

Matter	Rule	Content
Principles	1 - 3	<p>(1) object of the rules is just, speedy and inexpensive determination of matters on their merits</p> <p>(2) proportionality: proceedings should be conducted with regard to amount involved, importance of the issues, complexity of the proceeding</p>
	22-7	(1) failure to comply with the rules will not nullify a proceeding, must be treated as an irregularity
Ethics		Barrister's & Solicitors Oath: lawyers promise not to promote suits on frivolous pretences, not to pervert the law to favour or prejudice anybody, to act in all things truly and with integrity
Professional Conduct Handbook	Chap 8	<p>(1) Prohibited Conduct: abuse of process for bringing a claim that is clearly motivated by malice and brought solely to injure the other party, assisting or acquiescing in client's dishonest/dishonourable conduct, knowingly asserting something that has no basis in evidence, refraining from notifying court of relevant authority if other side hasn't brought it even if adverse to your interests, dissuading a material witness from giving evidence</p> <p>(2) False Testimony: if client advises lawyer of intention to give false testimony, lawyer must explain lawyer's professional duty to withdraw if client insists on giving false testimony and</p> <p>(3) withdraw if this occurs</p> <p>(4) w/out telling court why</p> <p>(6) mere inconsistency not false testimony, but lawyer must explore</p> <p>(12) Interview witnesses: lawyer may contact any potential witness to seek information, lawyer must notify lawyer before contacting witnesses who are represented in the proceedings to get consent to contact them, when contacting potential witness who is represented but not a party must let other counsel know of contact, must disclose your interest to the witness you are contacting</p> <p>(13) must not tell your client not to talk to the other side</p> <p>(21) in <i>ex parte</i> proceedings, duty to inform court of all material facts, even adverse</p>
Professional Conduct Handbook	Chap 11	<p>(6) must reply reasonably promptly to correspondence from other lawyers</p> <p>(7) must not give an undertaking that can't be fulfilled, must fulfil every undertaking, must scrupulously honour any trust condition once accepted</p> <p>(10) must not impose impossible, impractical, manifestly unfair conditions of trust</p> <p>(12) lawyer who knows that another lawyer has been consulted in a matter must not proceed by default w/ out inquiry and reasonable notice</p>
Commencing Proceedings	2 - 1	<p>(1) unless provided for otherwise, every proceeding must be started with filing of a notice of civil claim under Part 3</p> <p>(2) Petition filed when: person starting proceeding is only person interested in relief, etc - rule 16 governs petitions including requiring it to be filed with affidavits and served by personal service - rule 22-1(7) allows petition to be transformed into action by court</p>

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Limitation Periods - <i>Limitation Act</i>	3	<p>(2) 2 year limitation period for claims for injury to person or property, torts such as trespass, defamation, false imprisonment, breach of <i>Privacy Act</i></p> <p>(4) no limitation period for sexual assaults and some others</p> <p>(5) default limitation of 6 years</p>
	5	<p>(1) confirmation extends limitation, restarts period at time of confirmation</p> <p>(2) sets out how you confirm</p>
	6	<p>(1) claims may be postponed for fraud if party doesn't find out about fraud til later</p>
	8	<p>(1) absolute limitation period of 30 years for most matters regardless of postponement, confirmation</p> <p>NOTE: new <i>Limitation Period</i> with 2 year basic limitation period from time of when claim is 'discovered' or person knows or <u>reasonably should have known</u> they suffered loss or injury caused or contributed by someone else's act or omission act or omission was the D's an action would be the appropriate means of redress</p>
Service	4 - 3	<p>(1) certain documents must be served personally, including notice of civil claim, petition, counterclaim if on a person not on record, etc</p> <p>(2) how to effect personal service: give document to the individual, for company: leave copy with president or an official, serve in a manner provided for in BCA ie. serve by registered mail to the company's registered office</p>
	4 - 2	<p>(1) use ordinary service after original notice is filed, leave at address provided, mail to address, fax, email to address provided as part of address for service</p>
	4 - 1	<p>(1) party must provide address for service of lawyer's office address or if not represented an accessible address either 30 km from registry or both an accessible address and a postal address in BC, a fax or email</p> <p>(2) in addition to address for service in (1) parties may provide a postal address, fax number or email</p>
Alternative Service	4 - 4	<p>(1) alternative service allowed when it is impracticable to serve personally, person cannot be found after a diligent search or is evading service</p> <p>(2) alternative service order served with the document to be served (some exceptions)</p>
		<p><i>Luu v Wang</i></p>

