



The Register

THE NEWSLETTER OF WEST COAST TITLE SEARCH LTD.

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Court

UPDATE

SUPREME COURT RULE CHANGES

The Supreme Court Rules were amended on November 10, 2000 by Order in Council No. 1058 (B.C. Regulation 367/2000). The Rules most significantly affected are as follows:

Rule 65- Vancouver Chambers Pilot Project Rule

- Rule 65 is extended to July 1, 2001 and then is to be repealed;

Rule 10 - Originating Application

- Rule 10 is amended by repealing subrules (3) to (5) and (9) to (14) and substituting new subrules (3) to (8);

Rule 44 - Interlocutory Applications

- Rule 44 is repealed and a new Rule 44 substituted;

Rule 51A - Setting Down Applications For Hearing

- Rule 51A is added as a new Rule and will come into force on **July 1, 2001.**

Background to Rule 65 and Rule 51A

Rule 65 had been brought in as a pilot project in February, 1997 in an effort to streamline the Chambers system in the Vancouver Supreme Court Registry. Since that date, Rule 65 has had several revisions and time extensions. During the past year, the Rules Revision

Committee has been working on a new Rule that would preserve the major elements of the procedure set out in Rule 65 while at the same time responding to some of its criticisms. In November, 2000, the new Rule 51A was officially approved by Order in Council No.1508 and will come into force on July 1, 2001. Unlike Rule 65, Rule 51A will apply to all Chambers practice throughout the entire province.

Rule 51A - Setting Down Applications For Hearing

Rule 51A will apply to originating and interlocutory applications. Requirements for setting applications will depend on your **time estimate**. *Less than 30 minutes* (subrule 10) or *more than 30 minutes* (subrule 12) will determine what documents must be filed and how you prepare your application. Available on the Government of British Columbia's website are some very helpful Flow Charts dealing with Rule 51A. You may access this information directly at:

www.courts.gov.bc.ca/SC/sc-main.htm

If you would like a copy of Order in Council No. 1508 dealing with the Supreme Court Rule Changes, or copies of the Rule 51A Flow Charts, please contact Sue Sharma in our Client Services department at 659-8686 or toll free at 1-800-553-1936. You may also e-mail your request to service@wcts.com

Lower Mainland Suburban Courts

In addition to our regular attendance at Vancouver and New Westminster Court Registries, we also attend at several suburban courts on a daily basis. Attendance at a suburban court is set at a specific time each day, and the run usually leaves from the West Coast office closest to the suburban court.

The timetable below outlines when work to be filed in a suburban court will leave our Lower Mainland West Coast offices. In conjunction with the Suburban Courts Timetable, please check your office Route Schedule to determine when our West Coast messenger will arrive at your firm and when your work will reach our West Coast offices.

If you have work that **must be filed** on a specific day and it is unable to meet our scheduled run to that suburban court, we can arrange a special trip, *providing we are given enough advance notice*. **Note:** A Rush fee will apply for this special trip, in addition to our regular filing fee.

SUBURBAN COURTS TIMETABLE

From New Westminster		
Suburban Court	Leaves From New Westminster	Arrives Back to New Westminster
Abbotsford	1:00 p.m.	1:00 p.m. <i>next day</i>
Burnaby	2:30 p.m.	4:30 p.m.
Chilliwack	1:00 p.m.	1:00 p.m. <i>next day</i>
Coquitlam	11:15 a.m. 2:30 p.m.	1:30 p.m. 4:30 p.m.
Delta	8:45 a.m. 11:15 a.m.	11:15 a.m. 1:15 p.m.
Maple Ridge	11:15 a.m.	1:30 p.m.
Richmond	11:15 a.m.	1:15 p.m.
Surrey	12:10 p.m. 4:00 p.m. <i>for filing next day</i>	2:30 p.m. 10:30 a.m. <i>next day</i>

From Vancouver		
Suburban Court	Leaves From Vancouver	Arrives Back to Vancouver
North Vancouver	11:15 a.m.	1:30 p.m.

