



The Register

THE NEWSLETTER OF WEST COAST TITLE SEARCH LTD.

NUMBER 58 / 05

REGISTRY SERVICES • PROCESS SERVING

JUNE 2005

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Court

UPDATE

Rule 68 - Expedited Litigation Project Rule

A new Supreme Court Rule, *Rule 68 - Expedited Litigation Project Rule*, will come into force by Order in Council, effective September 1, 2005. Rule 68 is a two year pilot project that will run until September 1, 2007. The guiding principle of Rule 68 is proportionality. Its intent is to make the amount of the pre-trial process and cost to the parties proportionate to the value of the amount in dispute.

The new Rule will apply to Supreme Court actions commenced in the *Vancouver, Victoria, Prince George and Nelson* Court Registries after September 1, 2005, where the claim deals with *money, real property or personal property* and where the total of the monetary claim amounts to **\$100,000 or less**, exclusive of interest and costs.

Expedited Actions

Actions under Rule 68 will be referred to as "**expedited actions**". The style of proceeding must include the words "*Subject to Rule 68*" immediately below the listed parties. If an action becomes an expedited action after one or more pleadings have been filed, the style of proceeding for all subsequent pleadings must then include "*Subject to Rule 68*" immediately below the listed parties.

Highlights of Rule 68

- New limitations will be placed on both pre-trial procedures and on the evidence that can be called at trial.

- New obligations will be placed on parties to engage in an early and more comprehensive exchange of information.
- A *Case Management Conference* may be requested by a party to an expedited action or may be directed by a judge or master. (Rule 68(34) and (37))
- A *Trial Management Conference* must be held between 15 and 30 days before trial. (Rule 68(55) to (56)).

New Forms Added

Three new forms have been added to deal with Rule 68:

- Form 141 - *Notice of Witnesses*
- Form 142 - *Requisition For Case Management Conference*
- Form 143 - *Case Management Conference Order*

Cases Excluded from Rule 68

Excluded from Rule 68 are the following:

- Family law proceedings;
- Actions commenced under the *Class Proceedings Act*; and
- Any action involving a Jury Trial

If you would like of copy of *Order in Council 355* dealing with the full text of Rule 68 or a copy of the *Notice to the Profession* dealing with the highlights of Rule 68, please contact Kelly Buziak in our Client Services department at 604.659.8610 or toll free at 1.800.553.1936. You may also e-mail your request to info@wcts.com.

Exemptions to Rule 68 (10)

Rule 68(10) provides that a *Case Management Conference* or a *Trial Management Conference* must be conducted prior to a party delivering a Notice of Motion or an Affidavit in support of an interlocutory application. However, there are exemptions to this requirement. Interlocutory applications in relation to the following are not subject to Rule 68(10):

- Applications for an order that the action be removed from Rule 68;
- Applications under Rule 18 or 19(24);
- Applications to add, remove or substitute a party; and
- Applications by consent

In addition, under Rule 68(12), a party may seek leave for an interlocutory application to be exempt if the application is urgent or if it is impractical for the parties to comply with Rule 68(10).

Filing Tips in Small Claims Court

- **Computer generated forms must match the statute forms exactly**, for example, the marginal notes and copy designation must be correct on all pages. The Court Registries have advised that they will soon start rejecting documents that do not meet this criteria.
- **When a claim is being made against a limited company**, a copy of the company search must be included with your filing for the court file. If you are asking West Coast to do a service after the filing, please include a second copy of the company search for our Process Serving department.

Changes in Small Claims Court

Effective September 1, 2005, a number of changes will be introduced in Small Claims Court. These changes are expected to improve access to the court system and to simplify the judicial process.

Financial Limits Increased

A Regulation change in Provincial (Small Claims) Court will increase the financial limit of disputes from \$10,000 to **\$25,000**. With this increase, claimants will be able to take advantage of the lower filing fees and simpler procedures in Small Claims Court where parties typically represent themselves.

Crown Proceeding Act

Changes to the *Crown Proceeding Act* will allow citizens to bring claims against the government in Provincial Court. Previously, all civil suits against the Crown were required to be heard in Supreme Court where cost and complexity would often inhibit many ordinary citizens from filing.

Notice to Mediate Process

Effective September 1, 2005, the Notice to Mediate process, currently available only for disputes filed in Provincial (Small Claims) Court Registries at *Vancouver (Robson Square)*, *Surrey*, *North Vancouver*, *Victoria* and *Nanaimo* will be made available in all Court Registries for claims **between \$10,000 and \$25,000**.

