



Civil Litigation 102
Desk Reference Manual

Introduction to Civil Litigation in British Columbia

A1 What is Civil Litigation?

Civil litigation is a legal dispute between two or more parties or organizations that seek money or specific performance. It is a dispute that has no basis in criminal law.

Lawyers that specialize in civil litigation are known as “barristers”, 'litigators' or 'trial lawyers'. These lawyers generally focus their practice in one or two areas of law.

There are several areas of civil litigation and include:

- o employment and labour
- o environmental law
- o commercial law
- o insurance law
- o wills and estates
- o intellectual property

These areas can be broken down to even more specialized fields such as:

- o insurance law - agents and brokers or insurance contract
- o commercial law - consumer credit or franchising
- o employment and labour law - trade unions and industrial disputes or workplace discrimination

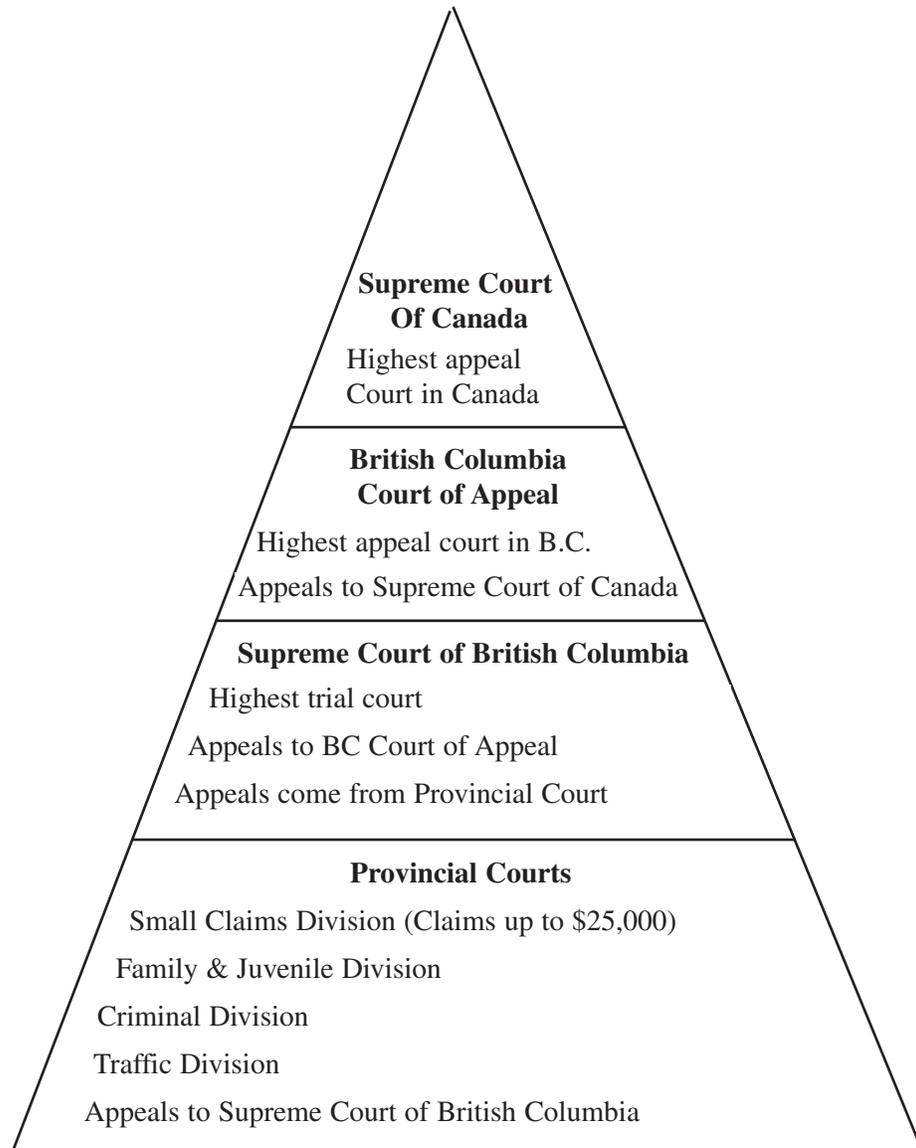
The litigation process can be divided into steps, although not every action passes through each stage. The stages are:

- o investigation,
- o pleadings,
- o discovery,
- o pre-trial,
- o trial,
- o settlement, and
- o appeal.