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Service Ex Juris	4 - 5	<p>(1) service may be made on person outside BC in any of the circumstances in C/JPTA section 10</p> <p>(1) actions relating to proprietary interest in property in BC, K to be performed in BC or subject to BC law, tort committed in BC, injunction against doing something in BC</p> <p>(2) service outside BC under (1) must state which of the above grounds are relied upon to serve <i>ex juris</i></p> <p>(3) leave of the court must be obtained to serve outside of BC other than (1)</p> <p>(10) document may be served <i>ex juris</i> in a manner provided for by the rules in BC, in accordance with laws of service where service is made or pursuant to <i>Hague Convention</i> if the state is a signatory</p>
Renewal of Notices of Claim	3 - 2	<p>(1) original notice of claim is in effect for 12 months, can be extended for 12 more months <u>before or after the 12 months</u> if D hasn't yet been served</p> <p>(2) renewed notice of claim can be extended <u>during the currency period</u> for a further period of not more than 12 months by court order</p> <p>(4) renewed notice of claim prevents operation of limitation period</p>
Pleadings	1 - 1	<p>def'n: notice of civil claim, response to civil claim, reply, counterclaim, response to counterclaim, third party notice, response to third party notice</p>
Notice of Civil Claim	3 - 1	<p>(2) notice of civil claim must set out concise statement of material facts, relief sought against each D, concise summary of the legal basis, proposed place of trial</p>
Response to Civil Claim	3 - 3	<p>(2) each allegation of fact in notice of civil claim must be admitted, denied or stated to be outside knowledge of D, for any fact that is denied, D must provide their own version</p> <p>(2) must indicate whether D consents, opposes or takes no position on the relief sought and if opposed legal basis for opposition</p> <p>(8) if fact is not responded to, it is deemed outside D's knowledge</p> <p>(3) if person was served in Canada 21 days, if served in US 35 days, if served elsewhere 49 days <b>to file response to civil claim</b> (same for petition under 16 -1(4))</p>
Set - Offs and Counterclaims	3 - 7	<p>(11) set-off or counterclaim allowed for any right or claim. set off: claim back that is intrinsically tied to the original claim. counterclaim: similar plus is a <b>stand alone</b> claim that could be brought by the D as a separate action. if original action dismissed, set also dismissed but counterclaim continues</p>
Counterclaims	3 - 4	<p>(2) permits counterclaim to join someone other than P if necessary to bring the claim against the two together</p> <p>(3) identification of parties in a counterclaim</p> <p>(4) counterclaim must be served on all parties of record, if counterclaim is against a party not yet in the proceedings, must be served personally with counterclaim and original notice of claim</p> <p>(5) response to counterclaim governed by same rules as responding to Notice of Civil Claim</p> <p>(6) Counterclaim can continue even if P's claim is stayed, discontinued or dismissed</p>

