered to be a place where a testamentary document may be found, including, without limitation, in all places where the deceased usually kept his or her documents and

[Check whichever one of the immediately following 2 boxes is correct and provide any required information.]

- ☐ no testamentary document of the deceased has been found.
- ☐ one or more testamentary documents have been found. I believe that the testamentary document(s) is/are invalid or otherwise not relevant to this application for the following reasons:[*briefly state the reasons*]..... .
- 6 I have read the submission for resealing and the other documents referred to in that document and I believe that the information contained in that submission for resealing and those documents is correct and complete.
- 7 I will administer according to law the deceased's estate to which the submission for resealing relates and I acknowledge that, in doing this, I will be subject to the legal responsibility of a personal representative.

SWORN (OR AFFIRMED) BEFORE)
 ME at, British Columbia)
 on[*dd/mm/yyyy*].....)
)
 A commissioner for taking)
 affidavits for British Columbia)
[*print name or affix stamp of commissioner*]....

FORM P24 (RULE 25-6 (2))

This is the[1st/2nd/3rd/etc.]..... affidavit
of[name]..... in this case
and was made on[dd/mm/yy].....

[Style of Proceeding]

AFFIDAVIT IN SUPPORT OF APPLICATION FOR RESEALING

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address].....,[occupation].....,
SWEAR (OR AFFIRM) THAT:

- 1 I am one of the applicants applying for the resealing of a grant of probate/grant of administration issued by the[name of issuing court]..... on ...[dd/mm/yy]... in relation to the estate of[legal name of deceased].....(the “deceased”).
- 2 I have read the affidavit in Form P22/P23 sworn on[dd/mm/yy]..... by[name of person who swore that affidavit]..... and there is nothing in that affidavit that I know to be inaccurate.
- 3 I have read the submission for resealing and the other documents referred to in that document and I believe that the information contained in that submission for resealing and those documents is correct and complete.
- 4 I will administer according to law the deceased’s estate to which the submission for resealing relates and I acknowledge that, in doing this, I will be subject to the legal responsibility of a personal representative.

SWORN (OR AFFIRMED) BEFORE)

ME at , British Columbia)

on[dd/mm/yy]..... .)

.....)

A commissioner for taking)

affidavits for British Columbia)

....[print name or affix stamp of commissioner]....

FORM P25 (RULE 25-6 (2))

This is the[1st/2nd/3rd/etc.]..... affidavit
of[name]..... in this case
and was made on[dd/mm/yy].....

[Style of Proceeding]

AFFIDAVIT OF ASSETS AND LIABILITIES FOR RESEALING

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address].....,[occupation].....,
SWEAR (OR AFFIRM) THAT:

- 1 I am an applicant for the resealing of a grant issued by the[name of issuing court]..... on
...[dd/mm/yy]... in relation to the estate of[legal name of deceased]..... (the
“deceased”).
- 2 The deceased was not ordinarily resident in British Columbia at the time of death.
- 3 All property of the deceased situated outside British Columbia, if any, has been, is being or will
be administered by a foreign personal representative or otherwise under the law of a foreign
jurisdiction.
- 4 I have made a diligent search and inquiry to find the property and liabilities of the deceased
within British Columbia.
- 5 Attached to this affidavit as Exhibit A is a Statement of Assets, Liabilities and Distribution that
discloses
 - (a) all of the property of the deceased within British Columbia, irrespective of its nature or
value, that passes to the applicant in the applicant’s capacity as the deceased’s personal
representative,
 - (b) the value of that property, and
 - (c) the liabilities that charge or encumber that property.
- 6 If I determine that there is any property or liability within British Columbia that has not been
disclosed in Exhibit A or that information contained in this affidavit or in any supplemental affi-
davit of assets and liabilities for resealing is incorrect or incomplete, I will promptly after
learning of the same file a supplemental affidavit of assets and liabilities for resealing in
Form P26 to disclose the correct and complete information.
- 7 In addition to the probate fees payable in relation to any property disclosed in Exhibit A, I
promise to pay the Minister of Finance the probate fees payable with respect to the value of any
property that passes to me as the deceased’s personal representative, and that is not disclosed in
Exhibit A, on a determination being made as to the value of that asset.

SWORN (OR AFFIRMED) BEFORE)

ME at[address]....., British Columbia)

on[dd/mm/yy].....)

.....)
A commissioner for taking)
affidavits for British Columbia)
....[print name or affix stamp of commissioner]....

This is Exhibit A referred to in the affidavit of
....., sworn (or affirmed)
before me on[dd/mm/yyyy].....

.....
A commissioner for taking affidavits for
British Columbia

Statement of Assets, Liabilities and Distribution

Part I Real Property (including mortgages and vendors' and purchasers' interests in agreements for sale) within British Columbia	Value at Death	
TOTAL		
Part II Personal Property (all assets except real property) within British Columbia	Value at Death	
TOTAL		
GROSS VALUE OF ESTATE		
Part III Liabilities	Paid or Unpaid	Value at Death
TOTAL		

FORM P26 (RULE 25-6 (7))

This is the[1st/2nd/3rd/etc.].... affidavit
of[name]..... in this case
and was made on[dd/mm/yy].....

[Style of Proceeding]

SUPPLEMENTAL AFFIDAVIT OF ASSETS AND LIABILITIES FOR RESEALING

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address].....,[occupation].....,
SWEAR (OR AFFIRM) THAT:

- 1 I am an applicant for the resealing of a grant issued by the[name of issuing court]..... on
...[dd/mm/yy]... in relation to the estate of[legal name of deceased]....., also
known as[indicate any other names by which the deceased was known]..... (the “deceased”).
- 2 An affidavit of assets and liabilities for resealing has been filed in this proceeding.
- 3 Attached to this affidavit as Exhibit A is a Supplemental Statement of Assets, Liabilities and
Distribution that discloses
 - (a) all of the property of the deceased within British Columbia that was not disclosed or
was inaccurately disclosed in any earlier affidavit of assets and liabilities filed in this
proceeding,
 - (b) the value of that property, and
 - (c) the liabilities that charge or encumber that property.
- 4 If I determine that there is any property or liability within British Columbia that has not been
disclosed in Exhibit A or in any earlier affidavit of assets and liabilities filed in this proceeding
or that information contained in this affidavit or in any of those previous affidavits is incorrect
or incomplete, I will promptly after learning of the same file a supplemental affidavit of assets
and liabilities for resealing in Form P26 to disclose the correct and complete information.
- 5 In addition to the probate fees payable in relation to any property disclosed in Exhibit A, I
promise to pay the Minister of Finance the probate fees payable with respect to the value of any
property that passes to me as the deceased’s personal representative, and that is not disclosed in
Exhibit A, on a determination being made as to the value of that asset.

SWORN (OR AFFIRMED) BEFORE)

ME at[address]....., British Columbia)

on[dd/mm/yy].....)

.....)

A commissioner for taking)

affidavits for British Columbia)

....[print name or affix stamp of commissioner]....

This is Exhibit A referred to in the affidavit of
....., sworn (or affirmed)
before me on[dd/mm/yyyy].....

.....
A commissioner for taking affidavits for
British Columbia

Supplemental Statement of Assets, Liabilities and Distribution

Part I Real Property (including mortgages and vendors' and purchasers' interests in agreements for sale) within British Columbia not disclosed or inaccurately disclosed in any earlier affidavit	Value at Death	
TOTAL		
Part II Personal Property (all assets except real property) within British Columbia not disclosed or inaccurately disclosed in any earlier affidavit	Value at Death	
TOTAL		
GROSS VALUE OF ESTATE		
Part III Liabilities not disclosed or inaccurately disclosed in any earlier affidavit	Paid or Unpaid	Amount
TOTAL		

FORM P27 (RULE 25-7 (1))

No.

..... Registry

*In the Supreme Court of British Columbia*In the Matter of the Estate of[*legal name of deceased*]....., deceased**AUTHORIZATION TO OBTAIN RESEALING INFORMATION***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*TAKE NOTICE THAT[*name(s)*].....

- 1 has/have applied for the resealing of a grant issued by the[*name of issuing court*]..... on ...[*dd/mm/yyyy*]... in relation to the estate of[*legal name of deceased*]..... , also known as[*indicate any other names by which the deceased was known*]..... (the “deceased”), whose last residential address was
- 2 is/are recognized as the person(s) for whom the grant will be resealed once the court is satisfied that all remaining filings and fee payments have been made, and
- 3 is/are authorized to obtain information about the assets and liabilities of the deceased.

AND TAKE NOTICE THAT, unless you provide to the applicant(s), within 30 days after the date on which this authorization to obtain resealing information is delivered to you, information respecting the nature and value of any assets of the estate of the deceased that are in your possession or control, the applicant(s) may make application under Rule 25-8 (2), set out below, for an order requiring delivery of that information and seeking costs from you for that application.