A complex dispute will take years to conclude in either settlement or at trial. The process of taking a dispute from the investigative stage through to its conclusion is labour intensive and requires a good deal of knowledge of the procedural tools.

updated 110414

Diagram of Court Structure



The Courts

It can be helpful to have an understanding of how the courts in the province are organized. For more information, go to: www.courts.gov.bc.ca/

This is a brief overview:

- o British Columbia Court of Appeal is the highest level of court in the province. It is constituted by the *Court of Appeal Act*, R.S.B.C. 1996, c. 77. The Court of Appeal Act provides for a chief justice and 14 full-time justices, as well as for supernumerary justices. It hears appeals from the Supreme Court of British Columbia, and reviews and appeals from some administrative boards and tribunals. Appeals from the Court of Appeal are heard by the Supreme Court of Canada.
- o Supreme Court of British Columbia is the superior trial court of the province created by the *Supreme Court Act*, R.S.B.C. 1996, c. 443. It is a court of general and inherent jurisdiction (in a nutshell it is empowered to hear all cases and to control its own process and procedures). The Supreme Court hears both civil and criminal cases as well, it hears appeals from the Provincial Court and reviews decisions of administrative tribunals. The Supreme Court currently consists of about 100 judges including supernumerary (part-time) judges: the chief justice and the associate chief justice. A full-time judge will sit for 32 weeks each year often throughout the province; while a supernumerary judge sits 16 weeks each year. The balance of the year is spent preparing Reasons for Judgment and other judicial duties.

The Supreme Court has presently twelve masters who hear and dispose of matters in chambers. While there are several areas that both judges and masters can deal with, judges tend to spend most of their time hearing matters that may involve final outcomes. Masters tend to spend most of their time dealing with interim application hearings. Rule 23-6 sets out what masters do.

It also has two registrars. Registrars are lawyers who have been appointed as judicial officers, unlike deputy district registrars (whose functions are more administrative, and who are seen on the front lines more than district registrars are).

Mr. Frank Kraemer, QC, the Executive Director & Senior Counsel Judicial Administration, Superior Courts Judiciary said that there are no maximum or minimum numbers of registrars or masters. Kraemer also noted that masters have concurrent jurisdictions to act as registrar. "The number (of registrars) is determined based on the need to provide service to the public and the resources of the Court."

updated 131122

- o Provincial Court of British Columbia is the first level of court in the province. It was created by the *Provincial Court Act*. Its jurisdiction includes criminal, family, child protection small claims and traffic cases. For the purposes of this course, we will focus on the small claims aspect of the Provincial Court.

The Provincial Court has 150 judges throughout the province, including Chief Judge Thomas Crabtree. Aside from the chief judge, 2 associate chief judges, 150 judges, 12 administrative judges, 2 administrative justices of the peace. The judges are assigned to a particular district, though they may travel from time to time. Most of them work full-time; after 55, they can choose to work part time or on an ad hoc basis. The Provincial Court hears almost 30,000 small claims cases each year – which is about 40% of the number of cases heard by the Supreme Court. This shift of certain types of litigation to the Small Claims Court will become even more evident as the monetary value of claims in Small Claims Court increases.

