

New Civil Rules, Family Rules and Court Fees

I. Introduction

The Province has adopted new civil and family court rules that are to be fully implemented by July 1, 2010. The impetus for the development of these new rules was the concern that, for most British Columbians, access to the courts is hampered by high costs and an unwieldy process. The aim of the new rules is to make it easier for the average citizen to access the courts to resolve legal disputes. The new rules are intended to speed up the process, lower the costs associated with litigation and simplify the litigation process.

The focus of the new rules is to ensure that proceedings will be conducted in a manner proportionate to: (a) the amount involved in a claim; (b) the importance of the issue in dispute; and (c) the complexity of the proceeding. To facilitate these aims, judges will have more authority to manage the process and reduce delays, complexity and cost.

II. Summary of Key Changes

What follows are some of the key aspects of the new rules.

Case Planning Conference

If a case is not progressing as it should, a party may request a Case Planning Conference ("CPC"). At the CPC, a judge may set parameters for the litigation and set out a case plan order detailing what processes will happen and when. Clients are not required to attend the CPC.

Limits on Discovery

The scope of document production has been limited and only documents that can be used to prove or disprove a material fact at trial or documents a party intends to rely on at trial must be exchanged. This is a significant change from the current disclosure requirements. Others include:

- Unless the parties agree or the court orders otherwise, oral examinations for discovery have been reduced to a maximum of seven hours for each party conducting an examination.
- Interrogatories will now only be permitted with consent of the parties or with leave of the court.

Experts

- The new rules clarify that an expert's duty is to assist the court, not advocate for any party.
- Expert reports must now be exchanged earlier than under the current rules and must contain more specific information.
- A judge may order opposing experts to confer to clarify technical issues in dispute prior to trial. The new rules set out a process for the use of a joint expert where suitable.

New Fast Track Litigation

- The new fast track rule provides a simplified procedure for claims where the amount in issue is \$100,000 or less and the trial can be completed in three days or less.
- Under the fast track rule, parties cannot file a contested application without first attending a CPC, oral discovery is limited to two hours and costs are limited depending on the length of a trial (\$8,000 for one day, \$9,500 for two days and \$11,000 for three or more days). To encourage parties to use the fast track rule, these limited costs provisions will apply to any case where a plaintiff recovers \$100,000 or less and the trial is completed in three days or less.

Cost of Trials

- Litigants may have up to three days of trial time before they are required to pay any daily court fees. To encourage mediation, fees for filing or responding to a claim will be eliminated for parties who have mediated prior to commencing a claim.

III. Practical Implications

For our clients, the benefit of the new rules is the reduced cost of litigation and the opportunity for a faster and more stream-lined process. While simpler claims will benefit from the new procedural limits, such as reduced oral discovery and document production, many of our clients are involved in more complex litigation. In these cases, the parties may still apply to the court for more fulsome documents disclosure or any order that is required for the just resolution of their claim.

We have not included any information specific to the changes in the Supreme Court Family Rules. Please contact Peter Roberts at 604.631.9158 or at proberts@lawsonlundell.com if you would like more information on the changes to these rules specifically or the civil rules generally.

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