THIS AUTHORIZATION TO OBTAIN RESEALING INFORMATION DOES NOT AUTHORIZE THE APPLICANT(S) TO TAKE DELIVERY OF ANY OF THE ASSETS OF THE DECEASED.

.....
Registrar

Rule 25-8 (2) of the Supreme Court Civil Rules states:

Order to provide information

- (2) A person to whom a copy of an authorization to obtain estate information or an authorization to obtain resealing information is delivered under subrule (1) must, within 30 days after the date of delivery,
 - (a) deliver to the applicant information as to the nature and value of those assets of the deceased’s estate that are in the person’s possession or control, or
 - (b) if the person
 - (i) has possession or control of a safety deposit box, a safe, a storage locker or any other thing or place where the deceased kept or may have kept records or assets, and

(ii) does not have a document that itemizes the contents of that thing or place, allow the holder of the authorization to obtain estate information or authorization to obtain resealing information to have access to that thing or place for the purposes of listing its contents.

FORM P28 (RULE 25-7 (2))

No.

..... Registry

In the Supreme Court of British Columbia

In the Matter of the Estate of[*legal name of deceased*]....., deceased

IN PROBATE

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

The[*describe grant*]..... attached to this certificate has been resealed by the Supreme Court of British Columbia on[*dd/mm/yyyy*]..... .

(Place seal below)

By the Court.

.....
Registrar

FORM P29 (RULE 25-10 (3))

In the Matter of the Estate of[*legal name of deceased*]....., deceased

NOTICE OF DISPUTE

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

TAKE NOTICE THAT I,[*name of person filing notice of dispute*]..... (the “disputant”),
oppose the taking of any action in relation to the estate of the deceased identified below who died on
.....[*dd/mm/yyyy*]..... .

Full legal name of the deceased:
[*first name*] [*middle name(s)*] [*last name/family name*]

Other names in which the deceased held or may have held an interest in property:

- 1
- 2
- 3 *etc.*

[Check whichever one of the immediately following 2 boxes is correct and provide any required information.]

- ☐ A court file has been opened in relation to the deceased’s estate under court file[*court file number*]... at the[*registry location*]..... courthouse.
- ☐ The disputant does not know if a court file has been opened in relation to the deceased’s estate.

The disputant is a person referred to in Rule 25-2 (2)[*indicate paragraph of Rule 25-2 (2) that applies to the disputant*]..... .

The disputant is filing this notice of dispute because[*state the grounds for the notice of dispute*]..... .

Address for service of the disputant:

[You must set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]

Street address for service:
Fax number address for service (if any):
E-mail address for service (if any):
Telephone number:

Date:[*dd/mm/yyyy*].....

.....
Signature of ☐ disputant ☐ lawyer for
disputant(s)
.....[*type or print name*].....

FORM P30 (RULE 25-10 (9))

[Style of Proceeding]

[OR use the following title as the style of proceeding if the person filing this withdrawal of notice of dispute has no knowledge of any proceeding having been brought in relation to the estate of the deceased]

In the Matter of the Estate of*[legal name of deceased]*....., deceased

WITHDRAWAL OF NOTICE OF DISPUTE

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,*[name of person filing withdrawal of notice of dispute]*..... withdraw the notice of dispute filed by me with this court registry on*[dd/mm/yyyy]*..... in relation to the estate of*[legal name of deceased]*....., deceased, who died on*[dd/mm/yyyy]*..... .

Date:*[dd/mm/yyyy]*.....

.....
Signature of
[] person filing withdrawal of notice
[] lawyer for person filing withdrawal of notice
.....*[type or print name]*.....

FORM P31 (RULE 25-10 (11))

[Style of Proceeding]

ORDER FOR REMOVAL OF NOTICE OF DISPUTE

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

BEFOREü THE HONOURABLE JUSTICE }[dd/mmm/yyyy].....
} or A JUDGE OF THE COURT }
} or }
} MASTER }
} or A MASTER OF THE COURT }

[Set out whichever one of the immediately following 3 provisions is correct, complete the selected provision and remove the provisions that have not been selected so that they do not appear in the form when the form is filed.]

ON THE APPLICATION of[person(s)]..... coming on for hearing at
..... on[dd/mmm/yyyy]..... and on hearing[name of
person/lawyer]..... and[name of person/lawyer].....;

ON THE APPLICATION of[person(s)]..... without notice coming on for hearing
at on[dd/mmm/yyyy]..... and on hearing[name of
person/lawyer].....;

ON THE APPLICATION of[person(s)]..... without a hearing and on reading the
materials filed by[name of person/lawyer]..... and[name of
person/lawyer].....;

THIS COURT ORDERS that the notice of dispute filed in relation to the estate of[legal name of
deceased]....., deceased, by[name of disputant]..... is removed.

By the Court.

.....
Registrar

FORM P32 (RULE 25-11 (1))

In the Matter of the Estate of[*legal name of deceased*]....., deceased

CITATION

*[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*To:[*name and address*].....This citation is issued by[*name of citor*]..... (the “citor”) regarding the estate of:[*legal name of deceased*]..... (the “deceased”), who died on[*dd/mm/yyyy*].....This citation is issued in relation to the following document that is/is alleged to be a will of the deceased:[*describe document and its location, if known*]..... .I believe the document exists because:[*set out basis for citor’s belief*]..... .

You are required to obtain a grant of probate in relation to the above-noted will and comply with Rule 25-11 (4) in the manner set out below.

The citor’s address for service is

[You must set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]

Street address for service:

Fax number address for service (if any):

E-mail address for service (if any):

Telephone number:

Date:[*dd/mm/yyyy*]..........
Signature of [] citor [] lawyer for citor.....[*type or print name*].....*[Note that a reference to “will” in this citation includes all documents that are included within the definition of “will” in the Wills, Estates and Succession Act.]*

TAKE NOTICE THAT you must comply with Rule 25-11 (4) of the Supreme Court Civil Rules.

To comply with Rule 25-11 (4), you must do the following within 14 days after being served with this citation:

- (a) if you have been issued a grant of probate, serve on the citor, by ordinary service, a copy of the grant;
- (b) if paragraph (a) does not apply but you have filed a submission for estate grant, serve a copy of the filed application materials on the citor;
- (c) if paragraphs (a) and (b) do not apply but you have delivered a notice under Rule 25-2 (1), serve a copy of the notice documents on the citor;
- (d) if none of paragraphs (a), (b) and (c) apply, serve on the citor an answer in Form P33.

AND TAKE NOTICE THAT, if you do not comply with Rule 25-11 (4), one or more of the following may occur:

- (a) you may be deemed to have renounced executorship under Rule 25-11 (5);
- (b) the citor or another person may apply for an estate grant in relation to the estate;
- (c) an order under Rule 25-11 (6) may be obtained.

FORM P33 (RULE 25-11 (4))

In the Matter of the Estate of[*legal name of deceased*]....., deceased

ANSWER TO CITATION

*[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*In answer to the citation to apply for probate, which citation was issued by[*name*].... and dated[*dd/mm/yyyy*].....*[Check whichever one of the immediately following 2 boxes is correct.]*

- ☐ I will apply for a grant of probate and will obtain that grant within 6 months after the date on which the citation was served or within any longer period that the court may allow.
- ☐ I refuse to apply for a grant of probate in respect of the document referred to in the citation and understand that, by this refusal, I am deemed to have renounced executorship.

The address for service of the executor is

[You must set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]

Street address for service:

Fax number address for service (if any):

E-mail address for service (if any):

Telephone number:

Date:[*dd/mm/yyyy*]..........
Signature of ☐ cited person ☐ lawyer for cited person.....[*type or print name*].....

FORM P34 (RULE 25-11 (7))

This is the[1st/2nd/3rd/etc.]..... affidavit
of[name]..... in this case
and was made on[dd/mm/yyyy].....

[Style of Proceeding]

AFFIDAVIT OF DEEMED RENUNCIATION

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address].....,[occupation]....., SWEAR (OR
AFFIRM) THAT:

- 1 Attached to this affidavit and marked as Exhibit A is a copy of the citation I prepared (the “citation”) in relation to the estate of[legal name of deceased]....., deceased.
- 2 On[dd/mm/yyyy]....., at[time of day]....., I served[name of person served]..... with the citation by handing it to and leaving it with that person at[city and country]..... .

[OR]

- 2 In support of this affidavit is filed the affidavit of service dated[dd/mm/yyyy]..... of[name of person swearing affidavit of service]..... in which that person swears that the citation was served on[name of person served]..... .
- 3 I have not received service of any of the documents referred to in Rule 25-11 (4) and at least 14 days have elapsed since the citation was served on[name of person served]..... .

[OR]

- 3[name of person served]..... served on me, under Rule 25-11 (4) (b) (iii) (B), the answer to citation that is attached to this affidavit and marked as Exhibit B.