If you would like a copy of the above *Suburban Courts Timetable*, or another copy of your firm's *Route Schedule*, please contact Sue Sharma in our Client Services department at 659-8686 or toll-free at 1-800-553-1936. You may also e-mail your request to service@wcts.com

New Westminster Court Registry Tip

If you are filing a Consent Order to have two actions heard at the same time, New Westminster Court requires a brief affidavit to be filed with the Consent Order setting out why it is appropriate that the actions be heard at the same time. **Note:** This requirement has been in effect since June, 1998.

Corporate / PPR UPDATE

Company Act

The Province of British Columbia is in the process of adopting a new *Company Act* that will simplify many processes and make the Corporate Registry service more accessible to the public. When it is implemented, it will enable the shift from a paper based registry to an electronic registry where all services will be offered over the internet. The original plan for this *Company Act* Project was to first complete the system design phase and then immediately initiate the system development and implementation phase. However, the revised *Company Act* requires further review and consultation with a committee of corporate lawyers. The delivery date for the final version of the Act is not certain. It is estimated to be sometime in the late summer or fall of 2001.

Once the Act is finalized and the government has committed to introduce it into the legislature, then the development and implementation phase of the Project can begin. The entire system design, including the design documents and computer screens, will be updated to the final revised version of the *Company Act*. Once completed, the contracting out to a system development company for the development and implementation phase will be awarded.

Requirements Guide

The most recent update to the Corporate & PPR guide is September, 2000. If you have not received your copy, please let us know and we will send you the pages that have been revised. Please contact the Victoria Office at (250) 405-6000 or toll free at 1-800-667-7767.

The Cooperative Association Act

The *Cooperative Association Act*, S.B.C. 1999, c. 28 (Bill 98) came into force January 31, 2001 and repeals the *Cooperative Association Act*, R.S.B.C. 1996, c. 71. A number of provisions of the new Act were amended by the *Cooperative Association Amendment Act*, 2000, S.B.C. 2000, c. 5 (Bill 9). In conjunction with the new *Cooperative Association Amendment Act*, 2000, new forms were also introduced. The Corporate Registry has advised that the new forms must be used as the old forms will no longer be accepted.

The new forms are:

- Form 2** - *Cooperative Notice of Registered Office*
- Form 3** - *Cooperative Annual Report*
- Form 5** - *Cooperative Notice of Change of Directors*
- Form 6** - *Cooperative Special Resolution*
- Form 8** - *Cooperative Notice of Change In Registered Office*
- (No #)** - *Cooperative List of First Directors*

Copies of the new forms are available from the Corporate Registry or you may also contact Sue Sharma in our Client Services department at 659-8686 or toll free at 1-800-553-1936 or e-mail your request to service@wcts.com

Process Serving UPDATE

Out-of-Area Process Serving

West Coast has established a network of process servers to handle your process serving files throughout British Columbia, Canada and internationally. We are a member of the US based *National Association of Professional Process Servers*, where each member agrees to abide by the provisions and principles set forth in a strict code of ethics. We are committed to ensuring that your service is handled by our network process server with the same high quality as if it were handled solely by us. The steps that we take to ensure this consistent high quality are as follows:

- Upon receipt of your documents, we carefully check them to ensure that they are "service ready". For example, if Supreme Court documents are being served outside of British Columbia, they will need to include *Service Ex Juris* [Rule 13].
 - If you require an *Affidavit of Service*, we will prepare the Affidavit so that our network process server can just fill in the blanks and affix a Notary Seal (if the documents are to be served outside British Columbia). We will also make photocopies to attach to the Affidavit of Service, if you haven't already provided them.
 - We ensure that the set of documents for service and the Affidavit of Service, if required, are intact before sending the file by overnight courier to our network process server.
 - We also enclose, with your documents, a "Request for Service Sheet" for our network process server, which includes the recipient's personal information, general file information and the service deadline.
- We monitor your file very closely when it is sent out-of-area for service. We ask our network process server to call us once your documents are served so that we can then inform you. This also applies if any problems arise. If we have not heard from our network process server within a reasonable length of time, we will contact them for a status report on your file.
 - Once the service is completed and we receive everything back in our office, we double check for accuracy before returning it to you. If our network process server is unable to serve and you require an Affidavit of Attempted Service, we will assist in the preparation of the Affidavit.