In the existing "mediation registries" noted above, the Notice to Mediate process will continue to apply to all claims under \$10,000 as well. Currently, mediation services in these registries are offered free of charge for parties with claims of any amount. However, it is expected that mediation services that will be heard in Provincial Court for claims between \$10,000 and \$25,000 will be charged on a *user pay basis*.

Indian Land

UPDATE

Indian Land Registry

Although there are some titles dealing with Indian Land on file in the Land Title Office, (e.g. *Musqueam*, *Capilano*, and *Tsawwassen* Reserves in the Lower Mainland Land Title Office), the majority of Indian Land properties are only on file at the Indian Land Registry.

The Indian Land Registry has information on all First Nations lands in Canada. Much like properties in the Land Title Office, Indian Land properties have a legal description and documents are registered against the lands at the Indian Land Registry.

West Coast is able to obtain both searches (*parcel abstract reports*) and copies of documents relating to Indian Lands. All search and photocopy requests are handled by our *New Westminster* Office. Our *Vancouver* Office can arrange the delivery of your registration documents to the Indian Land Registry.

Searches

A search of Indian Lands results in a *parcel abstract report* which lists all documents registered against that particular piece of land. Unalienated band land generally does not have a parcel abstract report, even though it may be surveyed separately and have a legal description. It is presumed to be part of the whole Reserve and any registrations against the whole Reserve will apply to that parcel as well.

In order to do a search of Indian Land or copy documents, please provide us with the following information:

- name of the Reserve;
- legal description of the property (lot and plan#);
- name of lessee or lessor (if available); or
- document registration number

Note: As there are no references to *street addresses* at the Indian Land Registry, it is not necessary to provide this information.

Registrations

Documents are submitted through the Indian Land Registry in Vancouver. **Four** originally executed copies of the document must be submitted, together with a cover letter requesting registration and return of the documents. The letter should be addressed to:

Department of Indian Affairs
Indian Land Registry
#600 – 1138 Melville Street
Vancouver, BC V5E 4S3

Examiners at the Indian Land Registry in Vancouver will check the documents, and if everything is acceptable, they will complete the *Application for Registration* form and obtain the consent of the Minister (if required). The documents are then forwarded internally to the Indian Land Registry in Ottawa for registration. At this point, the documents are assigned a registration number and Ottawa will mail the documents directly back to the applicant. The registration process takes about two weeks.

Disbursements & Fees

At present, there are **no disbursements** for searches, photocopies or registrations at the Indian Land Registry. West Coast fees are \$25.00 per parcel abstract report and \$7.50 per photocopy. Our fee for delivering registration documents to the Indian Land Registry in Vancouver is \$25.00. GST will apply to all West Coast fees.

If you have any questions about Indian Land searches or documents, please call Marian Bragg in our New Westminster office at 604.659.8600 or toll free at 1.800.553.1936. If you have any questions about Indian Land registrations, please call *Lands and Trust Services* at the Indian Lands Registry at 604.666.3931.

Land UPDATE

Documents Affecting More Than One LTO



Documents that affect more than one Land Title Office must be filed in **only one** Land Title Office. *This practice has been in effect since July, 2004.* Previously, the practice was to file separate original documents in each of the Land Title Offices affected.

The Land Title Office where the document is filed will mark up the document as a pending application and will also register the document against all legals in all affected Land Title Offices. *The registration number prefix assigned to the document will be determined by the Land Title Office where the application is filed.*

If you file duplicate originals in more than one Land Title Office, both applications will be defected and a S.308 Notice will be issued by each Land Title Office. To remedy a duplicate filing situation, either one of the applications will have to be completely withdrawn, or each application will have to be amended by deleting the duplicated legal description.

Transmissions in More Than One LTO

If you are filing a transmission to a *surviving joint tenant* or to a *personal representative*, where the deceased owned property governed by more than one Land Title Office, *you should file each application separately in the appropriate Land Title Office.* However, you may file the Death Certificate or the Probate Documents in just one Land Title Office and refer to the registration number from that Land Title Office on the Form 17 application that is filed in the other affected Land Title Offices.

Replacement Pages Sent Via E-Mail

If you are sending replacement pages for a land registration file via e-mail, please provide us with enough information so that we can quickly locate your document. Please indicate your *name, firm name, invoice number* and/or *file reference* in your e-mail.

