

British Columbia Civil Litigation Guide

DESK REFERENCE MANUAL VERSION 10.2

PLUS MATERIALS ON WORKING WITH SELF-REPRESENTED LITIGANTS

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ABOUT THE AUTHORS

This manual is the result of a collaboration of efforts of senior paralegals including: Charlene Andrew, Kate Austin, Roxanne Fonagy, Dee Rogers Lenise Rouse, Pat Terlecki, and Nancy Vianello. Through their collective experience as paralegals, they have combined their knowhow to write the most complete and easy-to-understand procedural manual on civil litigation in British Columbia.

Cheryl M. Stephens, LLB has provided substantive guidance, plain language advice, and editorial assistance.

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OUR GUARANTEE

Please feel free to examine our BC Litigation Guide Desk Reference Manual for 14 days. If you are not satisfied, just return the undamaged Litigation Guide.

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“The manual is a very good reference tool. The checklists and flowcharts are extremely beneficial.”

“The practice tips are so helpful.”

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Written in plain language

A focus on Self-Represented Litigants

Working with Self-Represented Litigants

More people are deciding to represent themselves in order to save on legal fees. Working with self-represented litigants, who often do not have the years of education, knowledge of the system, and experience in the field of law, requires the adoption of many best practices.

Any self-represented litigant may not understand that it is a conflict of interest for you to act for them, as well as your own client. Once it is clear that a party is acting on their own behalf, a letter should be sent confirming that you act only for your client, that you cannot provide the self-represented litigant with any legal advice whatsoever, and that you cannot assist them with their case. You may also wish to suggest that they seek independent legal advice so that they understand what their rights and obligations are.

You may wish to provide a self-represented litigant with some resource information, such as the address for the Supreme Court's website (www.courts.gov.bc.ca) and suggest they refer to that site for assistance. The Justice Access Centre in Vancouver and Nanaimo (and soon in Victoria) provide free legal information through their Self Help and Information Services, and in some circumstances legal advice may be available. They may also be eligible for free legal advice through the Access Pro Bono Society of BC whose website is www.apbsociety.org.

Practice tips in every section

Material facts are those facts which are essential to prove a cause of action or defence. The **evidence** to support those material facts should not be put in the pleadings. Material facts do not include law – whether principles of common law or public statutes.

Allegations of fact should be straight-forward, concise, specific, and clearly set out the material facts.



Evidence, adjectives, opinions, and observations are not to be included in pleadings.



Be attentive to the circumstances of the specific case and claim when using precedents and adapt the precedent to fit the specific case. Frivolous claims and allegations should never be included in pleadings because they confuse and clutter the issues, and deter one from reaching a swift and early conclusion to the true claims between the parties.

Organizing the Trial

The most important thing to remember about preparing for trial is that you must be organized. Everything at a trial happens on a tight schedule from the moment you obtain a trial date until the day you collect your files to leave the courtroom. Preparation needs to be timely, efficient, and stress-free.

More than any other part of the litigation process, trial preparation involves paperwork. You prepare books of documents and pleadings, briefs of argument, witness read-ins of examinations for discovery and interrogatories, lists of exhibits, accounts, files, numbers, and tax returns. Once you have the lists of documents, you will have to pull and prepare briefs of the documents.

Flowcharts that include the authority

Appendix L.2 Fast Track Litigation Flowchart

Step	Process	Rule
STEP 1	Issue Notice of Civil Claim pursuant to Rule 15-1. The action must be for a value of \$100,000 or less. Include the words <i>Subject to Rule 15-1</i> under the style of proceedings	15-1(1) & (2)
Or	Determine after initial pleadings have been issued that proceeding is appropriate for Rule 15-1. File a Notice of Fast Track Action in Form 61.	
STEP 2	Within 35 days after the end of the pleading period prepare and serve a list of documents and copies of all documents on all parties of record.	7-1(1)

Specially designed charts and flowcharts designed to make your work easier

New Civil Rules

Chambers Application Supplemental Flowchart

1. Applications taking more than 2 hours:

- contact [Supreme Court of BC](http://www.scc.ca) Scheduling office and obtain available dates,
- *not mandatory but advisable* - confer with opposing counsel as to their availability for the dates obtained from Scheduling office, and
- when a date is decided upon, prepare your Notice of Application (Form 32) and proceed according to the flowchart.

2. Short Notice Applications:

- prepare the main Notice of Application (Form 32) and Affidavit;
- prepare the Requisition (Form 17)
- file the original Requisition (Form 31), Notice of Application and Affidavit and proceed to chambers
- proceed according to the order(s) made by the judge or master pursuant to Rule 8-5(4) with respect to notice/service of the application materials