*Swelishnoff v Swelishnoff, Weldon v Agrium*

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Pleadings	3 - 7	<p>(1) pleadings must not contain evidence on how facts alleged in it are to be proven  (2) effect of any document or conversation to be stated briefly  (6) may not plead inconsistent allegations  (7) may plead <b>'in the alternative'</b>  (8) may raise an objection in law in a pleading  (9) may plead conclusion of law if material facts are pleaded  (12) party must plead matter of fact or law that: (a) makes a claim or defence not maintainable (b) may take other side by surprise (c) raises issues of fact not arising out of the preceding pleading  (15) if making a denial, party must answer the point denied  (16) denial of K results in K itself being denied not the terms, legality or sufficiency of K</p>
Particulars	3 - 7	<p>(18) full particulars must be stated in pleadings for fraud, breach of trust, wilful default, undue influence or if they may be necessary  (20) party may demand further particulars  (22) court may order a party to deliver further and better particulars  (23) demand for particulars must be made before making application to court for further particulars  (24) demand for particulars not a stay but party can apply for one</p>
Parties	22 - 5	<p>(1) P may join several claims in the same proceeding  (2) two or more Ds may be added to same proceedings if there is a common question of law or fact, common relief sought arising out of the same transaction or court grants leave  (6) party can apply to separate the trials or hearings if joining them unduly complicates things  (7) counterclaim or third party proceeding can be ordered to be tried separately  (8) two separate actions can be consolidated or remain separate but be tried at same time</p>
Partnerships as Parties	20 - 1	<p>(1) partners can be sued in the name of the partnership  (2) service can be effected on a firm by leaving a copy of the document to be served with a partner or at the partnership office with someone who appears to be in charge  (7) an order against a partnership can be enforced against anyone who appeared individually, filed a response, was served as a partner but did not appear, has admitted to being a partner or has been ruled a partner</p>
Parties Under a Disability	20 - 2	<p>(2) person under a disability must commence or defend proceedings through a litigation guardian  (4) litigation guardian must act through a lawyer except for Public Trustee  (10) if party becomes incompetent during course of litigation, court must appoint a litigation guardian  (12 - 13) on attaining age of majority, party may take over conduct of the matter so long as there is no disability  (14) party must not take in default against person under disability w/out leave of court  (17) court must approve settlement on behalf of a person under disability</p>

*Camp Development v South Coast BC Transportation Authority*

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Challenging Jurisdiction	21 - 8	<p>party may dispute jurisdiction by filing a jurisdictional response form, party may apply to court to decline jurisdiction after filing the form, party may challenge service after filing jurisdictional response form</p> <p>(5) if party brings an application or files a pleading that challenges jurisdiction w/in 30 days of filing the jurisdictional response, party does not attorn to the jurisdiction of the court - party may then defend the case on its merits, pending a determination of appropriate jurisdiction</p> <p>note: any other step taken w/out filing jurisdictional response form may result in attornment to the jurisdiction</p>
Default Proceedings	3 - 8	<p>Req'mnts: (1) and (2): time to file a response has passed and D has not done so, proof of service of the claim on D, proof of failure to deliver a response, requisition from registrar that no response has been filed</p> <p>(3) once default judgement obtained and it is for a specific amount, P may take judgement of that amount</p> <p>(12) and (13) if claim is for damages to be assessed, P may take judgement and have damages assessed by trial or summary application</p> <p>(11) court may set aside or vary a default judgement</p>
Defective Pleadings	9 - 5	<p>Striking out 'bad' pleadings</p> <p>(1)(a) pleadings may be struck out where they disclose no reasonable claim or defence (VERY HIGH TEST)</p> <p>(1)(b) addresses unnecessary, scandalous, frivolous or vexatious pleadings</p> <p>(1)(c) pleadings that may prejudice, embarrass or delay the fair trial or hearing or the proceeding</p> <p>(1)(d) pleadings that are an abuse of process</p> <p>(2) no evidence admissible on 9-5(1)(a) application</p>
Amending Pleadings	6 - 1	<p>(1) party may amend pleadings once w/out leave of court before a notice of trial or a Case Planning Conference or at any other time w/ leave of the court or consent</p> <p>(2) process for making amendments, (4) to (7) service of amended pleadings, (8) amending pleadings during trial</p>
	6 - 2	<p>(1) to (5) changing parties arising from changes in circumstances</p> <p>(7) removing, adding or substituting parties: at any stage in the proceeding a person may cease to be a party, a person may be added or substituted if the person ought to have been added or the addition is necessary, note: must be court approval, must be just and convenient to add the party</p> <p>(8) practical issues of adding a party</p>
Class Actions - Class Proceedings Act	4	<p>factors that must be satisfied for court to certify class action</p> <p>(1) there is a cause of action</p> <p>(2) identifiable class</p> <p>(3) common issues among the class members</p> <p>(4) class proceeding is better for the fair and efficient resolution of the common issues</p> <p>(5) there is a representative P who: can fairly and adequately represent the interests of the class, has a workable plan for the proceeding and is not in a conflict of interest</p>

