

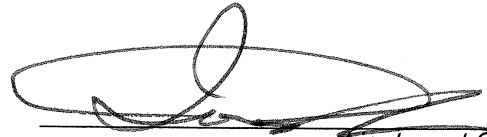
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No.

674

, Approved and Ordered

SEP 14 2005

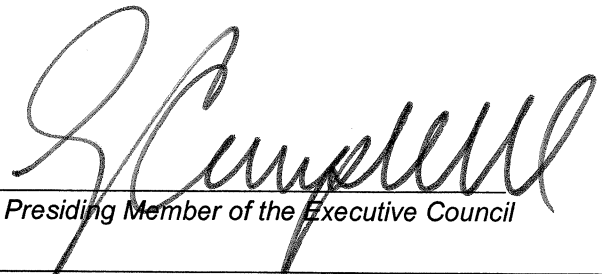

Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, made after consultation with the Chief Judge of the Provincial Court, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that the Small Claims Rules, B.C. Reg. 261/93, are amended as set out in the attached Schedule.



Attorney General and Minister Responsible
for Multiculturalism



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section:- Court Rules Act, R.S.B.C. 1996, c. 80, s. 1

Other (specify):- OIC 1030/93

SCHEDULE

1 Rule 7.2 of the Small Claims Rules, B.C. Reg. 261/93, is amended

- (a) *in subrule (22) by striking out* “(Form 22),” *and substituting* “(Form 22) in accordance with the instructions on the form,” *and*
- (b) *in subrule (26) (a) by adding* “in accordance with the instructions on the form,” *after* “verification of non-attendance”.

2 Rule 7.3 is amended

- (a) *in subrule (1) by adding the following definition:*

“third party insurer” means, in relation to a motor vehicle action,

- (a) the Insurance Corporation of British Columbia if it has been made a third party in the action under section 21 of the *Insurance (Motor Vehicle) Act*, or
- (b) an insurer if it has been made a third party in the action under section 161 (2) of the *Insurance Act* . ,

- (b) *by repealing subrule (17) and substituting the following:*

Attending the mediation session

- (17) In the case of a claim that is not a motor vehicle action,
 - (a) the party who delivers a Notice to Mediate for Claims Between \$10 000 and \$25 000 under subrule (5) and each of the following parties must attend the mediation session unless exempted from attending under subrule (29):
 - (i) the claimant;
 - (ii) the defendant;
 - (iii) the third party, and
 - (b) each insurer of a claimant, defendant or third party may attend the mediation session.
- (c) *in subrule (18) by repealing paragraph (c) and substituting the following:*
 - (c) the insurer of the third party or, if the third party is not insured, the third party;
 - (d) each third party insurer to the action . ,
- (d) *in subrule (37) (a) (i) by striking out* “(Form 31),” *and substituting* “(Form 31) in accordance with the instructions on the form,”
- (e) *by repealing subrules (39) and (40) and substituting the following:*

If a defendant or insurer does not attend

- (39) A verification of default may be filed in relation to a defendant, including, without limitation, a defendant to a counterclaim and a defendant to a third party notice, in the following circumstances:

- (a) in the case of a motor vehicle action in relation to which the defendant is insured, a verification of default may be filed in relation to the defendant if the insurer of the defendant did not
 - (i) attend the mediation session, or
 - (ii) sign the fee declaration before, or at the beginning of, the mediation session;
- (b) in the case of a motor vehicle action in relation to which the defendant is not insured, a verification of default may be filed in relation to the defendant if the defendant did not
 - (i) attend the mediation session, or
 - (ii) sign the fee declaration before, or at the beginning of, the mediation session;
- (c) in the case of a motor vehicle action in relation to which there is a third party insurer, a verification of default may be filed in relation to the defendant if the third party insurer did not
 - (i) attend the mediation session, or
 - (ii) sign the fee declaration before, or at the beginning of, the mediation session;
- (d) in any other case, a verification of default may be filed in relation to the defendant if the defendant did not
 - (i) attend the mediation session, or
 - (ii) sign the fee declaration before, or at the beginning of, the mediation session.