If you are sending replacement pages in response to our having noticed a problem with your file, *please direct your e-mail to the person who telephoned to advise you.*

If you are sending replacement pages *for a document en route from your office*, please indicate (a) the time it was picked up from your office, (b) whether the document is coming by a West Coast run or by courier, (c) whether the document is "On Hold" or (d) whether the document is involved in a Meet or Delivery situation.

Our office staff will always send confirmation that your e-mail was received. **If you do not receive confirmation within 15 minutes**, please contact Marian Bragg or Linda Gomez in our New Westminster office at 604.659.8600 or toll free at 1.800.553.1936.

Compatible E-Mail Programs

Info@wcts.com

When emailing replacement pages to us, please send them as an *attachment* to the e-mail, rather than as part of the body of the message.

We are most familiar with *Word* or *WordPerfect* and therefore prefer them to Excel or PDF. We can usually work with, modify and print any type of document if necessary, but we cannot make any changes to PDF documents if there are further amendments to be made.

Property Transfer Tax (PTT) Returns

When filing a *computer-generated* copy of a Property Transfer Tax Return, please remember to attach it **behind** the *original*, colored, bar-coded PTT Return. The reason for this is that the LTO cashier must ring up the amount of tax paid on the original bar-coded PTT Return.

In order to ensure that the cashier rings up the correct amount of tax paid, the **Date** and **Tax Payable** sections in the upper right-hand corner of the original, bar-coded PTT Return must also be completed.

Change of Name for Individuals

To change the name of an individual on title, you must provide the primary document evidencing the change of name, *for example*, marriage certificate, change of name certificate, birth certificate, etc. These certificates must be from a government department of vital statistics and must be **original**. If you wish the original certificate to be returned to you, please make a note to this effect on your invoice and we will have the Land Title Office make a certified copy for filing. **Note:** *The LTO will not accept a notary or solicitor certified copy of the above noted certificates.*

The certificate (original or LTO-certified) must be filed with a Form 17 application. A Property Transfer Tax Return is not required. The name, occupation and address of the person whose name has changed must be shown on the Form 17. **Note:** As the current LTO practice is to raise a new title under the registration number assigned to the change of name application, *the name, occupation and address for all other registered owners (even though their name has not changed), should also be shown on the Form 17.*

Victoria

UPDATE

Midday Service to Victoria

In addition to our regular overnight couriers between *Vancouver* and *Victoria*, we also offer a **midday service** that leaves from our **Vancouver** office at 11:10 a.m. and arrives in our *Victoria* office at approximately 1:15 p.m. *There is no midday service from Victoria to Vancouver.*

Midday Service Can Be Delayed

Flights can be delayed at any time due to adverse weather conditions or mechanical problems. If you are sending documents to *Victoria* that **must be filed on a specific day**, please forward your documents to our *Vancouver* office by **4:30 p.m. the day before your deadline for filing** and indicate the filing date on your invoice.

Connecting With Midday Service

In order to meet the 11:10 a.m. departure time, your work must be in our *Vancouver* office **no later than 10:50 a.m.** For *Vancouver* clients, work picked up on your 9:00 a.m. runs will arrive in our *Vancouver* office in time to connect with our midday service run. However, for clients in *Abbotsford*, *Coquitlam*, *Delta*, *Richmond* and *White Rock*, work picked up on your morning runs will not arrive in our *Vancouver* office in time and will have to be forwarded by overnight courier. **Exception:** Work picked up on morning runs in *Langley*, *Maple Ridge* and *Central Surrey* will arrive in *Vancouver* in time to make the midday service run.

If you would like a copy of your firm's Route Schedule outlining when your work will reach our West Coast offices, please contact Kelly Buziak at 604.659.8610 or toll free at 1.800.553.1936 or e-mail your request to info@wcts.com.

Corporate

UPDATE

Business Corporations Act (BCA) - Transition Deadline

March 28, 2006 is the Transition Deadline

All BC companies registered prior to March 29, 2004 under the *Company Act* have until March 28, 2006 to transition to the *Business Corporations Act (BCA)*. Companies that fail to transition to the BCA will risk being struck from the Corporate Registry. Companies incorporated on or after March 29, 2004 are already incorporated under the BCA and do not have to transition.

There are a number of steps that must be taken to transition to the *Business Corporations Act*. One of the steps is to file a *Form 43 - Transition Application/Notice of Articles*. This is a mandatory online filing. There is no disbursement incurred to transition.