[OR]

- 3[name of person served]..... served on me the document referred to in Rule 25-11 (4)[Set out whichever one of the following 3 choices is correct – (b) (i)/(b) (ii)/(b) (iii) (A)]..... and has not, alone or with others, obtained a grant of probate.

SWORN (OR AFFIRMED) BEFORE)
ME at[address]....., British Columbia)
on[dd/mm/yyyy]..... .)
.....)
A commissioner for taking)
affidavits for British Columbia)
....[print name or affix stamp of commissioner]....

FORM P35 (RULE 25-12 (2))

No.

..... Registry

*In the Supreme Court of British Columbia*In the Matter of the Estate of[*legal name of deceased*]....., deceased**REQUISITION FOR SUBPOENA***[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]***Filed by:**[*person(s)*].....Required: A subpoena requiring[*name*]..... to deliver to the registrar the following document(s):

- 1 This requisition for subpoena is filed under Rule 25-12 (2).
- 2 Attached to this requisition for subpoena is a draft of the subpoena required.
- 3 The evidence in support of the application is [*If the evidence is an affidavit, describe that affidavit by reference to the name of the person who swore that affidavit and the date on which it was sworn, and file that affidavit with this requisition.*]

*[Complete the following if the filing of this requisition starts a proceeding.]*This requisition for subpoena is filed by[*name*]....., whose address for service is as follows:*[You must set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]*

Street address for service:

Fax number address for service (if any):

E-mail address for service (if any):

Telephone number:

Date:[*dd/mm/yy*]..........
Signature of ☐ filing person(s) ☐ lawyer for
filing person(s).....[*type or print name*].....

FORM P36 (RULE 25-12 (6))

No.

..... Registry

In the Supreme Court of British Columbia

In the Matter of the Estate of[*legal name of deceased*]....., deceased

WARRANT AFTER SUBPOENA

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

To any Peace Officer

WHEREAS[*name and address of person*]..... was subpoenaed to deliver to the registry the following document(s) within 14 days after service of the subpoena and failed to comply with the subpoena:

THIS COURT ORDERS you to apprehend and bring him or her promptly before the court at and, after that, to deal with him or her as directed.

Date:[*dd/mm/yy*].....

.....
A Judge of the Supreme Court of
British Columbia
.....[*type or print name*].....

FORM P37 (RULE 25-12 (3))

[Style of Proceeding]

SUBPOENA

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

To:*[name and address]*.....

You are ordered to deliver to the probate registry at the courthouse at*[location]*..... the following:*[state documents to be delivered]*....., within 14 days after service of this subpoena on you.

If any of the specified documents are not in your possession or control, you are, within the same time, to deliver to the above-noted probate registry whichever of the specified documents that are in your possession or control and to file in the above-noted probate registry an affidavit indicating which of the specified documents are not in your possession or control and setting out what knowledge you have respecting those documents.

Date:*[dd/mm/yyyy]*.....

.....
Registrar

WARNING: Failure to deliver the specified documents as required by this subpoena can result in your arrest and committal to prison WITHOUT DELIVERY TO YOU OF ANY FURTHER NOTICE OR DOCUMENT.

FORM P38 (RULE 25-13 (2))

This is the[1st/2nd/3rd/etc.]..... affidavit
of[name]..... in this case
and was made on[dd/mm/yy].....

[Style of Proceeding]

AFFIDAVIT IN SUPPORT OF APPLICATION TO PASS ACCOUNTS

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address].....,[occupation]....., SWEAR
(OR AFFIRM) THAT:

- 1 A[specify the type of estate grant to which this affidavit applies]..... of the estate of
....., deceased, was made to me by this court on[dd/mm/yy]..... .
- 2 I have administered the estate to the best of my ability.
- 3 I have filed with the registrar a full and correct accounting of the estate, showing all property,
money and effects and the proceeds from them that have come into my hands as personal repre-
sentative, and also a full and correct statement of all disbursements, with a full and correct state-
ment of the assets not yet disposed of.
- 4 I have not been awarded any compensation for my services as personal representative by this or
any other court except
- 5 The persons interested in the administration of the estate as beneficiaries of the deceased are as
follows:, and all of them are of the full age of 19 years except
..... .
- 6 I know of no creditors of the estate who still have unsettled claims against it that I consider to be
valid except
- 7 The only portion of the estate that remains unadministered is as follows:, and the
reason it has not been administered is

SWORN (OR AFFIRMED) BEFORE)

ME at, British Columbia)

on[dd/mm/yy]..... .))

.....)

A commissioner for taking)

affidavits for British Columbia)

....[print name or affix stamp of commissioner]....

FORM P39 (RULE 25-13 (5))

[Style of Proceeding]

CERTIFICATE

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I CERTIFY that the results of the inquiry, assessment or accounting ordered under Rule 25-13 (3) (b) are as follows:

- 1 The accounts of[*name*]..... being the executor/administrator of the estate of[*name of deceased*]....., covering the period[*dd/mm/yyyy*]..... to[*dd/mm/yyyy*]....., which accounts are attached to the affidavit of[*name*]..... sworn[*dd/mm/yyyy*]..... are approved
[] as presented.
[] subject to[*describe condition(s)*].....
- 2[*name*]..... receive the sum of \$..... as remuneration.
- 3 The costs of the passing of the accounts of[*name*]..... be payable from the estate as[*special costs/specified basis*].....
- 4 This certificate is binding on the beneficiaries without further order of the court.

Date:[*dd/mm/yyyy*].....

.....
Registrar

[This certificate may be set out in a separate document or may be endorsed on the bill of costs.]

FORM P40 (RULE 25-13 (6))

This is the[1st/2nd/3rd/etc.].... affidavit
of[name]..... in this case
and was made on[dd/mm/yyyy].....

[Style of Proceeding]

STATEMENT OF ACCOUNT AFFIDAVIT

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I,[name]....., of[address].....,[occupation]....., SWEAR
(OR AFFIRM) THAT:

- 1 Attached and marked as Exhibit A is a Statement of Account for the Estate of
- 2 The information set out in this statement of account is true and complete to the best of my knowledge.

SWORN (OR AFFIRMED) BEFORE)
ME at , British Columbia)
on[dd/mm/yyyy]..... .))
.....)
A commissioner for taking)
affidavits for British Columbia)
....[print name or affix stamp of commissioner]....

This is Exhibit A referred to in the affidavit of
....., sworn (or affirmed)
before me on[dd/mm/yyyy].....

.....
A commissioner for taking affidavits for
British Columbia

STATEMENT OF ACCOUNT FOR THE ESTATE OF , DECEASED

For the period from[insert commencement date – dd/mm/yyyy]..... to[effective date of this
statement of account – dd/mm/yyyy]..... .

- 1 In this Statement of Account, the “commencement date” means
 - (a) the deceased’s date of death, or
 - (b) if one or more statements of account have been filed in respect of the estate under Rule 25-13 (6) of the Supreme Court Civil Rules, the effective date of the most recent of those statements of account.
- 2 This Statement of Account consists of the following:

- (a) Statement of Assets and Liabilities of the Estate of as at[commencement date – dd/mmm/yyyy].....;
- (b) Statement of Capital Transactions of the Estate of;
- (c) Statement of Income Transactions of the Estate of;
- (d) Statement of Assets and Liabilities of the Estate of as at[effective date of this statement of account – dd/mmm/yyyy].....;
- (e) [include only if remuneration is sought at this time] Statement of Proposed Remuneration in relation to the Estate of;
- (f) Statement of Distribution of the Estate of;
- (g) Statement of Proposed Distribution of Residue of the Estate of

STATEMENT OF ASSETS AND LIABILITIES OF THE ESTATE OF

AS AT[commencement date – dd/mmm/yyyy].....

Item	Assets [Describe estate assets, or include that information in an attached Schedule and bring forward totals here.]	Asset Values [Set out fair market value as at the commencement date of this statement of account.]
A1		
A2		
		Total asset values \$......

Item	Liabilities [Describe liabilities of estate, or include that information in an attached Schedule and bring forward totals here.]	Liabilities [Set out amount of liability as at the commencement date.]
B1		
B2		
		Total amount of liabilities \$......

STATEMENT OF CAPITAL TRANSACTIONS OF THE ESTATE OF

For the period from[commencement date – dd/mmm/yyyy].....
to[effective date of this statement of account – dd/mmm/yyyy].....

Item [list in chronological order]	Date [date of transaction – dd/mmm/yyyy]	Transaction [Describe transactions, or include that information in an attached Schedule and bring forward totals here.]	Debit	Credit
C1				
C2				
			Total of debits \$......	Total of credits \$......

STATEMENT OF INCOME TRANSACTIONS OF THE ESTATE OF

For the period from[commencement date – dd/mm/yyyy].....
to[effective date of this statement of account – dd/mm/yyyy].....

Item [list in chronological order]	Date [date of transaction – dd/mm/yyyy]	Transaction [Describe transactions, or include that information in an attached Schedule and bring forward totals here.]	Debit	Credit
D1				
D2				
			Total of debits \$.....	Total of credits \$.....