Application for default order

- (40) The following apply if a verification of default is filed under subrule (39):
- (a) if the verification of default is filed in relation to a defendant who is named as a defendant on the notice of claim,
 - (i) the claimant may, by filing a request for judgment or for dismissal and paying the required fee, ask the registrar to proceed under these rules as if the defendant had not filed a reply and the claimant had completed the steps in Rule 6 (3), and
 - (ii) the registrar must either make a default order under Rule 6 (4) or set a date under Rule 6 (5) for a hearing before a judge;
 - (b) if the verification of default is filed in relation to a defendant to a counter-claim or a defendant to a third party notice, the party bringing the counter-claim or third party notice may apply under Rule 16 (7) for a default order under Rule 16 (6) (c). , *and*
- (f) *in subrule (41) (a) by adding* “in accordance with the instructions on the form,” *after* “verification of default”.

3 *Rule 8 (10) is amended by striking out everything after* “permission of a judge,” *and substituting* “but must not be changed after

- (a) judgment has been granted,
- (b) the claim or counterclaim has been dismissed by a judge,
- (c) a default order has been issued by a judge or a registrar, or
- (d) the claim or counterclaim has been settled.”

4 Rule 16 is amended

- (a) in subrule (2) (b.1) by striking out** “(see Rule 7.2 (11));” **and substituting** “(see Rule 7.2 (11) or Rule 7.3 (30));” ,
- (b) in subrule (2) by adding the following paragraph:**
 - (c.3) an order authorizing a person to attend a mediation session by telephone (see Rule 7.3 (25)); ,
- (c) in subrule (6) (c) by striking out** “Rule 7.2 (25);” **and substituting** “Rule 7.2 (25) or Rule 7.3 (40);” ,
- (d) in subrule (6) (f.1) by striking out** “Rule 7.2 (see Rule 7.2 (10));” **and substituting** “Rule 7.2 (see Rule 7.2 (10)) or Rule 7.3 (see Rule 7.3 (29));” , **and**
- (e) in subrule (6) (f.2) by striking out** “(see Rule 7.2 (32) (b));” **and substituting** “(see Rule 7.2 (32) (b) or Rule 7.3 (50) (b));” .

5 Form 5 is repealed and the attached Form 5 is substituted.

6 Form 22 is repealed and the attached Form 22 is substituted.

7 Form 23 is repealed and the attached Form 23 is substituted.

8 Form 31 is repealed and the attached Form 31 is substituted.

APPLYING FOR A DEFAULT ORDER

Step 1

COMPLETE the APPLICATION FOR DEFAULT ORDER. To complete this form, use a typewriter or print clearly. There are 4 copies, so be sure all copies are legible.



Step 2

FILE the APPLICATION by taking it and a completed certificate of service for the NOTICE OF CLAIM to the court registry. There is a filing fee for this application. The staff will examine the certificate to make sure the NOTICE OF CLAIM has been properly served. Then they will look at your NOTICE OF CLAIM to see if a hearing is required. If you are applying for a default order as a result of a defendant not attending a mediation session you must file the verification of non-attendance you received at the mediation session.



Step 3

If no hearing is required, you will be asked to fill out the Default Order section at the bottom of the form and your order can be signed immediately.

If a hearing is required, the registry staff will set a date for you to appear before a judge. At this hearing, the judge will decide the amount of your claim, or if the claim is not for money, the terms of the appropriate order. You should bring to the hearing any supporting documents or evidence you wish the judge to consider. After reviewing the evidence, the judge will make an order which you will put in the DEFAULT ORDER section on the form.



Step 4

When the DEFAULT ORDER is completed, file a copy in the registry, and then you will be able to enforce your order. For more help there is a booklet called "Getting Results".

REGISTRY FILE NUMBER

What is the registry file number and location shown on the Notice of Claim?

Are you sure the name(s) you used here are the same as the ones used on the Notice of Claim? It is important to use the correct name(s) or the order may not be enforceable.

THE REGISTRY STAFF WILL FILL IN THIS SECTION BEFORE YOU GO ON TO FILL OUT THE DEFAULT ORDER.

After a Default Order is made or a date is set for a hearing, the defendant may not file a reply without the permission of a judge.

DEFAULT ORDER

If an order has been made for the payment of money, fill out the amounts on the right side of the default order.

If the judge's order includes any other terms, record those terms in the lines on the left.

When you have completed the form, take it to the Registry to be checked, signed and stamped.

WHAT EXPENSES MAY BE CLAIMED?

If you have any expenses that were not included on your Notice of Claim, bring any evidence of those costs and be sure to ask the judge or registrar to include them in your order.

WHAT INTEREST MAY BE CLAIMED?

