



The Register

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Court

UPDATE

Supreme Court Rule Changes

Commencing July 1, 2010, changes to the Supreme Court Rules come into effect. Amendments to the Supreme Court Rules were initially introduced by Orders in Council Nos. 302 and 303 approved on July 7, 2009. Order in Council No. 243, issued on May 5, 2010, further amended many of the Rules and corresponding forms.

As the Courts continue to refine the Rules, we expect that additional administrative notices and practice directions will be issued.

Minimum Filing Standards

In conjunction with the introduction of the new Supreme Court Civil and Family Rules, the BC Supreme Court Judiciary and Court Services Branch have developed a set of **minimum standards** that identify the basic information necessary for a document to be accepted for filing. As of July 1, 2010, documents that do not comply with these minimum standards will not be accepted.

New Forms

With the Supreme Court Rule changes, Supreme Civil and Supreme Family will each have their own Rules and forms.

All forms have been amended to refer to the applicable new Rule. In addition,

many of the forms have an Appendix for data collection purposes which must be completed. Whether the Appendix will be considered part of the form for service or whether it will even appear in the file is as yet unknown.

Below are highlights of some of the new Rules and forms associated with the most common court documents filed.

Supreme Civil - Rule 2-1

Notice of Civil Claim (NOCC)

- The current *Writ of Summons and Statement of Claim* is replaced by the **Notice of Civil Claim** which is divided into three parts with an Appendix attached.

Response to Civil Claim (RCC)

- The current *Appearance and Statement of Defence* is replaced by the **Response to Civil Claim**. This form is also divided into three parts, thus ending the 'general denial' defence.
- An RCC must be filed and served on the Plaintiff within 21 days of service of the NOCC, if the Defendant is in Canada. The new **Counterclaim** is also in a three part format with an Appendix attached.

Third Party Notice (TPN)

- The new **Third Party Notice** is in a new format which also has an Appendix attached. It has a much shorter filing window and, after July 1, 2010, must be filed within 42 days of being served with a NOCC or Counterclaim and served within 60 days of filing.



Supreme Family - Rule 3-1

Notice of Family Claim (NOFC)

- The current *Writ of Summons/ Statement of Claim - Family Law Proceeding* is replaced by the **Notice of Family Claim**. The NOFC is a short form with several schedules attached, depending on the relief sought. Parties are no longer *Plaintiff* and *Defendant* but **Claimant** and **Respondent**.

Response to Family Claim (RFC)

- The current *Appearance and Statement of Defence - Family Law Proceeding* is replaced by the **Response to Family Claim**. This must be filed and served on the Claimant within 30 days of service of the NOFC.
- If the Respondent files a Counterclaim, and the Claimant files a Response to Counterclaim, these must be filed and served within 30 days of service. If parties are not married, then the NOFC must be filed within 1 year of separation.
- Financial Statements, if required, must be filed and served within 30 days of service. Both sides must serve List of Documents within 35 days of being served a Response.

Transitional Rules for Trial Matters

The new Rules apply to proceedings commenced before July 1, 2010. However, if a step in a proceeding is taken before July 1, 2010, the former Rule applies to that step.

- New **Civil Rule 24** and new **Family Rule 23-1** are the transitional Rules which give a short ‘grace period’ to September 1, 2010 and October 1, 2010, respectively.
- The transitional Rules cover such things as setting down for hearing a *Notice of Motion* filed and paid for before July 1, 2010.
- A *Writ of Summons* filed before July 1, 2010 is deemed to be a **Notice of Civil Claim** or **Notice of Family Claim**.

Chambers Practice Civil Rule 8 and Family Rule 10-6

Civil Rule 8 and Family Rule 10-6 eliminate the old Rule 51A.

Notice of Application (NOA)

- The *Notice of Hearing* and *Notice of Motion* are replaced by the **Notice of Application** (Form 32 Civil and Form F31 Family) which is to be filed and served along with all Affidavit material being relied on. It is no longer acceptable to deliver unfiled material to opposing parties.
- The NOA has the place, time and date the application will be heard and whether it is within the jurisdiction of a Judge or Master. It is divided into four parts requiring concise responses to *Orders Sought, Factual Basis, Legal Basis* and *Material to be Relied on*.
- The Applicant serves a filed copy of the NOA, and each filed Affidavit and documents referred to, on each Respondent at least 7 days before the hearing date (14 days for a Summary Trial).