STATEMENT OF ASSETS AND LIABILITIES OF THE ESTATE OF

AS AT.....[effective date of this statement of account – dd/mm/yyyy].....

Item	Assets [Describe each estate asset, or include that information in an attached Schedule and bring forward totals here.]	Asset Values [Set out fair market value as at the effective date of this statement of account.]
E1		
E2		
		Total asset values \$.....

Item	Liabilities [Describe each liability of estate, or include that information in an attached Schedule and bring forward totals here.]	Liabilities [Set out amount of liability as at the effective date of this statement of account.]
F1		
F2		
		Total amount of liabilities \$.....

STATEMENT OF PROPOSED REMUNERATION IN RELATION TO THE ESTATE OF

[Complete if remuneration is sought at this time.]

Capital Fee	
(A) Proceeds of disposition of capital assets realized since the commencement date	\$
(B) Market value of capital assets, realized or transferred since the commencement date, in respect of which no proceeds of disposition have been obtained	\$
(C) Current value of unrealized capital assets included, on the commencement date, in the estate	\$
(D) Gross aggregate value of capital assets of estate – [(A) + (B) + (C)]	\$
(E) Capital Fee – (D) x% [insert claimed percentage, up to a maximum of 5%]	\$

Income Fee	
(F) Gross income earned by the estate for the period from[commencement date – dd/mm/yyyy].... to[effective date of this statement of account – dd/mm/yyyy]..... except interest income already capitalized and included in (D)	\$
(G) Income Fee – (F) x% [insert claimed percentage, up to a maximum of 5%]	\$

Care Management Fee	
[Prepare one set of the following calculations for each reporting period following the commencement date, where a reporting period is each calendar year, or portion, from date of death to the date of final distribution.]	
(H) Market value of estate assets as at the beginning of the reporting period	\$
(I) Market value of estate assets at the end of the reporting period	\$
(J) Average market value of estate assets for the reporting period $[(H) + (I)] / 2$	\$
(K) Care and Management Fee for reporting period $[(J) \times 0.4\%]$	\$

Total of Fees Claimed	
(L) Total remuneration sought – $[(E) + (G) + (the\ total\ of\ every\ (K)\ determined\ for\ a\ reporting\ period\ following\ the\ commencement\ date)]$	\$

STATEMENT OF DISTRIBUTION OF THE ESTATE OF

Specific Bequests and Legacies

Item	Distribution (Yes/No)	Date of Distribution	Beneficiary

RESIDUE OF ESTATE

(R1) Market value of estate assets at the effective date of this statement of account	\$
(R2) Applicant's estimated reserve for final income tax, accounting and legal costs and remuneration	\$
(R3) Distributable estate (R1) - (R2)	\$

STATEMENT OF PROPOSED DISTRIBUTION OF RESIDUE OF THE ESTATE OF

Beneficiary [Identify beneficiaries who receive assets or cash from residue.]	Assets [Identify assets distributed to the named beneficiary and the market value of those assets.]	Cash [Indicate amount of cash distributed to the named beneficiary.]
[Name]		\$
[Name]		\$
[Name]		\$
[Name]		\$

FORM P41 (RULE 25-14 (1))

No.

..... Registry

In the Supreme Court of British Columbia

In the Matter of the Estate of[*legal name of deceased*]....., deceased

REQUISITION – ESTATES

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Filed by:[*person(s)*].....

Required:

- 1 The rule or other enactment relied on is[*set out rule or enactment relied on*]..... .
- 2 Attached to this requisition is a draft of the order required.
- 3 The evidence in support of the application is

[Complete the following if the filing of this requisition starts a proceeding.]

This requisition is filed by[*name*]....., whose address for service is as follows:

[You must set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]

Street address for service:

Fax number address for service (if any):

E-mail address for service (if any):

Telephone number:

Date:[*dd/mm/yyyy*].....

.....
Signature of [] filing person(s) [] lawyer for
filing person(s)

.....[*type or print name*].....

FORM P42 (RULE 25-14 (2))

[Style of Proceeding]

NOTICE OF APPLICATION (SPOUSAL HOME OR DEFICIENCIES IN WILL)

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Name(s) of applicant(s):

To:[*name(s)*].....

TAKE NOTICE that an application will be made by the applicant(s) to the presiding judge or master at the courthouse at[*address of registry in which the proceeding is being conducted*]..... on[*dd/mm/yyyy*]..... at[*time of day*]..... for the order(s) set out in Part 1 below.

PART 1 – ORDER(S) SOUGHT

[Check whichever one or more of the immediately following 4 boxes are correct and, using numbered paragraphs, set out the order(s) that will be sought at the application and indicate against which person(s) the order(s) is(are) sought.]

- ☐ The applicant(s) seek(s) the following order(s) under section 30 of the *Wills, Estates and Succession Act*:

1

2

- ☐ The applicant(s) seek(s) the following order(s) under section 33 of the *Wills, Estates and Succession Act*:

1

2

- ☐ The applicant(s) seek(s) the following order(s) under section 58 of the *Wills, Estates and Succession Act*:

1

2

- ☐ The applicant(s) seek(s) the following order(s) under section 59 of the *Wills, Estates and Succession Act*:

1

2

PART 2 – FACTUAL BASIS

[Using numbered paragraphs, set out a brief summary of the facts supporting the application.]

1

2

[If any person sues or is sued in a representative capacity, identify the person and describe the representative capacity.]

PART 3 – LEGAL BASIS

[Using numbered paragraphs, specify any rule or other enactment relied on and provide a brief summary of any other legal arguments on which the applicant(s) intend(s) to rely in support of the orders sought. If appropriate, include citation of applicable cases.]

1

2

PART 4 – MATERIAL TO BE RELIED ON

[Using numbered paragraphs, list the affidavits served with the notice of application and any other affidavits and other documents already in the court file on which the applicant(s) will rely. Each affidavit included on the list must be identified as follows: "Affidavit #.....[sequential number, if any, recorded in the top right hand corner of the affidavit]..... of[name]....., made[dd/mm/yyyy].....".]

1

2

[Check whichever one of the immediately following 2 boxes is correct.]

- ☐ I am not obliged under section 29 (1) (c) of the *Wills, Estates and Succession Act* to deliver a filed copy of this notice of application to the Public Guardian and Trustee.
- ☐ I am obliged under section 29 (1) (c) of the *Wills, Estates and Succession Act* to deliver a filed copy of this notice of application to the Public Guardian and Trustee.

The applicant(s) estimate(s) that the application will take[time estimate]..... .

[Check whichever one of the immediately following 2 boxes is correct.]

- ☐ This matter is within the jurisdiction of a master.
- ☐ This matter is not within the jurisdiction of a master.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other person to whom notice of this application must be provided one copy of the following:
 - (i) a copy of the filed application response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that have not already been served on that person;

(iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7 (9).

Date:[dd/mm/yy].....

.....
Signature of ☐ applicant ☐ lawyer for
applicant(s)

.....[type or print name].....

To be completed by the court only:

Order made

☐ in the terms requested in paragraphs of Part 1 of this notice
of application

☐ with the following variations and additional terms:

.....
.....

Date:[dd/mm/yy].....

.....
Signature of ☐ Judge ☐ Master

FORM P43 (RULE 25-14 (2))

No.

..... Registry

In the Supreme Court of British Columbia

Between

, Petitioner(s)

and

, Respondent(s)

[or, if there is no person against whom relief is sought:

Re:*[State the person by whom, or the entity in respect of which, relief is sought.]*.....]

PETITION TO THE COURT – ESTATE PROCEEDINGS

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

ON NOTICE TO:

.....*[name and address of each person to be served]*.....

This proceeding is brought for the relief set out below, by

[Check whichever one of the following boxes is correct and complete any required information.]

☐ the person(s) named as petitioner(s) in the style of proceedings above

☐*[name(s)]*..... (the petitioner(s))

If you intend to respond to this petition, you or your lawyer must

- (a) file a response to petition in Form 67 in the above-named registry of this court within the time for response to petition described below, and
- (b) serve on the petitioner(s)
 - (i) 2 copies of the filed response to petition, and
 - (ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.

Time for response to petition

A response to petition must be filed and served on the petitioner(s),

- (a) if you were served with the petition anywhere in Canada, within 21 days after that service,
- (b) if you were served with the petition anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the petition anywhere else, within 49 days after that service, or

(d) if the time for response has been set by order of the court, within that time.

(1)	The address of the registry is:
(2)	The ADDRESS FOR SERVICE of the petitioner(s) is:[Set out the street address of the address for service for each petitioner. One or both of a fax number and an e-mail address may be given as additional addresses for service.]..... Fax number address for service (if any) of the petitioner(s): E-mail address for service (if any) of the petitioner(s):
(3)	The name and office address of the petitioner's(s') lawyer is:

CLAIM OF THE PETITIONER(S)

PART 1: ORDER(S) SOUGHT

The petitioner(s) seek(s) the following order(s):

- 1 [Check whichever one or more of the immediately following 4 boxes are correct and, using numbered paragraphs, set out the order(s) being sought and indicate against which person(s) the order(s) is(are) sought.]