Cost Limitations

It is important for us to know your client's cost limitations. If you are dealing with a legal aid file or have an authorized amount for the service, please advise us. We will do our best to ensure that our network process server does not exceed the authorized amount for service and inform you should it be necessary.

When calculating costs, please remember that, in addition to our handling fee, there are courier fees, as well as the network process server fees. Keep in mind that the network process server may also charge for additional services such as attempts, mileage and notary fees.

Note: *If we have given you an out-of-area quote for service, please include this information on the invoice.*

Out-of-Area Rush Services

Rush services with a service deadline for the following business day, should be in our Vancouver office **before 4:00 p.m. the day before service is required.** If you have documents that require rush service, please call our Process Serving department at 659-8700 or toll-free at 1-800-806-2788 to advise us that you are sending documents for rush service. This will allow us time to do the necessary preparation work to ensure your deadline can be met.

Land

UPDATE

Release of Certificate of Pending Litigation

A certificate of pending litigation (CPL) does not efflux after a certain period of time. You must file a release of the CPL to have it cancelled from the title. The form of release to use will depend on what has happened with the court action that initiated the proceedings. In all cases, the release must be accompanied by a *Land Title Act* Form 17. LTO fees are \$20.00.

If Action Discontinued (s.253)

If the court action has been discontinued, you must file a *Registrar's Certificate of Discontinuance Of Proceeding* to release the CPL from the title. The certificate must be signed by the District Registrar and must certify that *"...this proceeding has been discontinued in whole or in part as to the land in respect of which a certificate of pending litigation was issued out of this court, and that the attached document is a copy of the Notice of Discontinuance filed in the above registry..."*

If Action Dismissed (s.254)

If the court action has been dismissed, you must file a *Registrar's Certificate of Dismissal of Proceeding* to release the CPL from the title. The certificate must be signed by the District Registrar and be endorsed by the Registrar of the Court of Appeal. The certificate must certify that...

"this proceeding has been dismissed... and that the time limited for appeal from the order has expired and no notice of appeal has been filed..."

or

"this proceeding has been dismissed... and that a Notice of Appeal from the order was filed and has been finally disposed of and the said dismissal of the proceeding has not been set aside by the Court of Appeal or the Supreme Court of Canada..."

If Action Neither Dismissed Nor Discontinued (s.255)

If the court action has neither been dismissed nor discontinued, you must file a *written request* (in the form of a letter addressed to the Registrar of Land Titles) from the party initiating proceedings **or** from his/her solicitor. Usually application is made by the solicitor on behalf of the party initiating proceedings.

A. APPLICATION BY SOLICITOR

Application is made in the form of a letter, usually prepared on the law firm's letterhead. The letter must state three (3) important points:

- (1) that he/she was the solicitor when the action was commenced;
- (2) that he/she still is the solicitor, and
- (3) that the action has neither been dismissed nor discontinued.

Note: If the solicitor making application is not the same as the solicitor who initiated the action, you must attach a photocopy of the *Notice of Appointment or Change of Solicitor* in support of the letter.

B. APPLICATION BY PARTY INITIATING PROCEEDINGS

If application is made by the party initiating proceedings, the letter must also contain the same three (3) points required in the letter made by the solicitor, namely:

- (1) that he/she was the petitioner (plaintiff) when the action was commenced;
- (2) that he/she still is the petitioner (plaintiff), and
- (3) that the action has neither been dismissed nor discontinued.

Note: The petitioner (plaintiff)'s letter must be witnessed by an officer and the officer certification statement must be included.