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Third Party Proceedings	3 - 5	<p>(1) and (2) allows a non plaintiff party to file a third party claim against any other person whether or not they are already a party</p> <p>(1) grounds for bring a third party claim:</p> <p>(a) where the party is entitled to <b>contribution</b> or <b>indemnity</b> from third party</p> <p>(b) party is entitled to relief against the third party <b>relating to or connected with</b> the original subject matter</p> <p>(c) question or issue is <b>substantially the same issue</b> as that in the action</p> <p>(4) timing of third party notice: any time with leave or w/out leave w/in 42 days of service of notice of civil claim</p> <p>(7) must serve third party within 60 days of third party notice being filed with third party notice and all other pleadings and must serve all other parties with copy of the third party notice</p> <p>(12) third party can file a response and raise defences</p> <p>(16) and (17) default judgement available against third party</p>	<i>Laidar v Lindt</i>
<i>Negligence Act</i>	4	<p>where loss is caused by two or more persons and they are at fault, damages are joint and severable</p> <p>- claims for contribution or indemnity as per <i>Negligence Act</i> are brought by third party notice</p>	<i>Tucker v Asleson, BC Ferries v T&amp;N</i>
Case Planning	5 - 1	<p>(1) any party may request a case planning conference once pleading period has expired</p> <p>(2) court may direct a case planning conference to be held</p> <p>(3) first case planning conference requires 35 days notice, then 7 days thereafter</p> <p>(5) and (6) once CPC is requested each party provides a case plan setting out proposals for steps in the action</p> <p>P must provide case plan w/in 14 days of notice of CPC</p> <p>other parties must provide case plans 14 days after receipt of P's case plan</p>	<i>Parti v Pokorny</i>
	5 - 2	<p>(2) CPCs must be attended by each lawyer representing a party and any unrepresented parties, must attend first CPC in person then afterwards in person or by phone/videoconference</p> <p>(6) failure to attend may have costs consequences</p>	
	5 - 3	<p>(1) court has broad powers to control conduct of action at a CPC but cannot hear any application that requires evidence except under (6) or make an order for final judgement except by consent, at end of conference, case plan order is issued, if party doesn't comply with a case plan order or case planning generally court may make order under 22-7 or order costs</p>	<i>Stockbrugger v Bigney,</i>

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Disclosure	7 - 1	<p>(1) all parties must provide a list of documents within 35 days of end of pleadings period, includes listing all documents that are or <u>have been</u> in the party's possession or control and that could be used by any party at trial to prove or disprove a material fact and all other docs that the party intends to refer to at trial</p> <p>(2) must contain a brief description of the document listed</p> <p>(3) must disclose any insurance policy that may be liable for part or all of the judgement</p> <p>(4) information regarding the policy in (3) not disclosed unless relevant to the action</p> <p>(6) if a document is claimed as privileged must be listed along with grounds for privilege</p> <p>(7) privileged documents must be listed in manner for other party to assess privilege claim</p> <p>(8) court can order party to swear affidavit verifying list of docs</p> <p>(9) party must amend doc list if new docs/information becomes available</p> <p>(10) party can demand disclosure to additional documents that it says should have been included in the list</p> <p>(11) when requesting additional disclosure must identify the docs with sufficient specificity and why they are asked for</p> <p>(12) in response to request for additional disclosure party must respond within 35 days with the additional disclosure or an explanation of why the docs cannot be provided</p> <p>(13) if parties do not agree, application for disclosure can be made in court</p> <p>(16) parties must allow inspection of listed documents</p> <p>(18) application for disclosure to documents of another party</p> <p>(21) effect of failure to disclose - may not use the document in court (or additional consequences under 22-7)</p>	<p><i>GWL Properties v WR Grace, Myers v Elman, Kaladjian v Jose, Dufault v Stevens, Hodgkinson v Simms, Shaughnessy GCC, Keefer Laundry v Pellerin, Leung v Hanna, Hunt v T&amp;N</i></p>
Examination for Discovery	7 - 2	<p>(1) all parties of record must make themselves available for examination for discovery by parties who are <u>adverse in interest</u></p> <p>(2) XFD for any party must not exceed 7 hours unless party being examined consents to longer</p> <p>(3) XFD may be extended if court orders, factors to consider: party has been unresponsive or failed to provide complete answers, refusals to admit facts, conduct of examining party, other factors</p> <p>(18) person being examined for discovery must answer any question <u>within his own knowledge or means of knowledge</u> regarding any matter not privileged relating to a <u>matter in question in the action</u></p> <p>(22) person may be required to inform themselves to comply with (18)</p> <p>(23) person may provide response by letter in relation to duty to inform himself</p> <p>(24) once party receives letter as in (23) XFD may be continued</p> <p>(25) if a party objects to answering a Q in XFD, objection will be noted and court may decide the validity of the objection and order the party to submit to further questioning if necessary</p>	<p><i>Kendall v Sun Life, First Majestic v Savila</i></p>
	12 - 5	<p>(46) if otherwise admissible, evidence given at XFD is only admissible against the adverse party (read in)</p> <p>NOTE: other purpose of XFD is preparation for cross examination and impeachment</p>	
	9 - 7	<p>(5) on summary trial, party may tender evidence from XFD</p>	