Application Response (AR)

- To respond to a NOA, a respondent files an **Application Response** (Form 33 Civil and Form F32 Family) within 5 days after service of the NOA (11 days for a Summary Trial).
- The Applicant Respondent serves the Applicant with filed material at least 2 days prior to the hearing date. The Applicant may file and serve on each Applicant Respondent any additional responding Affidavits **no later than 4 p.m. on the day that is one full day before the hearing**. The Applicant must serve a copy of the Application Record (Chambers Binder) index and file the Application Record, **no later than 4 p.m. on the day that is one full day before the hearing**.
- All “*Noon the Day Before*” deadlines have been replaced by “*4 p.m. One Full Day Before*” deadlines.

- An **Application Record** will be required for all opposed applications, regardless of time estimate. A joint Application Record must be filed if both parties are setting applications to be heard at the same time. An application can be reset with 3 clear days notice to opposing counsel.

Flowcharts

A number of flowcharts that provide an overview of processes that may be carried out under the new Rules have been developed by the Ministry of Attorney General. They are not intended to be taken as legal advice, nor used as a substitute for the text of the new Rules.

The **Civil** flowcharts are located at: www.ag.gov.bc.ca/new-rules/civil/info.htm

The **Family** flowcharts are located at: www.ag.gov.bc.ca/new-rules/family/info.htm

Fees

Fees for filing in Court will also change when the new Rules come into effect on July 1, 2010. In most cases, the fees have increased but, in some instances, fees have decreased.

The new fee schedules, which are attached to the new Rules as Appendix C, may be viewed at www.ag.gov.bc.ca/new-rules/index.htm or on our website www.wcts.com under *Court Rules (July 2010) Links*.

Ready to Assist You

West Coast has sent staff to CLE seminars on the new Rules so our Court departments are ready to assist you with transitioning to the new Rules and forms.

We will continue to add links to court updates on our website (www.wcts.com) as they become available.

It is strongly recommended that clients familiarize themselves with the new Rules and forms as much as possible before July 1, 2010.

PPR

UPDATE

Re-Registering PPSA Charges

When re-registering a PPSA charge within 30 days of its discharge/lapse (*due to failure to renew the registration or if a registration has been discharged without authorization or in error*), the charge is registered as if it is a new charge. All the information that was on file prior to the lapse/discharge must be re-entered as the original charge will be purged from the PPR system within 30-60 days of the lapse/discharge. Once purged, none of the original information will remain on the system.

When preparing the re-registration, the new financing statement must refer to the registration number of the original security interest. Indicate **“Filed under PPSA s. 35(7) re-registration of # _____”** (*enter the base registration number of the lapsed/discharged registration*) at the beginning of the General Collateral description section and then enter the General Collateral description, if there is one. This ensures that all important information is put back on the PPR system and should alert any searching party that this charge may have priority over intervening charges.

Priority of Re-Registered Charges

Under s. 35(7) of the *Personal Property Security Act*, if a PPSA charge is re-registered **not later than 30 days** after the lapse or discharge of the original charge, then the priority status of the re-registered security interest in relation to a competing perfected security interest **“that immediately before the lapse or discharge had a subordinate priority position” will not be affected** *“except to the extent that the competing security interest secures advances made or contracted for after the lapse or discharge and before the re-registration.”*

Land

UPDATE

Updated E-Filing Forms and Guides

Form Templates

New versions of 12 electronic form templates were released by the Land Title and Survey Authority on April 11, 2010 to include enhancements to improve customer usability, reduce inadvertent errors and to increase form security. The Form B was updated again on April 15th to change the default setting for Item 7 (*Mortgage secures a current or running account*) to “No” from “Yes”.

Version 21 of the Property Transfer Tax form had previously been updated on March 23, 2010, to include a new exemption code 47 for *“Strata Plan – Amendment”*.