Examples of acceptable forms of Release of Certificate of Pending Litigation may be found in the *Land Title Practice Manual, Vol.1, Part 16, pages 19-25.*

Modification and/or Extension of Mortgage

If you modify a term of the original mortgage, it is a *modification of mortgage*. If you extend the original mortgage over additional lands, it is an *extension of mortgage*. If you modify a term of the original mortgage **and** extend the original mortgage over additional lands, it is a *modification and extension of mortgage*.

TO FILE A MODIFICATION OF MORTGAGE:

- Use a Form C.
- The legal description must be shown in Item 2
- The *nature of interest* in Item 3 is "Modification of Mortgage #_____".
- The terms of the modification must be attached to the Form C as *Terms of Instrument - Part 2*.
- Both the Transferor (Mortgagor) and the Transferee (Lender) must execute the Form C.
- LTO fees are \$55 (plus \$55 if an assignment of rents is also being modified).

TO FILE AN EXTENSION OF MORTGAGE:

- Use a Form C.
- The legal description of the additional lands, *as well as the original lands*, must be shown in Item 2.
- The *nature of interest* in Item 3 is "Extension of Mortgage #_____".
- The terms of the extension agreement must be attached to the Form C as *Terms of Instrument - Part 2*.
- Both the Transferor (Mortgagor) and the Transferee (Lender) must execute the Form C.
- LTO fees are \$55 (plus \$55 if an assignment of rents is also being extended).

TO FILE A MODIFICATION AND EXTENSION OF MORTGAGE:

- Use a Form C.
- The legal description of the original lands *as well as the additional lands* must be shown in Item 2.
- The *nature of interest* in Item 3 is "Modification and Extension of Mortgage # _____".
- The terms of the modification and extension agreement must be attached to the Form C as *Terms of Instrument - Part 2*.
- Both the Transferor (Mortgagor) and the Transferee (Lender) must execute the Form C.
- LTO fees are \$55 (plus \$55 if an assignment of rents is also being modified and extended).

Partnerships

Generally, an estate or interest in the name of a partnership (such as a *law firm*) is not registerable in the Land Title Office. The instrument would have to be registered in the names of the individual partners. However, a **judgment** can be registered in the name of a partnership.

TO FILE A JUDGMENT

When filing a certificate of judgment, include the address of the judgment creditor, as well as the **name** of the partnership, followed by the words "*a partnership*", in the application portion of the certificate of judgment. **Note:** The Land Title Office may check whether the partnership is registered as an "active firm" with the Registrar of Companies before registering the judgment.

TO RELEASE A JUDGEMENT

To **release a judgment** where the judgment creditor is a partnership, include the following information on the Form C:

Item 5 - Transferor

- Show the *name* of the partnership, followed by the words, "*a partnership*"

Item 8 - Execution

- As a partnership is not a corporation, execution is not by "authorized signatory". Beneath the signature of the person executing the document, type or print their name and add the words, "*a partner, on behalf of the partnership*".

Note: If reference to *partner* and *partnership* are missing, the Lower Mainland LTO may require proof that the Form C has been executed correctly. This proof is usually in the form of a letter, on firm letterhead and prepared by a different partner than the one who executed the Form C. The letter should state that " _____ is a partner in the Firm and as such is authorized to execute the release on behalf of the partnership".

Filing Letters

When filing a document using a statutory form provided under a different Act than the *Land Title Act*, a separate application, usually in the form of a *filing letter*, must accompany the document. The most common types of documents filed with a filing letter are:

- **Claim of Lien** (Form 5 under the *Builders' Lien Act*)
- **Notice of Interest** (Form 1 under the *Builder' Lien Act*)
- **Land (Spouse Protection) Act Entry** (Forms A and B under the *Land (Spouse Protection) Act*)
- **Release of Land (Spouse Protection Act) Entry** (Forms C and D under the *Land (Spouse Protection) Act*)
- **Power of Attorney** (Form 1 or Form 2 under the *Power of Attorney Act*)
- **All DF (Document Filings)** documents filed under the *Strata Property Act*

Note: A filing letter (*even if prepared on a law firm's letterhead*) must comply with the LTO's 1½ inch "clear space" requirement at the top of the letter.