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	15 - 1	(11) for fast track litigation XFD limited to two hours unless party consents to longer
	5 - 3	(1)(g) case planning judge or master may direct XFD in a particular way, can limit, expand or otherwise order to be conducted in a manner ordered
XFD - non individual	7 - 2	(5)(b) party may nominate representative for XFD (5)(c) examining has final choice among current and former directors, officers, employees, agents or external auditors
Interrogatories	7 - 3	(1) party may serve interrogatories (form of written discovery) on any other party if party consents or court grants leave
Pre Trial Examination of Witness	7 - 5	(1) court may order non party witness that may have material evidence relating to a matter in question to be examined on oath on matters in question (3) must provide affidavit setting out materiality of evidence, if witness is expert - inability to obtain facts/ evidence by other means, and that the witness has refused or neglected to give a responsive statement or has given conflicting statements
Depositions	7 - 8	(1) person may be examined on oath to provide sworn evidence to be used at trial, available by consent or court order (2) may be conducted in front of court reporter or other person as court directs (3) factors looked at: convenience of person sought to be examined, possibility the person may be unavailable at trial, possibility that the person will be outside of jurisdiction at time of trial, expense of bringing the person to the trial, possibility and desirability of having the person testify by video conferencing or other electronic means
Physical Examinations	7 - 6	(1) court may order party to submit to examination by medical practitioner or other qualified person if physical or mental condition of a person is at issue in an action
Admissions	7 - 7	note: importance to narrow and define the issues, admissions can occur by response to notice to admit (1), or failure to respond to facts set out in pleadings or discovery effect: binding on party (2) if party doesn't respond with 14 days fact in notice to admit will be deemed admitted (5) leave of court or consent required to withdraw admissions
		<i>Rainbow Industrial, Westcoast</i>
		<i>Roitman v Chan</i>
		<i>Sinclair v March, Delgamuukw</i>
		<i>Campbell v McDougall</i>
		<i>Hamilton v Pavlova, Jones v Donaghey</i>
		<i>Hurn v McLellan, Piso v Thomas</i>