Small Claims matters are within the Provincial Court's jurisdiction pursuant to the *Small Claims Act* and the Small Claims Rules. The monetary limit – at this point – is \$25,000. The Small Claims Rules, even more than the Supreme Court Civil Rules, were written to be accessible to lay litigants. You will find the forms which are written in plain language and can be obtained at any Provincial Court office, as well as downloaded from
http://www.ag.gov.bc.ca/courts/small_claims/info/forms.htm

To find out more about Small Claims, you will find this link particularly helpful:

<http://www.provincialcourt.bc.ca/aboutthecourt/smallclaimsmatters/index.html>

Supreme Court Services Branch and Judicial Administration Office

- o Court Services Branch delivers all court administration services in BC. These services include:
 - o registry and trial support for all levels of court,
 - o scheduling,
 - o prisoner custody and escort,
 - o courthouse security, and
 - o providing and maintaining courthouse facilities.
- o Court Clerk Program carries the responsibility of assisting the judge or master in the courtroom by providing administrative services to the court and of obtaining the official record of the proceedings by way of operating and monitoring the audio equipment to record the proceedings. This program falls under Court Services Branch.
- o Superior Courts Judicial Administration Office provides administrative assistance directly to the judiciary. While Court Services attends to the functioning of the court and the registries, the Judicial Administration Office serves the needs of judges, masters and registrars. Their role includes:
 - o scheduling of judges, masters and registrars rota:
 - o providing assistance in the way of:
 - o judicial assistants
 - o law officers
 - o judges library staff
 - o reserve judgment clerks

A rota is a circuit of courthouses throughout the province that judges, masters and registrars visit to hear cases and applications.

The Court Services Branch and Judicial Administration Office, while distinct entities, work closely together to allow the courts to function properly.

updated 110414

The Role of the Law Society

The Law Society of British Columbia is the regulatory body for the BC legal profession. The primary responsibility of the law society under the provincial *Legal Profession Act* is to protect the public interest in the administration of justice.

The law society works to ensure that the public is well served by a legal profession that is honourable, competent and independent. The law society sets and enforces standards of professional conduct for lawyers in BC. It also brings a voice to issues affecting the justice system and the delivery of legal services.

It is governed by benchers who meet periodically to set policy and to decide on matters that come before it.

There are over 12,000 lawyers in BC. Eighty-five per cent are engaged in the practice of law. Of those, over 75% are in private practice, offering a wide range of legal services to the public.

The law society sets and maintains a comprehensive code of ethical standards its members must follow. The ethical standards for lawyers are contained in the Professional Conduct Handbook, as well as in court decisions and discipline decisions.

For more information, go to: www.lsbcc.org.

Statutes, Regulations, Rules & Why We Need Them

Statutes, regulations, and rules make up the triumvirate of legislation ruling all civil litigation procedure. Statutes (Acts) are legislated by the Provincial Legislature as the sovereign governing body in the province. The statutes are primary legislation. They give a general framework for the law in a topic area and delegate power to the Lieutenant Governor in Council to make subordinate legislation within their power to provide the details to the general framework.

The Lieutenant Governor in Council is, in effect, the Cabinet of the government, made up of the Premier and the other Ministers. The Cabinet produces the subordinate legislation like Orders-in-Council to deal with government business and Regulations to complete the structure and function of the things enacted by statutes. The Rules of Court are enacted by the Cabinet through an Order in Council and the forms and detailed and timely information in the Rules are issued by the Cabinet as Regulations.

The Court system in the Province is governed by the **Constitution of Canada** which instructs the Province to administer the courts in the Province. It is set up in the *Supreme Court Act of British Columbia*. The statute sets up the court in general terms and defines its jurisdiction. Regulations provide the practical procedures for the operations of the Court.