[] The petitioner(s) seek(s) the following order(s) under section 30 of the *Wills, Estates and Succession Act*:

1

2

[] The petitioner(s) seek(s) the following order(s) under section 33 of the *Wills, Estates and Succession Act*:

1

2

[] The petitioner(s) seek(s) the following order(s) under section 58 of the *Wills, Estates and Succession Act*:

1

2

[] The petitioner(s) seek(s) the following order(s) under section 59 of the *Wills, Estates and Succession Act*:

1

2

PART 2: FACTUAL BASIS

[Using numbered paragraphs, set out the material facts on which this petition is based.]

1

2

PART 3: LEGAL BASIS

[Using numbered paragraphs, specify any rule or other enactment relied on and provide a brief summary of any other legal bases on which the petitioner(s) intend(s) to rely in support of the orders sought.]

1

2

PART 4: MATERIAL TO BE RELIED ON

[Using numbered paragraphs, list the affidavits served with the petition. Each affidavit included on the list must be identified as follows: "Affidavit #.....[sequential number, if any, recorded in the top right hand corner of the affidavit]..... of[name]....., made[dd/mm/yyyy].....".]

1

2

The petitioner(s) estimate(s) that the hearing of the petition will take[time estimate]..... .

Date:[dd/mm/yyyy].....

.....
Signature of ☐ petitioner ☐ lawyer for
petitioner(s)

.....[type or print name].....

To be completed by the court only:

Order made

☐ in the terms requested in paragraphs of Part 1 of this petition

☐ with the following variations and additional terms:

.....
.....

Date:[dd/mm/yyyy].....

.....
Signature of ☐ Judge ☐ Master

APPENDIX B – PARTY AND PARTY COSTS**Interpretation**

- 1** In this Appendix, “**process**” means the drawing, filing or service of a document and any amendment to it or particulars of it, but does not include an application made with respect to the process or any part of the process.

Scale of costs

- 2**
- (1) If a court has made an order for costs, it may fix the scale, from Scale A to Scale C in subsection (2), under which the costs will be assessed, and may order that one or more steps in the proceeding be assessed under a different scale from that fixed for other steps.
 - (2) In fixing the scale of costs, the court must have regard to the following principles:
 - (a) Scale A is for matters of little or less than ordinary difficulty;
 - (b) Scale B is for matters of ordinary difficulty;
 - (c) Scale C is for matters of more than ordinary difficulty.
 - (3) In fixing the appropriate scale under which costs will be assessed, the court may take into account the following:
 - (a) whether a difficult issue of law, fact or construction is involved;
 - (b) whether an issue is of importance to a class or body of persons, or is of general interest;
 - (c) whether the result of the proceeding effectively determines the rights and obligations as between the parties beyond the relief that was actually granted or denied.
 - (4) If, after December 31, 2006, a settlement is reached under which payment of assessed costs is agreed to or an order for costs is made, and if no scale is fixed or agreed to in that settlement or order, the costs must be assessed under Scale B, unless a party, on application, obtains an order of the court that the costs be assessed under another scale.
 - (5) If, after it fixes the scale of costs applicable to a proceeding under subsection (1) or (4), the court finds that, as a result of unusual circumstances, an award of costs on that scale would be grossly inadequate or unjust, the court may order that the value for each unit allowed for that proceeding, or for any step in that proceeding, be 1.5 times the value that would otherwise apply to a unit in that scale under section 3 (1).
 - (6) For the purposes of subsection (5) of this section, an award of costs is not grossly inadequate or unjust merely because there is a difference between the actual legal expenses of a party and the costs to which that party would be entitled under the scale of costs fixed under subsection (1) or (4).
 - (7) If costs may be assessed without order or agreement, the scale of costs must be fixed by the registrar on the assessment.
 - (8) If an offer to settle is made under Rule 9-1, any costs payable on acceptance of that offer must be assessed under Scale B.

SUPREME COURT CIVIL RULESAppendix B – Party and Party Costs

Value of units

- 3** (1) The value for each unit allowed on an assessment conducted after December 31, 2006 in relation to orders and settlements made after that date is as follows:
- (a) Scale A – \$60;
 - (b) Scale B – \$110;
 - (c) Scale C – \$170.
- (2) If maximum and minimum numbers of units are provided for in an Item in the Tariff, the registrar has the discretion to allow a number within that range of units.
- (3) If the Tariff indicates a range of units for a Tariff Item, the registrar must have regard to the following principles:
- (a) one unit is for matters on which little time should ordinarily have been spent;
 - (b) the maximum number of units is for matters on which a great deal of time should ordinarily have been spent.

Daily rates

- 4** (1) If, in a Tariff Item, a number of units is allowed for each day but the time spent during a day is not more than 2 1/2 hours, only 1/2 of the number of units is to be allowed for that day.
- (2) If, in a Tariff Item, a number of units is allowed for each day but the time spent during a day is more than 5 hours, the number of units allowed for that day is to be increased by 1/2 of the number.
- (3) If, in a Tariff Item, a number of units is allowed for preparation for an attendance but the time spent on the attendance is not more than 2 1/2 hours, only 1/2 of the number of units for preparation is to be allowed.
- (4) If, in the Tariff, units may be allowed for preparation for an activity, the registrar may allow units for preparation for an activity that does not take place or is adjourned up to the maximum allowable for one day.

Uncontested foreclosure proceedings

- 5** In a proceeding under Rule 21-7, uncontested at the hearing on any issue except costs, the costs must be assessed under Scale A.

Default judgment and process for execution

- 6** (1) Schedule 1 applies to the costs that may be assessed on a default judgment entered under Rule 3-8.
- (2) The amount involved under subsection (1) is the amount for which the judgment is entered.
- (3) If a writ of execution or garnishing order, or a process in Form 56, 58 or 59, is issued, the costs must be endorsed on the process and allowed in accordance with Schedule 2, instead of Item 42.
- (4) The amount involved under subsection (3) is the amount payable, if any, that is endorsed on the process.

- (5) In addition to the fees set out in Schedules 1 and 2, the costs of any application to the court relating to the judgment or to the process for execution may be ordered to be assessed under the Tariff.

Apportionment if proceedings tried together

- 7 If 2 or more proceedings have, by order, been tried at the same time or tried one after the other and no order has been made as to apportionment of costs, the registrar may
- (a) assess 2 or more bills as one bill,
 - (b) allow an item once or more than once, or
 - (c) apportion the costs of an item or of the whole bill between the proceedings.

Offer to settle bill of costs

- 8 A party to an assessment may serve on another party an offer to settle the amount of the bill of costs in Form 123 and, after the assessment has been completed, may produce the offer to the registrar, and the registrar must determine whether the offer should have been accepted and, if so, may disallow items of the Tariff that relate to the assessment to the party presenting the bill, and
- (a) allow, by way of set-off, items of the Tariff that relate to the assessment to the party making the offer, or
 - (b) allow double the value of items of the Tariff that relate to the assessment to the party presenting the bill and making the offer.

Transitional – orders, settlements and costs before 2007

- 9 Appendix B of the Supreme Court Rules, B.C. Reg. 221/90, as it read on December 31, 2006, applies to
- (a) orders for costs made before January 1, 2007,
 - (b) settlements reached before January 1, 2007 under which payment of assessed costs is agreed to,
 - (c) costs payable on acceptance of an offer to settle made under Rule 37, if that offer to settle was made before January 1, 2007, and
 - (d) all assessments related to those orders, settlements and costs.

Transitional – orders, settlements and costs before [date]

- 10 Without limiting section 9, Appendix B of the Supreme Court Rules, B.C. Reg. 221/90, as it read on June 30, 2010, applies to
- (a) orders for costs made after December 31, 2006 and before July 1, 2010,
 - (b) settlements reached after December 31, 2006 and before July 1, 2010 under which payment of assessed costs is agreed to,
 - (c) costs payable on acceptance of an offer to settle made under Rule 37 or 37B, if that offer to settle was made after December 31, 2006 and before July 1, 2010, and
 - (d) all assessments related to those orders, settlements and costs.

SUPREME COURT CIVIL RULES

Appendix B – Party and Party Costs

SCHEDULE 1**Item**

- 1 If the amount involved is.
 - (a) less than \$5 000 \$160
 - (b) \$5 000 or more, but less than \$15 000 240
 - (c) \$15 000 or more, but less than \$25 000 320
 - (d) \$25 000 or more, but less than \$35 000 400
 - (e) \$35 000 or more, but less than \$45 000 480
 - (f) \$45 000 or more, but less than \$55 000 560
 - (g) \$55 000 or more, but less than \$65 000 620
 - (h) more than \$65 000 680
- 2 If no amount is involved \$320
- 3 And, in addition, disbursements.