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Chambers	22 - 1	<p>(4) evidence on application is by affidavits but court may allow cross examination on affidavits, examination and other forms of evidence  note: factors to consider on application to cross examine on affidavit: material facts in issue, whether cross examination is relevant to an issue that may affect the outcome of the application, whether the cross examination will serve a useful purpose by eliciting evidence that would assist in determining the issue  (7) powers of a court on a hearing of a chambers proceeding</p> <ul style="list-style-type: none"> <li>• grant or refuse relief</li> <li>• dispose of any question arising</li> <li>• adjourn the application</li> <li>• obtain the assistance of one or more experts</li> <li>• order a trial, generally or on an issue</li> </ul>	<p><i>MTU Maintenance v Kuehne &amp; Nagel, Southpaw v Asian Coast</i></p>
Masters - Supreme Court Act	11(7)	<p>Master has, subject to limitations of section 96 of the <i>Constitution Act</i>, same jurisdiction under any enactment or the Rules of Court as a judge in chambers unless Chief Justice has given a direction that a master is not to exercise that jurisdiction.</p>	
	23 - 6	<p>(1) master hearing an application has powers of the court set out in rules 8-5(6) to (8) and 22-1(2) to (8)</p>	
	PD 34	<p>restrictions on masters' jurisdiction</p> <ul style="list-style-type: none"> <li>•granting relief where power to do so is conferred expressly on a judge by a statute or rule</li> <li>•disposing of an appeal or an application in the nature of an appeal, on the merits</li> <li>•granting injunctive relief</li> <li>•grant a stay of proceedings where there is an arbitration etc what they can do:</li> <li>•hear interlocutory applications under Rules of Court</li> <li>•make certain final orders, including orders granting judgement in default, granting summary judgement where there is no triable issue, striking out pleadings provided there is no determination of a question of law etc</li> </ul>	<p><i>Pye v Pye</i></p>
Affidavits	22 - 2	<p>(12) affidavit must only state what a person swearing or affirming it would be permitted to state in evidence at trial  (13) affidavit may contain statements as to the information and belief of the person swearing it if the source of the information is given and order does not seek final relief or with consent of court</p>	<p><i>Tate v Hennessy, Haughian v Jiwa</i></p>

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Applications	8 - 1	<p>note: applications are dealt with in Chambers except consent applications (8-3), applications of which notice is not required (8-4), applications by written submissions (8-6)</p> <p>(8) applicant files and serves at least 8 business days before the date set for hearing the <u>notice of application</u> and affidavits and documents in support</p> <p>(9) within 5 business days after service, application respondent files and serves an <u>application response</u> and affidavits and documents in response</p> <ul style="list-style-type: none"> <li>• if an application is opposed, applicant must provide an <u>application record</u> to the registry no later than 4 pm, one full business day before date of hearing</li> </ul> <p>(4) notice of application must be in Form 32 and must not exceed 10 pages, must set out: order sought, factual basis, legal basis and material to be relied upon</p>	<i>Bache Hasley v Charles, Zecher v Josh</i>
	22 - 1	(4) evidence for applications generally given by affidavit	
Calculating Time	22 - 4	<p>(1) if a period of less than 7 days is set out then holidays are not counted</p> <p>note:</p> <ul style="list-style-type: none"> <li>• when counting clear days 'at least' or 'not less than' exclude first and last day</li> <li>• when counting normal days 'within' exclude first day but include last day</li> <li>• if not business days and less than 7 days then include Saturdays but exclude Sundays and holidays</li> <li>• if not business days and more than 7 days then include all days but final day must be a business day</li> </ul>	
	8 - 1	def'n of business day: a day on which the court registries are open for business	
Orders	13 - 1	<p>order is the conclusion of the court process</p> <p>(1) order may be drawn up by any party, must be approved in writing by all parties of record or their lawyers, must be left with registrar to have court seal affixed</p> <p>(8) order takes effect on the day of its date unless court orders otherwise</p> <p>(17) court may amend an order</p>	<i>Halvorsen v British Columbia</i>
Interlocutory Appeals	18 - 3	(1) if an appeal is authorized by an enactment to be made to the court or to a judge, the appeal is governed by this rule to the extent that is not inconsistent with any procedure in the enactment	
Appeals from a Master	23 - 6	<p>(8) person affected by an order or decision of a master may appeal the order or decision to the court</p> <p>(9) appeal must be made w/in 14 days of the order or decision complained of</p> <p>(11) an appeal is not a stay of proceeding unless so ordered by the court or the master</p>	<i>Abermin v Granges Exploration, Ralph's Auto Supply v Ken Ransford</i>