updated 110414

Supreme Court of BC Civil Rules Index

- PART 1-Interpretation
- PART 2 - How to make a claim
- PART 3 - Proceedings started by filing a notice of civil claim
- PART 4 - Service
- PART 5 - Case planning
- PART 6 - Amendment of pleadings and change of parties
- PART 7 - Procedures for ascertaining facts
- PART 8 - Applications
- PART 9 - Pre-trial resolution procedures
- PART 10 - Property and injunctions
- PART 11- Experts
- PART 12 - Trial
- PART 13 - Orders
- PART 14 - Costs
- PART 15 - Fast track litigation proceedings
- PART 16 - Petition proceedings
- PART 17 - Requisition proceedings
- PART 18 - Other court proceedings
- PART 19 - Judgments from other courts
- PART 20 - Special rules for certain parties
- PART 21- Special rules for certain proceedings
- PART 22 - General
- APPENDIX A - Forms
- APPENDIX B - Party and party costs
- APPENDIX C - Fees

updated 110414

Supreme Court Civil Rules

The *Supreme Court Civil Rules* provide the procedures for conducting litigation. Regulations describe information that changes more frequently than the Rules, such as fees and interest rates, and they are Schedules to the Rules.

In Chief Justice Donald Brenner's final interview just before he stepped down in 2009, he shared with us one of his concerns that led to the development of some of the new Rules. He felt there were not enough cases going through formal adjudication. Litigants were settling or abandoning their cases because they could not afford to continue, instead of settling their cases because they chose to. While 3% of cases filed are tried, he wanted to ensure that the Rules would allow as many litigants as possible to get to the finish line, if that was their choice.

As a result, a Rules Revision Committee took on a daunting task of reforming the Rules, as the last major reform had been in the 1970's. The committee tendered its recommendation to the Ministry of Attorney General. After completing its review and consultations with the profession, on July 1, 2010, the province enacted a new set of Supreme Court Rules.

On that day, two sets of Rules came into effect, one for civil matters and another for family matters. Both Rules are organized in logical and chronological order, making them easier to use. Forms used in both sets of Rules were revised to make them more user-friendly.

As the focus of this course is on the Supreme Court Civil Rules, set out on the next page is an index of the sections of these Rules. You will find this index a handy summary at your fingertips.

updated 121010

In your role as support staff in a legal office you will find yourself referring to the rules frequently for instruction or clarification. If you do these basics, your job will be easier:

- o Read the rules carefully. The language in the rules varies from mandatory to permissive. (ie *Shall* and *must* make a task mandatory. *May* is optional, it provides choice.)
- o Practice Direction is a direction pertaining to the practice or procedure of the Supreme Court issued by the Chief Justice from time to time. It does not have the force of law, and is intended as a direction that is supplemental or ancillary to the Rules.
- o Administrative Notice is a direction issued by the chief justice or the registrar of the Court, and provides direction or information relating to administrative matters (as opposed to practice and procedure).
- o Notices to the Profession are located on the website in the same area as Practice Directions. Notices can also involve changes to the rules or procedures.

This recent move was explained by Ms. Jill Leacock, the law officer of the Supreme Court of BC:

“Generally speaking, Notices to the Profession are no longer being issued because they do not embrace the audience of self represented litigants which accounts to a considerable percentage of litigants before the Court. Notices to the Profession have generally become redundant- all new PDs and ANs are posted to the Court’s website, and are also circulated by the CBA, and the Law Society who in turn advised the Bar.”

PDs and ANs are located on the courts website, www.courts.gov.bc.ca under the “Practice and Procedure” tab.



Periodically, visit the Practice and Procedure tab to see if there are any new PDs and ANs.

Object of the Supreme Court Civil Rules

The Rules Revision Committee set out the Object of the Rules in Rule 1-3:

Object

- (1) The object of these Supreme Court Civil Rules is to secure the just, speedy and inexpensive determination of every proceeding on its merits.

Proportionality

- (2) Securing the just, speedy and inexpensive determination of a proceeding on its merits includes, so far as is practicable, conducting the proceeding in ways that are proportionate to
 - (a) the amount involved in the proceeding,
 - (b) the importance of the issues in dispute, and
 - (c) the complexity of the proceeding.