**West Coast
UPDATE**

West Coast Supports West Coast LEAF

West Coast LEAF is affiliated with the *Women's Legal Education and Action Fund*, a national non-profit association that promotes equality for women through legal action and public education.

Since 1986, LEAF has hosted a Person's Day (Equality) Breakfast across Canada to commemorate the occasion on October 18, 1929 when women were legally declared "persons" and therefore eligible for an appointment to the Senate.

This year, the Person's Day (Equality) Breakfast, which is usually held in November, was moved to **March 8, 2001** to coincide with International Women's Day.

West Coast was proud to support West Coast LEAF by sponsoring a table at the West Coast LEAF's Person's Day (Equality) Breakfast.

As in past years, West Coast held a draw for clients to join us at our table. This year's winners were:

- **Judith Berry** - *Baillie Law Corp.*
- **Merrilee Trask** - *Burns Fitzpatrick Rogers & Schwartz*
- **Deirdre Rogers** - *Fasken Martineau DuMoulin LLP*
- **Franca Pitassi** - *Fraser Milner Casgrain*
- **Cybill Lee** - *Getz Prince Wells*
- **Karen Brown** - *Harris & Company*
- **Gayle McFall** - *Macaulay McColl*
- **Penny Taylor** - *Miller Thomson LLP*

Congratulations To All
The Winners!



Asked & Answered

In this issue of "Asked & Answered" we are pleased to answer the following Court related question:

Question:

Can I use computer-generated Small Claims forms?

Answer:

Whether or not you can use computer-generated forms for Small Claims will depend on the Court registry. Most registries will accept computer-generated forms, but you must follow the original carbon forms exactly, with the same number of copies. **Note:** On some of the forms, each page has slightly different information. *For example*, the court copy of a Notice of Claim is different than the defendant's copy, with regards to the instructional information explaining what is necessary to complete the Notice of Claim.

If you have questions you would like answered in our next newsletter, please contact the appropriate West Coast department manager.

"You asked . . . We answered."

New Area Code for Lower Mainland

In order to keep up with the increasing demand for telecommunication services and phone numbers for fax, Internet, wireless and data services, the *Canadian Number Administration Consortium (CNAC)* has announced that a new area code will be assigned to the Lower Mainland effective **November 3, 2001**. Existing numbers with the 604 area code will not change. However, all new phone numbers issued in the Greater Vancouver Regional District (GVRD), Abbotsford and Mission will be assigned the new 778 area code.

As 604 and 778 numbers will exist in the same geographic area, it will be necessary to dial the area code and the phone number to make a local call. In preparation for 10-digit dialing, a four-month transition period will begin on **May 26, 2001**. Any local calls dialed with just the 7-digit number may be interrupted by a 10-second recording, reminding you to dial the area code when you dial the local number. The call will then be connected.

Mandatory use for 10-digit dialing will begin on November 3, 2001. As of that date, all local calls within the entire 604/778 geographic region must be dialed using both the area code and the number or they will not be completed.

Keeping You Informed

The following is a list of memorandums and notices that we have sent out since December, 2000. If you require additional copies, please call Sue Sharma in our Client Services department at 659-8686 or toll free at 1-800-553-1936. You may also e-mail your request to service@wcts.com

CORPORATE/PPR/MHR

None Issued

COURT

- **March 1, 2001** - Filing Writs of Summons with Attached Statements of Claim and Movement of Court Files
- **February 23, 2001** - No Judges or Masters Available for Regular Chambers
- **February 2, 2001** - Judges Chambers
- **January 8, 2001** - Overview of the Supreme Court Amendments Effective July 1, 2001

LAND

None Issued



The Register

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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