



**Bills of Costs 101**  
*Desk Reference Manual*

# Bills of Costs 101

## General Information

On January 1, 2007, the Rules Revision Committee introduced significant changes to the Rules relating to the calculation of costs. Those changes saw the introduction of a three level tariff that replaced the previous five level system. The scale of recovery was increased so that a matter of ordinary difficulty would see recovery at \$110 per unit over the previous \$80 per unit.

Last July 1, 2010 with the adoption of the current Supreme Court Civil Rules and the Supreme Court Family Rules, Rule 57 Costs and Appendix B have now become Rule 14-1 and Appendix B of the Supreme Court Civil Rules. A significant change is the creation of a separate set of Rules governing family law proceedings. The calculation of costs in family law cases are now dealt with under Rule 16-1 and Appendix B of the Supreme Court Family Rules. However, Appendix B of the Supreme Court Rules as it read on June 30, 2010 applies to Orders for costs in family law cases made after December 31, 2006 and before July 1, 2010. We will not be covering the new Rules on costs regarding family law matters in this course.

In the new Supreme Court Civil Rules concerning costs, there are no changes to the three level tariff or the per unit scales of Appendix B. However the tariff items under Appendix B has been expanded to include recovery for items previously not found under the Supreme Court Rules, such as process for obtaining a consent Case Plan Order, application by requisition or written submission. The numbering of tariff items has also increased to 48 by giving each item a unique number and doing away with the letters.

You will need to prepare Bills of Costs at several times during the life of a law suit. Bills of Costs are prepared when:

1. you have obtained costs payable in the cause forthwith when you have brought a motion for specific relief – an Order requiring the production of documents, the answering of interrogatories, or ordering an examination for discovery to take place.
2. you have a final judgment or settlement.
3. A client has failed or refused to pay your accounts. This does not involve Form 62, but proceeds as an assessment under the *Legal Professions Act, SBC 1998, c. 9.*

(updated 111201)

Bills of Costs

This page is for your notes.

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In any of these situations, the process is substantially the same and the key ingredient is planning.

In every case, ensure that you claim every cost you are entitled to. The opposing counsel will go through your Bill of Costs and reduce whatever they can.

Pursuant to Supreme Court Civil Rule 14-1(9), costs follow the event, unless otherwise ordered. The Court may also base an award of costs on the “substantial success” of one party. Each trial judge has the discretion to award, or not award, costs at the conclusion of a matter.



It is good practice to include a paragraph relating to costs in a draft Order submitted for entry even if the judge made no specific order as to costs. If an entered Order is silent as to costs then costs may not be assessed. The term *silent as to costs* means that the Order pronounced by the Court makes no reference to an award of costs.



Counsel should address costs at each hearing to avoid ambiguity.

A Bill of Costs will, in most cases, go only part of the way toward reimbursing the successful litigant for the legal fees and disbursements in any matter. Appendix B Party and Party Costs in the Supreme Court Civil Rules of Court sets out the costs due from one party to another and the scale of fees runs from \$60 per unit to \$170 per unit.

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There are two types of costs:

1. **Party and party costs** – are costs paid by an unsuccessful party to the successful party. These costs are generally set out in a bill of costs. This section will deal with party and party costs.
2. **Special costs** – are ordered by the court when the proceeding was particularly complex or the lawyer needed to have special knowledge or responsibility. (see Rule 14-1(3) of the Civil Rules).

The term **Solicitor / Client costs** refers to a procedure pursuant to the *Legal Professions Act*, which permits clients to have their lawyer's accounts reviewed by a registrar to determine the fair and reasonable costs payable by the client to the lawyer in respect to legal fees, disbursements and applicable government taxes.

Costs at trial are payable **in the cause**, that is, whoever wins the trial, gets their costs. If you win, you prepare a Bill of Costs. If you lose, the other party will prepare the Bill of Costs and forward it to you for review, comment, and approval.