The principles set out in Rule 1-3 (just, speedy and inexpensive) encourage counsel to collaborate to ensure that the object is met. Litigation is an adversarial process and as such is fraught with conflict and controversy. A law practice that functions with a “minimum best practice” approach not only upholds the ethos of professional courtesy, it also upholds the object of the rules.

updated 110414

Court Registry Letter Codes

LETTER CODE	TYPE OF ACTION	SAMPLE NUMBER
L ¹	Actions commenced under a statute	L000001
M ¹	Supreme Court motor vehicle actions	M270292
S ¹	Supreme Court – other civil actions	S029283
E ¹	Divorce actions	E000273
A	Adoption matters	A3738
CA	Court of Appeal (appeals)	CA029373
BE	Bail Estreatment – criminal matters	BE392737
CC	Supreme Court and other criminal matters	CC000273

You do not determine your action number or letter code, it is provided by the registry when you file the appropriate documents to begin your action.



The Vancouver registry has begun to stamp documents with an additional prefix (ie VLC-S-100010), however, the civil registry confirms it is not necessary to use the prefix in your pleadings.

¹Some registries have begun to just use the letter code ‘S’ for these types of actions. Check with your local registry to see what they are using.

updated 110414

Styles of Proceeding

The style of proceeding consists of:

- a registry number,
- the name of the registry (Vancouver, New Westminster, etc.),
- the name of the court (Supreme Court of British Columbia, Court of Appeal, etc.
- the names of the parties and their description (plaintiff, respondent, defendant)

Registry Numbers

The originating document is filed in the correct registry, and the document is stamped with a date and a number. The number stamped on the originating document is called the registry number and is used on all documents from then on to describe the particular case. A file is opened in the registry under that number and all documents filed in the court registry are contained in that file.

The registry number begins with a letter to designate the type of action and then a number. The numbers are given out sequentially by the registry.

On the opposite page is a table setting out the various letter codes.

updated 110414

How to use this desk reference manual

In each section, we have included only those court forms which relate to the subject matter.

As always, there is ample room for you to add notes.

You will see this icon to highlight practice tips we have collected over the years.





Law Courts Center Desk Reference Manual Price List.xls

<http://tinyurl.com/lccpublications>

Current to: 7/15/14

Title	Code	Last Updated	Price
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
Clinical Records 101	CRS 101	131203	225
Conveyancing 101	CON 101	130701	225
Discovery Procedures 101	DIS 101	130601	225
Document Disclosure 101	DOD 101	130531	225
Drafting Applications Workbook	DAW 101	140801	225
Family Chambers Applications Procedures 101	FCAP 102	140331	225
Family Law 102	FAM 102		225
Fast Track Litigation	FTL 101	110421	225
Heads of Damages 101	HOD 101	130415	225
Law Office Management 101	LOM 101	111201	225
List of Documents 201	LOD 201	120500	225
Litigation Practice Basics 101	LPB 101	140901	
Litigation Project Management 301	LPM 301	140624	100
Managing MVA Files 103	MVA 103	140125	225
Part 7 Benefits 101	P7B 101	140501	225
Personal Injury Book of Letters	PIBL	120500	225
Personal Injury Studies 201	PIS 201	130601	225
Pleadings 101	PLE 101	120430	225
PST & GST FAQs for BC Law Firms		140901	150
Return to GST for BC Law Firms Recorded	GST 102v	130228	125
Trial Preparation for Defence Firms	TPD 101	120500	225
Trial Preparation for Family Law 101	TPF 101	130601	225
Trial Preparation for Plaintiff Firms	TPP 101	101115	225
Trust Accounting 101	TRA 101	101028	225
Trust Assurance Management Recorded Lec	TAM 10v	120329	125
Trust Assurance Management Recorded Lec	Tam 102v	130712	125
Trust Assurance Seminar Recording	TAS 102v	130328	300