

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

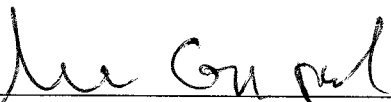
Order in Council No. 414, Approved and Ordered JUN 21 2007



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, effective July 1, 2007, the Supreme Court Rules, B.C. Reg. 221/90, is 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 1039/90

SCHEDULE 1

1 *Rule 1 (8) of the Supreme Court Rules, B.C. Reg. 221/90, is amended in the definition of “proceeding” by adding “stated case under Rule 33A,” after “matter;”.*

2 *The following rule is added:*

RULE 8B – 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.

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).

3 *Rule 14 (1) is amended by adding the following paragraph:*

- (b.2) If a person wishes to enter an appearance to a stated case under Rule 33A, the person must file an appearance in Form 8 and must promptly deliver a copy of the appearance to the person identified as the applicant in the applicable notice of stated case.

4 *Rule 26 is amended*

(a) in subrule (1.2) by adding “(1.4),” after “(1),” and

(b) by adding the following subrules:

Insurance policy

(1.4) A party must ensure that there is listed in the list of documents prepared under subrule (1) any insurance policy under which an insurer may be liable

(a) to satisfy the whole or any part of a judgment obtained 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

(1.5) Despite subrule (1.4), 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

(1.6) For the purposes of subrules (1.4) and (1.5), “**insurance policy**” does not include an application for insurance.

5 *Rules 27 (14) and 38 (4) are amended by striking out “the office of an official reporter” and substituting “a location within 10 kilometers of the registry”.*

6 *Rule 27 is amended*

(a) by adding the following subrules:

Scope includes insurance

(22.1) Without limiting subrule (22), 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 obtained 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

(22.2) Despite subrule (22.1), 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

(22.3) For the purposes of subrules (22.1) and (22.2), “**insurance policy**” does not

include an application for insurance. , *and*

(b) *in subrule (23) by striking out “(22),” and substituting “(22) or (22.1),”.*

7 *The following rule is added:*

RULE 33A – 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 deliver, in accordance with Rule 11,

(a) to the recipient’s address for delivery,

(b) if the recipient is the original tribunal, to the address for that entity, or

(c) if the recipient is a person, other than the original tribunal, for whom an address for delivery has not been given, 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 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 initiate a stated case, the original tribunal must file in a registry

(a) a notice of stated case in Form 25A, and

- (b) any material that, under the authorizing enactment, is required to initiate 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 Questions 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 delivery, 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 it considers necessary 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 records, including transcripts and minutes, or other things be produced;
 - (ii) that evidence be adduced 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 the powers of the court as on an originating application.

Requirement for appearance

- (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 an appearance under Rule 14 (1) (b.2).

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 25B, and
 - (b) delivering a copy of the 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.

8 Rule 39 is amended

- (a) *in subrule (5) by striking out “Subject to subrule (5.1), the” and substituting “The”, and*
- (b) *by repealing subrules (5.1) and (5.2).*

9 Rule 60 (20) is repealed and the following substituted:

Affidavit of service

- (20) An affidavit of service of a writ of summons in which a divorce is claimed must
- (a) despite Rule 51 (8), attach as an exhibit a copy of the writ of summons and attached statement of claim, and
 - (b) state the means by which the deponent identified the spouse who was served.

10 Rule 66 (29) is amended

- (a) *in paragraph (a) by striking out “\$3 600;” and substituting “\$5 000;”, and*
- (b) *in paragraph (b) by striking out “\$4 800.” and substituting “\$6 600.”.*

11 *Rule 67 (10) is amended by striking out “2007.” and substituting “2008.”*

12 *Rule 68 (57) is amended by striking out “2007.” and substituting “2008.”*

13 *Rule 69 is amended*

(a) in the title by striking out “PILOT PROJECT”,

(b) by adding the following subrule:

Conversion of documents

(7.1) If a document in paper form is filed with the registrar, the registrar may convert the document into electronic form and, in that event, the registrar must

(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. ,

(c) in subrule (11) by striking out “and (12) (i)” and substituting “and (12) (f) (i)”, and

(d) by repealing subrule (21).

14 *The following forms are added:*

FORM 25A (RULE 33A (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 the court]*

Between

, Applicant

and

, Respondent(s)

NOTICE OF STATED CASE

ON NOTICE TO:

[Name and address of each person to whom this notice is to be delivered]

THIS CASE STATED by*[insert name of original tribunal]*.... under*[insert the specific section numbers of the enactment under which the stated case is being referred to the court]*.... at the request of*[insert name of person, if any, who requested the stated case]*.... seeks the determination of the Supreme Court on the question(s) of law set out below in relation to which the following are the relevant facts:

[state in numbered paragraphs all the facts that are relevant to the stated case]

The question(s) of law to be determined by the Supreme Court is (are) as follows:

[set out in numbered paragraphs the question(s) of law to be determined]

The evidence relevant to the stated case is as follows:

[state in numbered paragraphs all the evidence that is relevant to the stated case]

Dated:

.....

Original Tribunal

Address for delivery of the original tribunal is:

Fax number for delivery (if any):

Address for delivery of the person requesting the stated case is:

Fax number for delivery (if any):

FORM 25B (RULE 33A (9) (a))

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 the court]*

Between

, Applicant

and

, Respondent(s)

NOTICE OF HEARING OF STATED CASE

TAKE NOTICE that this stated case will be heard at*[place]*..... on*[date]*..... at the hour of

Time estimate:

.....

Party setting stated case for hearing *[or Party's Solicitor]*

15 Form 36A is repealed.