If you claimed daily interest from the date of filing of your Notice of Claim, you may now show any amount which might have accumulated since the date of filing to today's date.

If no interest was claimed originally you are entitled to interest in accordance with the Court Order Interest Act.

The registry staff can supply you with tables to calculate the interest.



APPLICATION FOR DEFAULT ORDER

IN THE PROVINCIAL COURT OF BRITISH COLUMBIA (SMALL CLAIMS COURT)

REGISTRY FILE NUMBER
REGISTRY LOCATION

APPLICATION FOR DEFAULT ORDER

Fill in the names, copying them from the notice of claim.

In the case between:

_____ **CLAIMANT(S)**

and

_____ **DEFENDANT(S)**

The registry staff will fill in this section.

No hearing is required as the claim is for a debt.

or

A hearing is required before a Judge of the Provincial Court, because the claim is not for a debt. At the hearing, the Judge will determine the amount the claimant is entitled to, or the terms of an appropriate order for this case.

A HEARING WILL BE HELD ON

_____ at _____ or as soon after this time as the court schedule allows.

date time am / pm

at _____

court location

If you cannot attend this hearing please notify the Court Registry.
If you do not attend at the time set for the default hearing, the Judge may cancel it.

Fill in this section.

If no court appearance was required, the terms of the order will be those requested on your Notice of Claim.

If you appeared in court, the judge will have told you what the terms of the order are.

If the judge ordered some other terms, add these in this section.

DEFAULT ORDER

As _____

has not filed a reply and the claimant has proved the ^{defendant} defendant has been served with the notice of claim,

has not attended a mediation session and the claimant has filed a verification of non-attendance (under rule 7.2),

has not attended a mediation session or signed a fee declaration and the claimant has filed a verification of default (under rule 7.3),

THIS COURT ORDERS THE DEFENDANT TO:

PAY DIRECTLY TO THE CLAIMANT THE SUM OF	\$		amount of claim granted by court
AND _____	+	\$	expenses
_____	+	\$	interest
_____	=	\$	AMOUNT
_____	+	\$	Filing Fee
_____	=	\$	TOTAL AMOUNT

This will be signed and dated by the court

_____ _____

date by the court

THE DEFENDANT IS ORDERED TO CARRY OUT THE TERMS OF THE ORDER IMMEDIATELY.

court copy

court copy



APPLICATION FOR DEFAULT ORDER

IN THE PROVINCIAL COURT OF BRITISH COLUMBIA (SMALL CLAIMS COURT)

REGISTRY FILE NUMBER
REGISTRY LOCATION

APPLICATION FOR DEFAULT ORDER

In the case between:

_____ CLAIMANT(S)

and

_____ DEFENDANT(S)

You did not file a reply within the time limit and the claimant has obtained this default order against you.

If this section is filled in, the claimant has appeared before a Judge of the Provincial Court who determined the amount the claimant is entitled to, or made any other order below.

No hearing was required as the claim was for a debt.

or

A hearing was required before a Judge of the Provincial Court, because the claim was not for a debt. At the hearing, the Judge determined the amount the claimant was entitled to, or the terms of an appropriate order for this case.

A HEARING WAS HELD ON

_____ date at _____ time am / pm or as soon after this time as the court schedule allows.

at _____ court location

This is the order of the court.

DEFAULT ORDER

As _____ ^{defendant}

has not filed a reply and the claimant has proved the defendant has been served with the notice of claim,
 has not attended a mediation session and the claimant has filed a verification of non-attendance (under rule 7.2),
 has not attended a mediation session or signed a fee declaration and the claimant has filed a verification of default (under rule 7.3),

THIS COURT ORDERS THE DEFENDANT TO:
PAY DIRECTLY TO THE CLAIMANT THE SUM OF

_____		\$	_____	amount of claim granted by court
AND _____	+	\$	_____	expenses
_____	+	\$	_____	interest
_____	=	\$	_____	AMOUNT
_____	+	\$	_____	Filing Fee
_____	=	\$	_____	TOTAL AMOUNT

_____ date _____ by the court

THE DEFENDANT IS ORDERED TO CARRY OUT THE TERMS OF THE ORDER IMMEDIATELY.

defendant's copy



APPLICATION FOR DEFAULT ORDER

IN THE PROVINCIAL COURT OF BRITISH COLUMBIA (SMALL CLAIMS COURT)

REGISTRY FILE NUMBER
REGISTRY LOCATION

APPLICATION FOR DEFAULT ORDER

Fill in the file number of your case, and the name and address of the person or business you want to apply for an order against.