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Summary Judgement	9 - 6	<p>(2) summary judgement available to P or D (9-6(4))</p> <p>(5) where court is satisfied that there is <u>no genuine issue</u> for trial or <u>no genuine issue</u> except as to amount or <u>the only genuine issue is an issue of law</u></p> <p>note: it must be plain and obvious or beyond doubt that the action will not succeed</p> <p>note: court does not decide disputed questions of fact, only whether facts as is raise a bona fide triable issue</p>	Haghurst v BCLC
	9 - 6	<p>Evidence?</p> <p>(3) evidence required from d in limited circumstances</p>	International Taoist Church
Summary Trial	9 - 7	<p>(2) party may apply to court for judgement in respect of an action, a petition converted to an action, a third party proceeding or a counterclaim providing a responding pleading has been filed</p> <p>(3) must be brought on for hearing at least 42 days before a scheduled trial date</p> <p>(5) evidence is primarily in the form of affidavits, may also rely on extracts from XFDs, interrogatories, admissions, expert opinion, rule 7 - 8 deposition evidence okay</p> <p>(11) party may challenge the summary trial application on the grounds of suitability</p> <p>(12) directs parties on evidence matters and conduct of application</p> <p>(15) court may refuse to grant judgement on the basis of unsuitability or unjustness of summary trial proceeding for the issue</p>	Suitability: Inspiration Management, Western Delta Lands, Charest v Poch
Striking Pleadings	9 - 5	<p>Striking out 'bad' pleadings</p> <p>(1)(a) pleadings may be struck out where they disclose no reasonable claim or defence (VERY HIGH TEST)</p> <p>(1)(b) addresses unnecessary, scandalous, frivolous or vexatious pleadings</p> <p>(1)(c) pleadings that may prejudice, embarrass or delay the fair trial or hearing or the proceeding</p> <p>(1)(d) pleadings that are an abuse of process</p> <p>(2) no evidence admissible on 9-5(1)(a) application</p>	R v Imperial Tobacco, Carey v Hunt, Citizens for Foreign Aid v Canadian Jewish
Special Case	9 - 3	<p>(1) parties may ask question of fact, law or mixed fact and law for court to give opinion on</p> <p>(2) court may order special case, note - generally by consent of parties</p> <p>(5) decision of the court is in the form of an opinion, may be a basis for judgement or an order if parties consent</p>	William v BC
Proceedings on a Point of Law	9 - 4	<p>(1) question of law arising from pleadings may by consent or court order be put down for hearing and disposed of at any time before trial</p> <p>(2) if the decision on the point of law disposes of the whole action or any distinct claim court may make any order available under rules or dismiss claim</p> <p>note: question to ask - will a determination shorten the trial or result in substantial cost saving</p>	Harfield v Dominion of Canada

Matter	Rule	Content	
Pre Trial Injunctions	10 - 4	<p>(1) may apply for injunction even if you have not sought injunction as relief claimed</p> <p>(2) may seek injunction before proceedings have begun</p> <p>(3) injunction application may be brought without notice - note counsel's additional professional obligations when bringing <i>ex parte</i> applications (courts grant injunctions sought w/out notice only on interim basis)</p> <p>(5) injunction order includes undertaking as to damages - promise from applicant to abide by any order that the court may make as damages relating to granting of injunction</p> <p>(6) party may seek injunction after trial</p>	<p>AG v <i>Wale, RJR MacDonald v Canada</i></p> <p>Undertaking to Damages: <i>Vieweger v Rush</i></p> <p>Mareva</p> <p>Injunctions: <i>Aetna, Reynolds, Silver Standard</i></p> <p>Anton Piller</p>
Pre Judgement Garnishing Orders - Court Order Enforcement Act	3	<p>(2) judge or registrar may order that all debts owing from the garnishee to the D be attached up to the amount of the debt or claim</p> <ul style="list-style-type: none"> <li>• order can be made on application without notice to any person</li> <li>• claim must be for a liquidated amount</li> <li>• application must be supported by an affidavit that sets out information in 2(d), (e) and (f) - when action was commenced, nature of the action, amount of debt, amount is justly due and owing, garnishee is indebted to D, place of residence of garnishee</li> </ul> <p>(4) cannot garnish wages pre judgement</p> <ul style="list-style-type: none"> <li>• garnishee can either dispute debt or pay the garnished amount into court</li> <li>• if garnishee does neither, court can order garnishee to do so and pay costs</li> </ul>	
Expert Evidence	9	<p>(1) garnishing order must be served on garnishee</p> <p>(2) D must be served with garnishing order</p>	
	11 - 1	excludes application of rule 11 for summary trials	
	11 - 2	duty on expert to be independent and assist the court, not to act as an advocate for any party - experts must expressly acknowledge the duty	
	11 - 3	<ul style="list-style-type: none"> <li>• appointment of joint experts: two or more adverse parties can appoint a joint expert if they on factors set out in 11 - 3 (1) a - g, any party can apply to court to settle terms of a joint expert's appointment</li> <li>• if joint expert is appointed, parties who appointed the expert may not call any other expert on that issue</li> <li>• rule does not apply to parties with shared interests appointing a common expert</li> </ul>	