The Corporate Registry offers a *Transition Package* at a cost of \$40, which includes a certified copy of a company's current memorandum and articles as well as a copy of the *Transition Guide* which explains the requirements for making the transition from the *Company Act* to the new BCA. The Registry advises that the guide is only for individuals who want to make a small company transition themselves. The *Transition Guide* can also be downloaded from the Corporate Registry's website at www.fin.gov.bc.ca/registries/transition.htm.

West Coast would be pleased to assist you with all your Corporate work. Our staff are experienced in both paper and online registration procedures. If you have any questions, please call our Corporate department in our *Victoria* office at 405.6000 or toll free at 1.800.667.7767. You may also e-mail your questions to info@wcts.com.

West Coast UPDATE

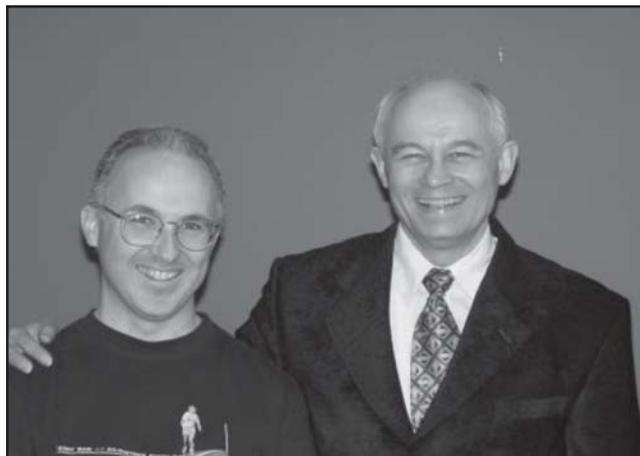
Anniversary Milestones

West Coast is very proud to announce that three of our staff members have recently celebrated significant anniversary milestones. On behalf of Wayne Crookes, Owner/President and all the staff, we would like to congratulate them for their many years of dedicated service and say *"Thank You For a Job Well Done!"*



Shelley Porter
General Manager
25 years - March 2005

Kathy Fowler
Victoria Land & Court Supervisor
15 years - March 2005



Mel Gantly
Victoria Front Office
15 years - May 2005

Asked & Answered ~ A Land Question

Question: *What is the difference between a **Delivery** and a **Meet**?*

Answer:

A **Delivery** is where **your documents are delivered to us** by another law firm, notary office or agent to match up with your invoice and to be filed, on your behalf, according to your instructions. Please mark the "Delivery" box on the invoice and indicate the name of the firm/agent who will be delivering your documents to us.

A **Meet** is where **your documents are filed concurrently** with other documents being filed by another law firm, notary office or agent. Please mark the "Meet" box on the invoice and indicate the name of the firm/agent we will be meeting, and what document(s) they will be filing.

"You asked . . . We answered."

Keeping You Informed

Below is a list of memorandums and notices that we have sent out since our last newsletter. For additional copies, please call our Client Services department at 604.659.8610 or toll free at 1.800.553.1936. You may also view these on our website at www.wcts.com under the *News and Updates* button or e-mail your request to info@wcts.com.

COURT

May 10, 2005 - Vancouver Judges & Masters Availability for Regular Chambers

May 5, 2005 - Nanaimo Foreclosure Chambers Pilot Project

May 5, 2005 - Nanaimo Judges & Masters Chambers

April 20, 2005 - Victoria Judges Chambers

April 13, 2005 - Revised - Victoria Masters Schedule for April, May & June 2005

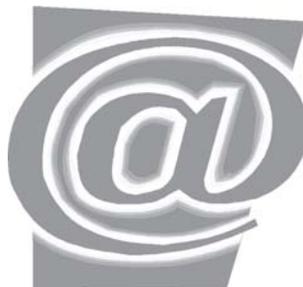
March 10, 2005 - Victoria Masters Schedule for April, May & June 2005

E-Mail Service

info@wcts.com

In addition to sending work requests via our run system or by fax, work requests may be sent via e-mail to info@wcts.com. These requests will be received in our New Westminster office and forwarded to the department where your work will be processed. We will e-mail confirmation, *generally within five minutes*, so that you will know your request has been received.

Our office staff will always send confirmation that your e-mail was received. **If you do not receive confirmation within 15 minutes**, please contact Marian Bragg or Linda Gomez in our New Westminster office at 604.659.8600 or toll free at 1.800.553.1936.



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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