In the case between:

_____ CLAIMANT(S)

and

_____ DEFENDANT(S)

Check with the Court Registry staff before filling out the rest of the form.

- No hearing is required as the claim is for a debt.
- or
- A hearing is required before a Judge of the Provincial Court, because the claim is not for a debt. At the hearing, the Judge will determine the amount the claimant is entitled to, or the terms of an appropriate order for this case.

A HEARING WILL BE HELD ON

_____ date at _____ time am / pm or as soon after this time as the court schedule allows.

at _____ court location

If you cannot attend this hearing please notify the Court Registry. If you do not attend at the time set for the default hearing, the Judge may cancel it.

If a hearing has been set, your claim will be assessed by the court. A Judge will consider your claim and you may be questioned about how you arrived at the amount. Any supporting documents you wish the court to consider should be brought to the hearing.

DEFAULT ORDER

What have you been awarded?

If no court appearance was required, the terms of the order will be those requested on your Notice of Claim.

If you appeared in court, the judge will have told you what the terms of the order are.

If the judge ordered some other terms, add these in this section.

As _____ defendant
 has not filed a reply and the claimant has proved the defendant has been served with the notice of claim,
 has not attended a mediation session and the claimant has filed a verification of non-attendance (under rule 7.2),
 has not attended a mediation session or signed a fee declaration and the claimant has filed a verification of default (under rule 7.3),

THIS COURT ORDERS THE DEFENDANT TO:

PAY DIRECTLY TO THE CLAIMANT THE SUM OF _____ AND _____

_____	\$	_____	amount of claim granted by court
+	\$	_____	expenses
+	\$	_____	interest
=	\$	_____	AMOUNT
+	\$	_____	Filing Fee
=	\$	_____	TOTAL AMOUNT

The registry staff will sign here.

_____ date _____ by the court

THE DEFENDANT IS ORDERED TO CARRY OUT THE TERMS OF THE ORDER IMMEDIATELY.

claimant's copy



NOTICE OF HEARING

IN THE PROVINCIAL COURT OF BRITISH COLUMBIA (SMALL CLAIMS COURT)

REGISTRY FILE NUMBER
REGISTRY LOCATION

NOTICE OF HEARING

TO: In the case between: _____ **CLAIMANT(S)**

and _____ **DEFENDANT(S)**

No hearing is required as the claim is for a debt.

or

A hearing is required before a Judge of the Provincial Court, because the claim is not for a debt. At the hearing, the Judge will determine the amount the claimant is entitled to, or the terms of an appropriate order for this case.

A HEARING WILL BE HELD ON

_____ date _____ at _____ time _____ am / pm _____ or as soon after this time as the court schedule allows.

at _____ court location

If you cannot attend this hearing please notify the Court Registry.
If you do not attend at the time set for the default hearing, the Judge may cancel it.

At the hearing, a Judge will consider your claim and you may be questioned about how you arrived at the claim. You should bring any supporting documents or exhibits you wish the court to consider.

WHAT IF YOU DO NOT ATTEND?

If you do not attend at the time set for the default hearing, the Judge may cancel it, but the claimant may ask the registrar to reschedule the hearing.

WHAT WILL HAPPEN AT THE HEARING?

The purpose of the hearing is to allow the judge to determine

- (a) the amount the claimant is entitled to, if the claim is for money, and
- (b) the terms of the appropriate order, in any other case.

For more information, there are booklets called "Getting Ready for Court" and "Getting Results".



VERIFICATION OF NON-ATTENDANCE

IN THE PROVINCIAL COURT OF BRITISH COLUMBIA
(SMALL CLAIMS COURT)

REGISTRY FILE NUMBER
REGISTRY LOCATION

Fill in the registry file number and location as shown on the Notice of Claim.

Fill in the name of the parties, copying them from the Notice of Claim and the Third Party Notice, if applicable.

IN THE CASE BETWEEN

CLAIMANT(S)

NAME _____
ADDRESS _____
CITY, TOWN, MUNICIPALITY _____ PROV. _____ POSTAL CODE _____ TEL. # _____

AND

DEFENDANT(S)

NAME _____
ADDRESS _____
CITY, TOWN, MUNICIPALITY _____ PROV. _____ POSTAL CODE _____ TEL. # _____

AND

THIRD PARTY

NAME _____
ADDRESS _____
CITY, TOWN, MUNICIPALITY _____ PROV. _____ POSTAL CODE _____ TEL. # _____

Indicate what happened.