SCHEDULE 2**Item**

- 1 If the amount involved is
 - (a) less than \$5 000 \$30
 - (b) \$5 000 or more, but less than \$15 000 50
 - (c) \$15 000 or more, but less than \$25 000 75
 - (d) \$25 000 or more, but less than \$35 000 100
 - (e) \$35 000 or more, but less than \$45 000 125
 - (f) \$45 000 or more, but less than \$55 000 150
 - (g) \$55 000 or more, but less than \$65 000 170
 - (h) more than \$65 000 185
- 2 If no amount is involved \$95
- 3 And, in addition, disbursements.

SCHEDULE 3**Item**

- 1 If the application is unopposed
 - (a) Scale A \$240
 - (b) Scale B 440
 - (c) Scale C 680
- And, in addition,
 - (d) instead of disbursements \$120
 - (e) if one or more taxes is payable in respect of legal services by the party entitled to costs, an additional amount to compensate for that

Appendix B – Party and Party Costs

tax, which additional amount must be determined by multiplying the amount of costs to which the party is entitled under this Item by the aggregate of the percentage rates of the taxes.

- 2 If the application is opposed and requires 1/2 day or less for the hearing
- (a) Scale A \$300
 - (b) Scale B 550
 - (c) Scale C 850

And, in addition,

- (d) instead of disbursements \$120
- (e) if one or more taxes is payable in respect of legal services by the party entitled to costs, an additional amount to compensate for that tax, which additional amount must be determined by multiplying the amount of costs to which the party is entitled under this Item by the aggregate of the percentage rates of the taxes.

- 3 If the application is opposed and requires more than 1/2 day for the hearing
- (a) Scale A \$540
 - (b) Scale B 990
 - (c) Scale C 1 530

And, in addition,

- (d) instead of disbursements \$120
- (e) if one or more taxes is payable in respect of legal services by the party entitled to costs, an additional amount to compensate for that tax, which additional amount must be determined by multiplying the amount of costs to which the party is entitled under this Item by the aggregate of the percentage rates of the taxes.

SUPREME COURT CIVIL RULES

Appendix B – Party and Party Costs

TARIFF

[am. B.C. Reg. 119/2010, Sch. A, s. 55.]

Item	Description	Units	
<i>Instructions and investigations</i>			
1	Correspondence, conferences, instructions, investigations or negotiations by a party until the start of the proceeding, for which provision is not made elsewhere in this tariff	Minimum Maximum	1 10
2	Correspondence, conferences, instructions, investigations or negotiations by a party after the start of the proceeding to the completion of the trial or hearing, for which provision is not made elsewhere in this tariff	Minimum Maximum	1 30
3	Correspondence, conferences, instructions, investigations or negotiations by a party after the trial or hearing to enforce any final order obtained in that trial or hearing, for which provision is not made elsewhere in this tariff	Minimum Maximum	1 10
4	Instructions to an agent to appear at a trial, hearing, application, examination, reference, inquiry, assessment, or other analogous proceeding, if necessary or proper, and if held more than 40 km from the place where the instructing lawyer carries on business		1
5	Process for obtaining a consent case plan order	Minimum Maximum	1 10
<i>Court documents</i>			
6	All process, for which provision is not made elsewhere in this tariff, for commencing and prosecuting a proceeding	Minimum Maximum	1 10
7	All process, for which provision is not made elsewhere in this tariff, for defending a proceeding, and for commencing and prosecuting a counter-claim	Minimum Maximum	1 10
8	All process for which provision is not made elsewhere in this tariff for commencing and prosecuting or defending a third party proceeding	Minimum Maximum	1 10
9	Response to counterclaim and, if necessary, reply	Minimum Maximum	1 10
<i>Discovery</i>			
10	Process for obtaining discovery and inspection of documents		
	(a) 1 to 999 documents	(a) Minimum Maximum	1 10
	(b) 1 000 to 5 000 documents	(b) Minimum Maximum	10 20
	(c) over 5 000 documents	(c) Minimum Maximum	10 30
11	Process for giving discovery and inspection of documents		
	(a) 1 to 999 documents	(a) Minimum Maximum	1 10
	(b) 1 000 to 5 000 documents	(b) Minimum Maximum	10 20
	(c) over 5 000 documents	(c) Minimum Maximum	10 30

SUPREME COURT CIVIL RULES

Appendix B – Party and Party Costs

Item	Description	Units	
12	Process for serving interrogatories	Minimum Maximum	1 10
13	Process for answering interrogatories	Minimum Maximum	1 10
14	Process for serving notices to admit	Minimum Maximum	1 5
15	Process for making admission of facts	Minimum Maximum	1 10
16	Process for preparation of accounts, statement of property or financial information if required by enactment or by order of court	Minimum Maximum	1 5
<i>Expert Evidence and Witnesses</i>			
17	All process and correspondence associated with retaining and consulting all experts for the purposes of obtaining opinions for use in the proceeding	Minimum Maximum	1 10
18	All process and correspondence associated with contacting, interviewing and issuing subpoenas to all witnesses	Minimum Maximum	1 10
<i>Examinations</i>			
19	Preparation for examination of a person coming under Item 20 for each day of attendance (a) by party conducting examination (b) by party being examined		4 3
20	Attendance on examination of a person for discovery, on affidavit, on a subpoena to debtor, or in aid of execution, or of a person before trial under Rule 7-5 or 7-8, or any other analogous proceeding, for each day (a) by party conducting examination (b) by party being examined		8 5
<i>Applications, Hearings and Conferences</i>			
21	Preparation for an application or other matter referred to in Item 22, for each day of hearing if hearing begun (a) if unopposed (b) if opposed		2 3
22	Application, other than an application referred to in Item 23 or 27, for each day (a) if unopposed (b) if opposed		4 5
23	Application by requisition or by written submission	Minimum Maximum	1 5
24	Preparation for a hearing referred to in Item 25, for each day of hearing		3
25	Reference to, or inquiry, assessment, accounting or hearing before, or on appeal from, a master, registrar or special referee, with or without witnesses and whether before or after judgment, for each day		6

SUPREME COURT CIVIL RULES

Appendix B – Party and Party Costs

Item	Description	Units	
26	Preparation for an application or other matter referred to in Item 27, for each day of hearing		
	(a) if unopposed		4
	(b) if opposed		5
27	Hearing of proceeding, including petition, special case, proceeding on a point of law, stated case, interpleader or any other analogous proceeding, and applications for judgment under Rule 7-7 (6), 9-6 or 9-7, for each day		
	(a) if unopposed		6
	(b) if opposed		10
28	Preparation for a hearing referred to in Item 22 (b), 25 or 27 (b), which hearing was initially contested but for which no attendance was required as a result of an agreement reached as to the issues that would have been the subject of the hearing		
	(a) for a hearing referred to in Item 22 (b)		2
	(b) for a hearing referred to in Item 25		2
	(c) for a hearing referred to in Item 27 (b)		4
29	Preparation for attendance referred to in Item 30, for each day of attendance		2
30	Attendance before a registrar to settle an order or to assess costs, for each day		4
31	Preparation for attendance referred to in Item 32, for each day of attendance	Minimum Maximum	1 3
32	Attendance at a settlement conference, case planning conference or trial management conference	Minimum Maximum	1 5
<i>Public Guardian and Trustee</i>			
33	All process for obtaining the comments and recommendations of the Public Guardian and Trustee	Minimum Maximum	1 10
<i>Trial</i>			
34	Preparation for trial, if proceeding set down for each day of trial		5
35	Attendance at trial of proceeding or of an issue in a proceeding, for each day		10
36	Written argument	Minimum Maximum	1 10
37	Attendance at the court for trial or hearing if party is ready to proceed and when trial or hearing not started		3
38	Attendance to speak to trial or hearing list		1
<i>Attendance at Registry</i>			
39	Process for payment into or out of court		1
40	Process for setting down proceeding for trial		1
41	Process relating to entry of an order or a certificate of costs when Item 30 or 44 does not apply		1
42	All process, for which provision is not made elsewhere in this tariff, relating to execution on or enforcement of an order, exclusive of any application to the court		1

Appendix C

Item	Description	Units	
<i>Miscellaneous</i>			
43	Conduct of sale if property sold by order of court	Minimum Maximum	1 10
44	Negotiations, including mediation, and process for settlement, discontinuance, or dismissal by consent of any proceeding if settled, discontinued, or dismissed by consent as a result of the negotiations		5
45	Attendance at mediation, per day		5
46	Preparation for a mediation, for each day of attendance		3
47	Preparation for a mediation if the mediation is not held due to a reason other than the party's refusal, failure or neglect to attend		3
48	Travel by a lawyer to attend at any trial, hearing, application, examination, reference, inquiry, assessment, or other analogous proceeding if held more than 40 km from the place where the lawyer carries on business, for each day on which the lawyer travels		2
	In addition, reasonable travelling and subsistence expenses are to be allowed as a disbursement		

APPENDIX C

SCHEDULE 1

[am. B.C. Regs. 119/2010, Sch. A, ss. 56 and 57; 65/2013, Sch. A, s. 7; 149/2013, s.17; 90/2014, Sch. 1, s. 3.]

