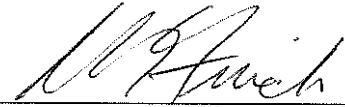


PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

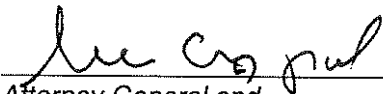
Order in Council No. **366**, Approved and Ordered **JUN - 6 2008**



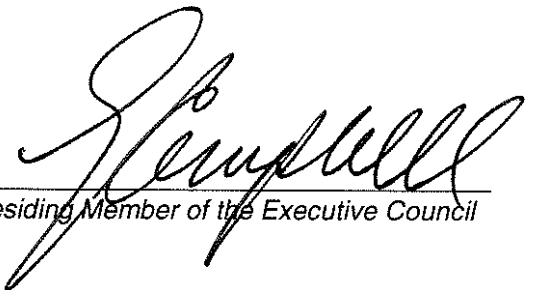
Lieutenant Governor
Administrator

Executive Council Chambers, Victoria

On the recommendation of the undersigned, made after consultation with the Chief Justice of the Supreme Court, the ~~Lieutenant Governor~~^{Administrator}, by and with the advice and consent of the Executive Council, orders that, effective July 1, 2008, the Supreme Court Rules, B.C. Reg. 221/90, 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 1039/90

April 29, 2008

R/318/2008/7

SCHEDULE

- 1 Rules 37 and 37A of the Supreme Court Rules, B.C. Reg. 221/90, are repealed and the following rule substituted:*

RULE 37B – OFFER 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, 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, 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, that
 - (i) is made in writing by a party to a proceeding,
 - (ii) has been delivered to all parties of record, and
 - (iii) contains the following sentence: “The ...[*name of party making the offer*].... reserves the right to bring this offer to the attention of the court for consideration in relation to costs after the court has rendered 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 both of the following:
- (a) deprive a party, in whole or in part, of costs to which the party would otherwise be entitled in respect of the steps taken in the proceeding after the date of delivery 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 of the offer to settle.

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 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.
- 2 ***Rule 53 (1) is amended by striking out “52 (4) to (12).” and substituting “52 (4) to (12.3).”.***
- 3 ***Rule 67 (10) is amended by striking out “July 2, 2008.” and substituting “July 2, 2009.”.***
- 4 ***Rule 68 (57) is repealed.***