



The Winds are Changing: Litigation Under the New Rules

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On July 1, 2010, the conduct of litigation in BC will change. The Province has introduced new rules of procedure (the "New Rules") designed to make litigation more efficient. The goal of the rules of procedure has always been to secure the "*just, speedy and inexpensive*" determination of disputes and the New Rules add a further goal: proportionality. This means that whether a party is required to undertake certain litigation steps will depend on the amount of the claim, the importance of the issue in the litigation and the complexity of the case.

Key features of the New Rules:

- **Starting and defending an action.** This process will be streamlined from two stages to one. However, you will need to include more information, including a brief legal argument. Both sides, therefore, must have a full understanding of the dispute at the outset.
- **Document discovery.** The process for gathering and exchanging documents will change in two ways. First, the scope of documents to be disclosed will be narrowed. Second, the deadline for disclosing documents will be shortened. Consequently, you must engage in document gathering earlier in the litigation. However, your workload may be lightened by the narrower scope.
- **Examinations for discovery.** There will be an automatic seven-hour cap, unless both parties consent or the court orders otherwise. Your counsel, will, therefore, be "encouraged" to be efficient and more focussed in our examinations.
- **Mandatory trial management conference.** This is a new step designed to prevent adjournments of trials, which are costly and cause delays. At least 28 days before the scheduled trial date, lawyers and parties must appear before a judge or master, who will assist the parties to organize an efficient and affordable trial.
- **Case planning conferences.** If your case is progressing too slowly or with unnecessary legal processes, you may apply at any time for a case planning conference. There, a judge or master will assist by setting out a clear schedule for the development of your litigation. This new step is designed to be a useful mechanism for early structuring and streamlining of your litigation.
- **Cost of trials.** The Province will provide up to three days of trial time before litigants are required to pay court fees. Current fees start with \$156 for a half day or less.

Overall, the New Rules are designed to make litigation cheaper and quicker. They require you and your counsel to think carefully and critically about the merits of each case at an early stage, and to engage in preparatory work quickly. With the streamlined process, your counsel will look to engage you early on, to ensure the new goals can be met.