

**PROVINCE OF BRITISH COLUMBIA**  
**ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL**

Order in Council No. 314, Approved and Ordered **MAY 04 2006**

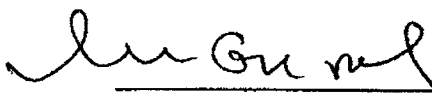
  
\_\_\_\_\_  
~~Lieutenant Governor~~  
Administrator

**Executive Council Chambers, Victoria**

On the recommendation of the undersigned, made after consultation with the Chief Justice of the Supreme Court, the ~~Lieutenant Governor~~, by and with the advice and consent of the Executive Council, orders that,

~~Administrator~~

- (a) effective July 1, 2006, the Supreme Court Rules, B.C. Reg. 221/90, is amended as set out in the attached Schedule 1, and
- (b) effective January 1, 2007, the Supreme Court Rules, B.C. Reg. 221/90, is amended as set out in the attached Schedule 2.

  
\_\_\_\_\_  
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 1039/90

April 11, 2006

## SCHEDULE 1

- 1 ***Rule 1 (8) of the Supreme Court Rules, B.C. Reg. 221/90, is amended by repealing the definition of “registrar” and substituting the following:***

“registrar” includes a district registrar and a deputy district registrar; .

- 2 ***Rule 60 (41) is repealed and the following substituted:***

**Search of files**

- (41) Unless the court otherwise orders,
- (a) no person, other than the following, may search a registry file in respect of a proceeding brought under the *Divorce Act*, R.S.C. 1970, c. D-8, the *Divorce Act*, R.S.C. 1985, c. 3 (2nd Supp.) or the *Family Relations Act*:
    - (i) a solicitor, whether or not a solicitor of a party;
    - (ii) a party;
    - (iii) a person authorized by a party;
    - (iv) a person authorized by a party’s solicitor, and
  - (b) no person, other than the following, may search a registry file in respect of a proceeding under the *Child, Family and Community Service Act*:
    - (i) a party’s solicitor;
    - (ii) a party;
    - (iii) a person authorized by a party;
    - (iv) a person authorized by a party’s solicitor.

- 3 ***Rule 60D (7) is amended by striking out “Each party” and substituting “Subject to Rule 60E, each party”.***

- 4 ***Rule 60 E is amended***

***(a) by repealing the title and substituting the following:***

**FAMILY LAW PROCEEDING – JUDICIAL CASE CONFERENCES**

***(b) by repealing subrules (4) to (6) and substituting the following:***

**Application by requisition**

- (4) An application under subrule (3) may be made by requisition, supported by a letter signed by counsel or the party setting out the reasons why the order is sought, and a judge or master may do one or more of the following:
- (a) require that further material be provided;
  - (b) require that the party or counsel appear in person to speak to the application;
  - (c) make the order without requiring the party or counsel to appear to speak to the application;

- (d) refuse to make the order;
- (e) make such other order as the judge or master considers appropriate.

**Judicial case conference may be requested**

- (5) A party to a family law proceeding may request a judicial case conference by filing at the registry a requisition and notice of judicial case conference in Form 145.

**Time for delivery of notice**

- (6) The party requesting a judicial case conference must serve on each of the other parties of record, at least 30 days before the date set for the judicial case conference,
  - (a) a requisition and notice of judicial case conference, and
  - (b) a copy of Parts 1, 2, 3 and 4 of a Form 89 financial statement.,

*(c) in subrule (7) by striking out “notice” and substituting “a requisition and notice of judicial case conference”,*

*(d) by adding the following subrules:*

**Party requesting a judicial case conference must file Form 89 with court**

- (7.1) The party delivering a requisition and notice of judicial case conference in accordance with subrule (6) or (7) must, at least 7 days before the date set for the judicial case conference, file with the court the original of Parts 1, 2, 3 and 4 of a Form 89 financial statement.

**Other parties must file and serve Form 89**

- (7.2) At least 7 days before the date set for a judicial case conference, a party who has been served with a requisition and notice of judicial case conference in accordance with subrule (6) or (7) must
  - (a) serve on the party who served that document and on every other party of record a copy of Parts 1, 2, 3 and 4 of a Form 89 financial statement, and
  - (b) file with the court the original of those Parts 1, 2, 3 and 4 of the Form 89 financial statement. , *and*

*(e) by repealing subrule (16).*

**5 Rule 66 is amended by adding the following subrule:**

**Tax on costs**

- (29.2) If tax is payable by a party in respect of legal services, an additional amount to compensate for that tax must be added to the amount of costs to which the party is entitled under subrule (29), which additional amount must be determined by multiplying the amount of costs to which the party is entitled under subrule (29) by the percentage rate of the tax.

**6 Rule 67 (10) is amended by striking out “July 2, 2006.” and substituting “July 2, 2007.”.**

- 7 ***Form 64 is amended by striking out*** “Rule 37 (22) and (37).” ***and substituting*** “Rule 37.”
- 8 ***Form 136 is amended by striking out*** “[or, if so ordered, to take effect promptly]”.
- 9 ***The following form is added:***

FORM 145 (RULE 60E (6) )

No. ....

..... Registry

In the Supreme Court of British Columbia

Between

Plaintiff(s)

and

Defendant(s)

**REQUISITION AND NOTICE OF JUDICIAL CASE CONFERENCE**

Required: A Judicial Case Conference under Rule 60E at the Courthouse at ..... before the Judge or Master on ....., 20.... at ..... o'clock.