FEES PAYABLE TO THE CROWN

(Unless otherwise provided by statute)

Definitions

1 In this Schedule, “**Item**” means an Item in the table to this Schedule.

Amount payable

- 2** (1) Subject to subsection (2), for any Item, there must be paid to the government
- (a) the fee shown in the table to this Schedule as being applicable to that Item, or
 - (b) if Part 1 of the table to this Schedule is amended under section 2 (4) of Schedule 4 of this Appendix C, the fee shown as being applicable to that Item in the table most recently published under section 2 (3) (b) of Schedule 4.
- (2) A person filing a notice of civil claim or a response to civil claim need not pay the fee applicable to that filing if, at the time of filing, the person provides to the registry a certificate of mediation in Form 124 indicating,
- (a) if the filing party is a named plaintiff, that that party or that party's representative engaged in mediation with one or more of the named defendants or a representative for one or more of the named defendants, or
 - (b) if the filing party is a named defendant, that that party or that party's representative engaged in mediation with one or more of the named plaintiffs or a representative for one or more of the named plaintiffs.

Electronic filing fee

- 3** (1) In addition to any other fees payable under this Schedule, a further fee of \$7.00 must be paid for transmitting a document package to a registry through the electronic filing service of Court Services Online.
- (2) For the purposes of this provision, a “**document package**” is any document or, if a group of documents is transmitted at one time in relation to the same court file, that group of documents.

FEES APPLICABLE TO THE SUPREME COURT

Item	Description	Fee (\$)
<i>Commencing proceedings</i>		
1	Subject to section 2 (2) of this Schedule, for commencing a proceeding that is not an appeal under Rule 23-6 (8), an application under section 66, 67, 70, 77 or 85 of the <i>Legal Profession Act</i> or under Rule 20-6 (3) No fee is payable under this item to file for and obtain a grant of probate or administration if a person dies leaving an estate that does not exceed \$25 000 in value	200
2	For filing a counterclaim or a third party notice	200
<i>Responding to proceedings</i>		
3	Subject to section 2 (2) of this Schedule, for filing a response to civil claim, a response to counterclaim or a response to third party notice	25
<i>Application filings</i>		
4	For filing any one of the following: (a) a notice of application; (b) an appointment for a hearing before a registrar or a special referee but not including a hearing, inquiry or reference under the <i>Court Order Enforcement Act</i> ; (c) a requisition for a desk order, including a requisition filed under Rule 20-6 (3); (d) a requisition for a default judgment	80
5	For setting a matter for hearing for which a fee is not payable under this Schedule No fee is payable under this item to set a matter for hearing by notice of hearing of petition, notice of hearing of appeal or notice of hearing of stated case	80
<i>Other filings</i>		
6	For filing a notice of case planning conference	80
7	For filing a notice of trial	200

Appendix C

Item	Description	Fee (\$)
<i>Hearings</i>		
8	For resetting a trial or hearing	200
9	For each day spent in whole or in part at a hearing, unless the attendance on that day is for reasons for decision only, payable by the party who files the notice of application, appointment or other document by which the hearing was set, unless the court orders payment by another party	For the first 3 days: 0 For each of the 4th to 10th days: 500 For each day over 10: 800
10	For each day spent in whole or in part at trial, unless the attendance on that day is for judgment only, payable by the party who files the notice of trial, unless the court orders payment by another party	For the first 3 days: 0 For each of the 4th to 10th days: 500 For each day over 10: 800
<i>Room rentals</i>		
11	For rental of examination for discovery room	100 per day
<i>Execution</i>		
12	For filing a notice of dispute, a garnishing order, a writ of execution or a subpoena to debtor	80
<i>Documents</i>		
13	For taking or swearing an affidavit for use in the court unless (a) the person swearing the affidavit does so in the course of his or her duties as a peace officer or as an agent or officer of the government, or (b) provision is made elsewhere for a fee for that service	40
14	For a search of a record, other than (a) an electronic search conducted from outside the registry, or (b) a search of a record of a proceeding by (i) a party to that proceeding, (ii) a party's lawyer, or (iii) an official reporter who, or a representative of a transcription firm that, is retained by a party to produce a transcript of the proceeding	8
15	For returning by mail, fax or electronic mail the results of a search of a record, the aggregate of the following: (a) fee for returning the results (b) cost per page faxed	10 1

Appendix C

Item	Description	Fee (\$)
16	For accessing, without purchase, from outside the registry, including, without limitation, viewing, printing or downloading, any document that is found by or created in response to an electronic search or request, including, without limitation, an index of cases produced in response to a search query	6
17	For accessing any document referred to in Item 16 and purchasing that document	10
18	For copies, per page	1
19	For <ul style="list-style-type: none"> (a) a certified copy of a document <ul style="list-style-type: none"> (i) for 10 pages or less 40 (ii) for each additional page over 10 pages, per page 6 (b) issuing a certificate of judgment 40 (c) issuing a certificate of pending litigation or other certificate not otherwise provided for 40 (d) a copy, produced by the registry, of a transcript filed within 5 years of the request, per page 4 	
20	For returning by mail or by fax a confirmation of filing or rejection of a document submitted by fax to a registry	10

Despite anything in this Schedule, if, after consultation with the Chief Justice, the Crown enters into an agreement with a person under which the person is authorized to access one or both of registry records and specified registry services and is exempted from payment of any or all of the fees provided under Items 14, 15, 16, 17 and 18 for such access, the person may, on payment of any fee required under the agreement and on compliance with any other terms and conditions imposed by the agreement, access, during the term of the agreement, the registry records and registry services to which the agreement applies without payment of the fees from which the person is exempted under the agreement.

Appendix C

SCHEDULE 2

[am. B.C. Regs. 119/2010, Sch. A, s. 58; 125/2020.]

FEES PAYABLE TO THE SHERIFF

Item	Description	Fee (\$)
1	For service <ul style="list-style-type: none"> (a) receiving, filing, serving on one person and returning any process together with an affidavit of service or attempted service (b) each additional party served at the same address (c) each additional party served not at the same address 	100 20 30
2	Non-refundable deposit for civil jury trial	1 000
3	For arrest or execution on goods and chattels <ul style="list-style-type: none"> (a) for every arrest, execution or similar writ or order (b) for attending, investigating, inventorying, cataloguing, taking possession, preparing for sale, per hour for each sheriff involved (c) as commission on the sum realized, or on the sum settled for, as the case may be, net of disbursements properly incurred <ul style="list-style-type: none"> (i) if that net sum is \$10 000 or less (ii) if that net sum is more than \$10 000 but is less than \$100 000 (iii) if that net sum is \$100 000 or over (d) the amount of the commission payable under paragraph (c) must be reduced by 50% if an auctioneer, broker or other individual sells the goods and chattels for the sheriff and receives a fee or commission for doing so 	140 85 10% \$1 000 plus 2 1/2% on the amount in excess of \$10 000 \$3 250 plus 1% on the amount in excess of \$100 000
4	For lien and recovery actions <ul style="list-style-type: none"> (a) executing a lien other than a repairer's lien or for recovering specific property other than land if the execution or recovery is accomplished in whole or in part (b) attending, investigating, inventorying, cataloguing, taking possession, per hour for each sheriff involved 	175 75
5	For sale or possession of land <ul style="list-style-type: none"> (a) for executing an order for sale or possession of land, in part or in whole (b) for attending, investigating, inventorying, cataloguing, taking possession, preparing for sale, per hour for each sheriff involved (c) as commission on the sum realized, or on the sum settled for, as the case may be, net of disbursements properly incurred 	150 70

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Item	Description	Fee (\$)
	(i) if that net sum is \$10 000 or less (ii) if that net sum is more than \$10 000 but is less than \$100 000 (iii) if that net sum is \$100 000 or over	10% \$1 000 plus 2 1/2% on the amount in excess of \$10 000 \$3 250 plus 1% on the amount in excess of \$100 000
6	For arrest of ships	
	(a) for every warrant or order to arrest a ship, including release	175
	(b) for attending, investigating, inventorying, cataloguing, taking and maintaining possession, preparing for sale, per hour for each sheriff involved	75
7	For a search made by a sheriff including the certificate of result	10
8	For taking or swearing an affidavit for use in the court unless the person swearing the affidavit does so in the course of his or her duties as a peace officer or as an agent or officer of the government	30
9	In respect of each of the foregoing items except Item 1, the sheriff must be paid 50¢ for each km traveled	
10	For each of the foregoing items, all disbursements properly incurred	

SCHEDULE 3**FEES PAYABLE TO WITNESSES**

In all cases in which a witness is required to attend an examination, hearing or trial, the following daily witness fees and fees for travel, meals and preparation are payable, and must, unless otherwise ordered, be tendered in advance by the party requiring the attendance of the witness:

Daily witness fee

- 1** (1) For any witness, other than a party or a present officer, director or partner of a party to a proceeding, for each day or part of a day, a daily witness fee of \$20.
- (2) A witness who is a party or a present officer, director or partner of a party to the proceeding is not entitled to a daily witness fee.