I, _____, mediator in the Court Mediation Program,
DECLARE AND CONFIRM THAT:
a) a mediation session was scheduled to commence at _____ on _____
at _____, and
b) I was present at this location on that date from _____ until _____, and
c) the following party(ies) did not attend within one-half hour of the scheduled commencement of the mediation session:
 the claimant(s), namely _____
 the defendant(s), namely _____
 the third party(ies), namely _____

mediator

Date, sign and print your name.

Dated _____

mediator (print full name)

This will be completed by the court.

The Court orders that

Today's date _____ date _____ by the registrar

VERIFICATION OF NON-ATTENDANCE



REQUEST FOR JUDGMENT OR FOR DISMISSAL

IN THE PROVINCIAL COURT OF BRITISH COLUMBIA
(SMALL CLAIMS COURT)

REGISTRY FILE NUMBER
REGISTRY LOCATION

Fill in the registry file number and location as shown on the Notice of Claim.

Fill in the name of the parties, copying them from the Notice of Claim and the Third Party Notice, if applicable.

IN THE CASE BETWEEN

CLAIMANT(S)

NAME _____

ADDRESS _____

CITY, TOWN, MUNICIPALITY _____ PROV. _____ POSTAL CODE _____ TEL. # _____

AND

DEFENDANT(S)

NAME _____

ADDRESS _____

CITY, TOWN, MUNICIPALITY _____ PROV. _____ POSTAL CODE _____ TEL. # _____

AND

THIRD PARTY

NAME _____

ADDRESS _____

CITY, TOWN, MUNICIPALITY _____ PROV. _____ POSTAL CODE _____ TEL. # _____

Indicate what you are asking for.

The applicant asks for:

- an order dismissing the claim because the claimant did not attend the mediation session sign the Fee Declaration
- a default order because the defendant did not attend the mediation session sign the Fee Declaration
and the claim is for debt
- a date for a hearing before a judge because the defendant did not attend the mediation session sign the Fee Declaration
and the claim is not for debt

signature of applicant

Print your name and indicate your role in the case.

Dated _____

Print Name: _____

- Claimant
- Defendant

This will be completed by the court.

The Court orders that

Today's date

_____ date

_____ by the registrar

REQUEST FOR JUDGMENT OR FOR DISMISSAL



Verification of Default

In the Provincial Court of British Columbia
(Small Claims Court)

REGISTRY FILE NUMBER
REGISTRY LOCATION

IN THE CASE BETWEEN

Fill in the registry file number and location as shown on the Notice of Claim.

CLAIMANT(S)

NAME(S) _____

Fill in the names of the parties, copying them from the Notice of Claim and the Third Party Notice, if applicable.

AND

DEFENDANT(S)

NAME(S) _____

AND

DEFENDANT / THIRD PARTY

NAME(S) _____

Verification of Default

Fill in the name of the mediator.

I, _____, mediator, DECLARE AND CONFIRM THAT:

When and where the mediation session was scheduled.

1. A mediation session was scheduled to commence at _____ on _____ at _____.

(TIME) (DATE) (LOCATION)

The time the mediator was present.

2. I was present at this location on this date from _____ to _____.

If some of the parties did not attend, fill in the names of the parties.

3. The following party(ies), who were required to attend, did not attend within one half hour of the scheduled commencement of the mediation session:

If some of the parties did not sign the fee declaration, fill in the names of the parties.

4. The following party(ies), who were required to sign the fee declaration, did not sign the fee declaration:

Indicate which parties were present.

5. The following parties attended:

Indicate if anyone attended representing any of the parties.

6. The following persons attended as representatives of parties:

_____ representing _____

_____ representing _____

Fill in today's date and sign the notice.

Dated _____ Mediator _____

Full name of mediator: _____

This will be completed by the court.

The Court orders that	

<div style="border: 1px solid black; padding: 5px; width: 80%; margin: 0 auto;"> _____ <small>date</small> </div>	<div style="border: 1px solid black; padding: 5px; width: 80%; margin: 0 auto;"> _____ <small>by the registrar</small> </div>

Today's date