To download the current form templates, sign on to BC Online (www.bconline.com), click on *“Electronic Filing System”*, select *“EFS-Management”* and choose *“Download Form Templates”*. This will give you a list of all the electronic Land and Survey forms available and their effective date.

Help Guides

In addition to new versions of the electronic forms, the *EFS User Guide* and the *Form 17 Help Guide* were also updated and a new *Help Guide for Electronic Plan Submission* was introduced.

To view or print the Help Guides, go to the Land Title and Survey Authority website at www.ltsa.ca, click on *“Electronic Filing System”* and select *“User Guides and Publications”*.

The new Help Guide for Electronic Plan Submission may also be accessed by clicking on the yellow *“Help Guide”* button at the top of the Plan Application form.

Home Owner Protection Office

Pursuant to s. 56 of the *Budget Measures Implementation Act, 2010*, all of the rights, property and assets of the Homeowner Protection Office (HPO) that relate to the **Reconstruction Program** were transferred to and vested in *“Her Majesty the Queen in Right of the Province of British Columbia”* effective April 1, 2010. In anticipation of this, HPO stopped accepting applications for this program in July 2009.

To modify an HPO mortgage, the mortgage must first be transferred to *“Her Majesty the Queen in Right of the Province of British Columbia”* before it can be modified.

To release an HPO mortgage, it is not necessary to transfer the mortgage first. Simply indicate *“Her Majesty the Queen in Right of the Province of British Columbia formerly Home Owner Protection Office”* in the Transferor section of the Form C. The Release is then executed by the appropriate ministerial representative of the Queen.

PTT

UPDATE

Correcting Conveyancing Errors

Previously, where a transfer was filed for the purpose of correcting a conveyancing error (*e.g. property that was conveyed in error or an error was made in the description or survey under which the title to the property was registered*), an administrator’s certificate had to be attached to the Property Transfer Tax Return.

Effective March 3, 2010, an administrator’s certificate is no longer required to claim the exemption under **Code 35**. However, it is recommended that you contact the Property Transfer Tax Branch at 250-356-6436 for more information prior to filing.

Staff Anniversary

On March 29, 2010, **Shelley Porter**, General Manager of West Coast, celebrated her **30th Anniversary**. On behalf of Wayne Crookes, Owner/President and all the staff, we would like to congratulate Shelley for her many years of dedicated service and say:

"Thank You For a Job Well Done!"



Shelley Porter and Wayne Crookes, Owner/President

HST Update

Harmonized Sales Tax

The **Harmonized Sales Tax (HST)**, which comes into effect on July 1, 2010, will apply to all West Coast fees. All taxable disbursements that previously were subject to the 5 % GST will now be subject to the 12 % HST.

Taxable disbursements include all types of searches, copies of documents and plans, and any BC Online fees associated with the electronic filing of documents in *Land, Court, Corporate, Manufactured Homes* and *PPR*.

Web Requests

Try our easy-to-use **online** services for sending in work requests, e-filings and requesting pick-ups at your office. You will receive a confirmation e-mail that your request has been received, and the contact information of the staff member who has accepted your request.

To receive your registration ID in order to log in to our website www.wcts.com for the first time, please contact our Client Services department at 604-659-8610 or 1-800-553-1936 or e-mail to cindy@wcts.com.

New Web Service

On-Call Clients and Courier Pick-ups

West Coast is pleased to announce that you can now request a pick-up at your office by using our website.

To place your pick-up request online, simply enter your e-mail address and password into the *Client Login* screen (www.wcts.com/login/), select *Pick Up Request*, press *Login* and complete the form.

Pick Up Notice

1. **Pick Up Date**
 - *Today's date*
 - *Next business day*
2. **WCTS Run or Courier Pick Up**
 - *Next Available WCTS Run*
 - *Arrange Courier – Bike*
 - *Arrange Courier – Car*
3. **Additional Instructions**
 - *Add special instructions*
4. **Press**
 - *Send to WCTS*

An e-mail notification will advise you that your request has been received by our staff once it has been logged in.



The Register is the newsletter of **West Coast Title Search Ltd.** It is available free of charge and we encourage you to use the information to assist you with your work.

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