TAKE NOTICE THAT a Judicial Case Conference will be held at the above time and place. The parties and their counsel are required to attend.

The purpose of the Judicial Case Conference is to consider matters set out in rule 60E (11) that may aid in the settlement or other disposition of the action.

At the Judicial Case Conference, the Judge or Master may give directions concerning the timing and extent of disclosure and the conduct of the action generally as set out in Rule 60E (12).

No notice of motion or affidavit in support of an interlocutory motion may be delivered to another party unless a Judicial Case Conference has been conducted (except applications under section 57 or 67 of the *Family Relations Act*, R.S.B.C. 1996, c. 128, and applications by consent or without notice).

Dated: .....  
.....  
Party or Solicitor (if represented)

**FOR TRIAL DIVISION USE, PLEASE PROVIDE THE FOLLOWING INFORMATION:**

.....  
Name and Mailing Address of Plaintiff or Solicitor (if represented)

.....  
Telephone Number of Plaintiff or Solicitor

.....  
Name and Mailing Address of Defendant or Solicitor (if represented)

.....  
Telephone Number of Defendant or Solicitor

## SCHEDULE 2

1 **Rule 57 (13.1) (b) of the Supreme Court Rules, B.C. Reg. 221/90, is amended by adding “, (4.1) and (4.2)” after “section 2 (2)”.**

2 **Rule 60E (15) is repealed.**

3 **Appendix B is amended**

**(a) in section 2 (1) by striking out “Scale 1 to 5” and substituting “Scale A to Scale C”,**

**(b) in section 2 (2) by repealing paragraphs (a) to (e) and substituting the following:**

(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. ,

**(c) by repealing section 2 (4) and substituting the following:**

(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. ,

**(d) in section 2 by adding the following subsections:**

(4.1) 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).

(4.2) For the purposes of subsection (4.1), 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). ,

**(e) by repealing section 2 (6) and substituting the following:**

(6) If an offer to settle is made under Rule 37 after December 31, 2006, any costs payable on acceptance of that offer must be assessed under Scale B. ,

**(f) by repealing section 3 (1) and substituting the following:**

(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. ,

(g) in sections 5 and 6 by striking out “Scale 2.” and substituting “Scale A.”,

(h) by repealing section 7,

(i) by adding the following section:

**Transitional**

11 This Appendix, 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. ,

(j) by repealing Schedules 1 to 3 and substituting the following:

**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) in lieu 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.
  
- 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) in lieu 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) in lieu 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.

***(k) by repealing Item 1 of the Tariff and substituting the following:***



1 A	Correspondence, conferences, instructions, investigations or negotiations by a party until the commencement of the proceeding, for which provision is not made elsewhere in this tariff.	Minimum	1
		Maximum	10
1 B	Correspondence, conferences, instructions, investigations or negotiations by a party after the commencement of the proceeding to the completion of the trial or hearing, for which provision is not made elsewhere in this tariff.	Minimum	10
		Maximum	30
1 C	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	1
		Maximum	10

***(l) by adding the following Items to the Tariff before the heading “Discovery”:***

6A	Process for obtaining particulars.	Minimum	1
		Maximum	3
6B	Process for supplying particulars.	Minimum	1
		Maximum	3

***(m) by repealing Items 7 and 8 of the Tariff and substituting the following:***

7	Process for obtaining discovery and inspection of documents.		
	(a) 1 to 999 documents	(a) Minimum	1
		Maximum	10
	(b) 1000 to 5000 documents	(b) Minimum	10
		Maximum	20
	(c) over 5000 documents	(c) Minimum	10
		Maximum	30
8	Process for giving discovery and inspection of documents.		
	(a) 1 to 999 documents	(a) Minimum	1
		Maximum	10
	(b) 1000 to 5000 documents	(b) Minimum	10
		Maximum	20
	(c) over 5000 documents	(c) Minimum	10
		Maximum	30

***(n) by adding the following to the Tariff after item 13:***

*Expert Evidence and Witnesses*

13A	All process and correspondence associated with retaining and consulting all experts for the purposes of obtaining opinions for use in the proceeding.	Minimum	1
		Maximum	10
13B	All process and correspondence associated with contacting, interviewing and issuing subpoenas to all witnesses.	Minimum	1
		Maximum	10

***(o) by adding the following Item to the Tariff:***

- |     |  |  |   |
|-----|--|--|---|
| 19A | Preparation for a hearing referred to in Item 17 (b), 17.2 or 19 (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 17 (b)   |  | 2 |
|     | (b) for a hearing referred to in Item 17.2   |  | 2 |
|     | (c) for a hearing referred to in Item 19   |  | 4 |

***(p) by adding the following Item to the Tariff:***

*Applications, Hearings and Conferences*

- |     |  |         |    |
|-----|--|---------|----|
| 23A | All process for obtaining the comments and recommendations of the Public Guardian and Trustee. | Minimum | 1  |
|     |  | Maximum | 10 |

***(q) by adding the following Items to the Tariff:***

- |     |  |  |   |
|-----|--|--|---|
| 34A | Attendance at mediation, per day.  |  | 5 |
| 34B | Preparation for a mediation, for each day of attendance.   |  | 3 |
| 34C | 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 |

***and***

***(r) in Item 23 of the Tariff by striking out "or settlement conference or a mini-trial," and substituting "settlement conference, judicial case conference or mini-trial,".***