Civil Rule 13-1(17) provides that even after an Order is entered after trial, the trial judge may amend the Order to provide for a matter that should have been adjudicated upon but was not. This will permit an application before the trial judge to determine the entitlement to an award of costs. The actual quantum determination of costs can be agreed upon between the parties or set before the registrar for an assessment.

In the event written reasons are given by the trial judge, and the reasons are silent as to costs, then argument on costs should be set down for hearing before the trial judge. The trial judge can hear the matter of costs as the judge is not finished with his duties (*functus*) until the final Order has been entered.

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Figuring out the costs of motions is slightly more complicated. Rule 14-1(12) provides:

1. If you make a motion and it is granted, you **are** entitled to costs.
2. If you oppose a motion and the motion is granted, you **are not** entitled to costs.
3. If you make a motion and it is refused, you **are not** entitled to costs.
4. If you oppose a motion and it is refused, you **are** entitled to costs.

Since it may take several months if not years for a case to come to trial, a practice has developed to determine costs after each chambers motion. One may ask that the quantum of costs for that particular chambers application be fixed by the presiding judge or master at the end of the motion. The party seeking relief at the chambers application may ask to have an Order that costs be payable *in any event of the cause forthwith* meaning that the party who wins the application requests its costs be paid immediately.

*Any event of the cause* means that regardless of which party wins at trial, the party will recover the costs of the chambers application in which they were successful.

If costs are awarded on this basis, there is no need to prepare a Bill of Costs or attend at an assessment. Make sure to include in the resulting Order a paragraph that the amount awarded in costs is payable *forthwith in any event of the cause*.

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If you receive a Bill of Costs, there are bound to be items that you will contest, and you should write a letter to opposing counsel setting these out. The parties can generally agree on a Bill of Costs though it may take some discussion and concessions on the part of both parties. The lengthier and more hotly contested the trial or motion and the larger the Bill of Costs, the longer it will take to agree on the amount of the Bill of Costs. If you can agree, the parties each sign the Bill of Costs and a cheque is delivered in payment.

If the parties cannot agree on a Bill of Costs, the party preparing the Bill of Costs makes an appointment before the registrar to assess the Bill of Costs. A detailed discussion on how the assessment works is available later in this section.

Preparing Bills of Costs can be complicated and time consuming. In many offices, it is not done often, so each time is like the first. That is why planning ahead will make your life simpler.

Registrars are generally not available to give procedural advice. The booking clerks may provide some information on proper documentation, but are unable to assist you with what you should include or exclude in your Bill of Costs.

Notes have been prepared by the Registrar's Office concerning questions regarding Appendix B Party/Party Costs and questions regarding the Legal Profession Act and reviews of lawyer's accounts. The notes are found on the Court of British Columbia website.

Go to:

[www.courts.gov.bc.ca/supreme\\_court/about\\_the\\_supreme\\_court/registrars\\_office/index.aspx](http://www.courts.gov.bc.ca/supreme_court/about_the_supreme_court/registrars_office/index.aspx)

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Visit the Supreme Court of British Columbia's web site:  
[www.courts.gov.bc.ca/SC/Sc-main.htm](http://www.courts.gov.bc.ca/SC/Sc-main.htm) from time to time to get updates.

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**Law Courts Center Desk Reference Manual Price List.xls**

<http://tinyurl.com/lccpublications>

**Current to: 7/15/14**

<b>Title</b>	<b>Code</b>	<b>Last Updated</b>	<b>Price</b>
BC Civil Litigation Guide v9.0	BCCLG	140625	750
Bills of Costs 101	BOC 101	130701	225
Business Corporations Act 101	BCA 101	130808	225
Case Planning Procedures	CAP 102	120108	225
Chambers Application Procedures	CHA 101	140801	225
Civil Litigation 102	CIV 102	131122	225
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Personal Injury Studies 201	PIS 201	130601	225
Pleadings 101	PLE 101	120430	225
PST & GST FAQs for BC Law Firms		140901	150
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Trust Assurance Management Recorded Lec	Tam 102v	130712	125
Trust Assurance Seminar Recording	TAS 102v	130328	300