Travel

- 2** (1) For any witness, if the examination, hearing or trial is held at a place
 - (a) within 200 km by road (including any ferry route within the Provincial road system) of where the witness resides, 30¢ per km each way by road between his or her residence and the place of examination, hearing or trial; but no travel allowance will be made if the distance by road between that residence and the place of examination, hearing or trial is less than 8 km, or
 - (b) more than 200 km from where the witness resides, the minimum return air fare by scheduled airline plus 30¢ per km each way from his or her residence to the departure airport and from the arrival airport to the place of examination, hearing or trial.
- (2) The allowance described in subsection (1) (a) includes ferry fares and road tolls.

Allowances

- 3** For any witness, a reasonable allowance for meal expenses made necessary by the witness' attendance, and if the witness resides elsewhere than the place of examination, hearing or trial and is required to remain overnight, a reasonable allowance for overnight accommodation.

Preparation

- 4** For any witness other than a party or a present officer, director or partner of a party to a proceeding, a reasonable sum must be allowed for the time employed and expenses incurred by the witness in preparing to give evidence, when that preparation is necessary.

SCHEDULE 4

[am. B.C. Regs. 119/2010, Sch. A, ss. 57 and 59; 65/2013, Sch. A, s. 7; 149/2013, s. 17; 90/2014, Sch. 1, s. 3; 104/2019, s. 8.]

FEE CALCULATIONS

Definitions

1 In this Schedule:

“**actual fee**”, in relation to an Item, means the actual fee applicable to that Item determined under section 2;

“**base CPI**” means the number recorded as the “All-items Index” for British Columbia for April 2010 in the publication prepared for April 2010 under the *Statistics Act* by the director;

“**base fee**”, in relation to an Item, means the fee shown in the table to this Schedule as being applicable to that Item;

“**current CPI**”, in relation to any year in which a calculation of actual fees is to be made under section 2, means the number recorded as the “All-items Index” for British Columbia for April of that year in the publication prepared for that year under the *Statistics Act* by the director;

“**director**” has the same meaning as in the *Statistics Act*;

“**Item**” means an Item in the table to this Schedule.

Calculation of actual fee

2 (1) Until Part 1 of the table to Schedule 1 is amended under this section, the actual fee applicable to an Item is the fee shown for that Item in the table to this Schedule.

(2) In 2012, and in every second year after that, the actual fee applicable to an Item must be recalculated as follows:

(a) a preliminary fee must be determined for the Item in accordance with the following formula:

$$\text{preliminary fee} = \text{base fee} \times (\text{current CPI} / \text{base CPI});$$

(b) the actual fee applicable to the Item is the preliminary fee determined for that Item under paragraph (a) rounded as follows:

(i) if the base fee applicable to the Item is less than or equal to \$10, the actual fee applicable to the Item is the preliminary fee for the Item rounded to the nearest \$1;

(ii) if the base fee applicable to the Item is greater than \$10 but less than \$100, the actual fee applicable to the Item is the preliminary fee for the Item rounded to the nearest \$5;

(iii) if the base fee applicable to the Item is \$100 or more, the actual fee applicable to the Item is the preliminary fee for the Item rounded to the nearest \$10.

(3) If, as a result of the recalculation referred to in subsection (2), there is a change to the actual fee applicable to one or more Items, the minister may notify the Registrar of Regulations of that change and the Registrar of Regulations may

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- (a) amend Part 1 of the table to Schedule 1 to reflect the change of which notice was given under this subsection, and
- (b) publish in Part 2 of the Gazette the amended table.
- (4) On the date that is 7 days after the date on which an amended table is published under subsection (3) (b) in Part 2 of the Gazette, Part 1 of the table to Schedule 1 is amended accordingly.

Item	Description	Fee (\$)
<i>Commencing proceedings</i>		
1	Subject to section 2 (2) of this Schedule, for commencing a proceeding that is not an appeal under Rule 23-6 (8.1), an application under section 66, 67, 70, 77 or 85 of the <i>Legal Profession Act</i> or under Rule 20-6 (3) No fee is payable under this item to file for and obtain a grant of probate or administration if a person dies leaving an estate that does not exceed \$25 000 in value	200
2	For filing a counterclaim or a third party notice	200
<i>Responding to proceedings</i>		
3	Subject to section 2 (2) of Schedule 1, for filing a response to civil claim, a response to counterclaim or a response to third party notice	25
<i>Application filings</i>		
4	For filing any one of the following: (a) a notice of application; (b) an appointment for a hearing before a registrar or a special referee but not including a hearing, inquiry or reference under the <i>Court Order Enforcement Act</i> ; (c) a requisition for a desk order, including a requisition filed under Rule 20-6 (3); (d) a requisition for a default judgment	80
5	For setting a matter for hearing for which a fee is not payable under this Schedule No fee is payable under this item to set a matter for hearing by notice of hearing of petition, notice of hearing of appeal or notice of hearing of stated case	80
<i>Other filings</i>		
6	For filing a notice of case planning conference	80
7	For filing a notice of trial	200
<i>Hearings</i>		
8	For resetting a trial or hearing	200

SUPREME COURT CIVIL RULES

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Item	Description	Fee (\$)
9	For each day spent in whole or in part at a hearing, unless the attendance on that day is for reasons for decision only, payable by the party who files the notice of application, appointment or other document by which the hearing was set, unless the court orders payment by another party	For the first 3 days: 0 For each of the 4th to 10th days: 500 For each day over 10: 800
10	For each day spent in whole or in part at trial, unless the attendance on that day is for judgment only, payable by the party who files the notice of trial, unless the court orders payment by another party	For the first 3 days: 0 For each of the 4th to 10th days: 500 For each day over 10: 800
<i>Room rentals</i>		
11	For rental of examination for discovery room	100 per day
<i>Execution</i>		
12	For filing a notice of dispute, a garnishing order, a writ of execution or a subpoena to debtor	80
<i>Documents</i>		
13	For taking or swearing an affidavit for use in the court unless (a) the person swearing the affidavit does so in the course of his or her duties as a peace officer or as an agent or officer of the government, or (b) provision is made elsewhere for a fee for that service	40
14	For a search of a record, other than (a) an electronic search conducted from outside the registry, or (b) a search of a record of a proceeding by (i) a party to that proceeding, (ii) a party's lawyer, or (iii) an official reporter who, or a representative of a transcription firm that, is retained by a party to produce a transcript of the proceeding	8
15	For returning by mail, fax or electronic mail the results of a search of a record, the aggregate of the following: (a) fee for returning the results (b) cost per page faxed	10 1
16	For accessing, without purchase, from outside the registry, including, without limitation, viewing, printing or downloading, any document that is found by or created in response to an electronic search or request, including, without limitation, an index of cases produced in response to a search query	6

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Item	Description	Fee (\$)
17	For accessing any document referred to in Item 16 and purchasing that document	10
18	For copies, per page	1
19	For <ul style="list-style-type: none"> (a) a certified copy of a document <ul style="list-style-type: none"> (i) for 10 pages or less 40 (ii) for each additional page over 10 pages, per page 6 (b) issuing a certificate of judgment 40 (c) issuing a certificate of pending litigation or other certificate not otherwise provided for 40 (d) a copy, produced by the registry, of a transcript filed within 5 years of the request, per page 4 	
20	For returning by mail or by fax a confirmation of filing or rejection of a document submitted by fax to a registry	10

Despite anything in this Schedule, if, after consultation with the Chief Justice, the Crown enters into an agreement with a person under which the person is authorized to access one or both of registry records and specified registry services and is exempted from payment of any or all of the fees provided under Items 14, 15, 16, 17 and 18 for such access, the person may, on payment of any fee required under the agreement and on compliance with any other terms and conditions imposed by the agreement, access, during the term of the agreement, the registry records and registry services to which the agreement applies without payment of the fees from which the person is exempted under the agreement.

AMENDMENTS NOT IN FORCE

Court Rules Act

SUPREME COURT CIVIL RULES

B.C. Reg. 168/2009

amended by B.C. Reg. 232/2020

effective October 4, 2021

SCHEDULE 2

- 1 The Supreme Court Civil Rules, B.C. Reg. 168/2009, are amended in Rule 12-6 by repealing subrules (0.1) and (0.2).*

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