Matter	Rule	Content
	11 - 5	<ul style="list-style-type: none"> <li>• court may appoint its own expert to assist in coming to a decision - parties may suggest potential experts and advise if parties have any connection to a potential expert</li> <li>• court settles questions to be submitted to the court's expert and gives directions to the expert</li> </ul>
Expert Reports	11 - 6	<p>(1) expert report must contain items set out in this rule  (3) report must be served at least 84 days before trial date  (4) reports in response must be served at least 42 days before trial date  (10) and (11) objections to admissibility of report must be made on the earlier of Trial Management Conference or 21 days before trial  (8) expert must disclose upon request a written statement of facts on which the report is based, record of any independent observations made by the expert in relation to the report, any data compiled by the expert and results of any tests conducted by the expert  - must disclose the file promptly if asked to do so w/in 14 days of trial and in any other case, at least 14 days before trial</p>
Expert Opinion at Trial	11 - 7	<p>(1) expert limited to giving opinion evidence that has been included in a report or supplemental report delivered in accordance with the rules  (2) party may demand w/in 21 days of service of the report that the expert attend for cross examination - if no demand is made for cross examination, expert's report can be entered as evidence w/out attendance of expert  (6) if new facts come to light that could not have been learned in time to comply w/ the rules, court may dispense with requirements and permit an expert to provide evidence on appropriate terms if evidence unlikely to cause prejudice and in the interests of justice</p>
Trial Procedures	12 - 1	<p>(2) trial dates set by reserving a trial date with Registry and filing and delivering Notice of Trial</p>
Trial Management Conference	12 - 2	<p>(2) TMC mandatory at least 28 days prior to scheduled trial date  (4) and (5) parties are required to attend the TMC unless ordered otherwise  note - in addition to mandatory TMC party that filed notice of trial must also file a Trial Record (12-3), and a Trial Certificate (12-4) at least 14 days but no more than 28 days prior to trial date</p>
	12 - 5	<p>deals with evidence and procedure at trial and covers issues such as calling adverse witnesses, subpoenas, use of evidence from discoveries, depositions, affidavits and interrogatories</p>

*Turpin v  
Manufacturers  
Life, VCC v  
Phillips,  
Delgamuukw,  
Surrey Credit  
Union v Wilson,  
Yewdale v ICBC*

Matter	Rule	Content
Fast Track Trials	15 - 1	<p>fast track trials apply when:</p> <ul style="list-style-type: none"> <li>• claims are only for money or property and value of the claim is less than \$100k</li> <li>• trial can be completed within 3 days</li> <li>• parties consent or court orders Fast Track process</li> <li>• discoveries are limited to 2 hours total by all adverse parties, unless parties agree or court orders otherwise</li> <li>• trial date w/in 4 months meant to be provided upon request</li> <li>• costs of the action are fixed based on number of days at trial</li> </ul>
Costs	14	<p>purposes of ordering costs:</p> <ul style="list-style-type: none"> <li>• indemnify successful litigants in whole or in part for costs incurred in establishing their legal rights</li> <li>• deter frivolous proceedings</li> <li>• deter unnecessary steps in litigation</li> <li>• encourage meaningful settlement offers and negotiation between parties</li> </ul>
	14 - 1	(33) court may disallow lawyer from collecting fees or make lawyer personally liable for costs if the lawyer has unreasonably caused costs through delay, neglect or other fault
Offers to Settle	9 - 1	<p>(3) offer is not disclosed to court until proceedings complete  (4) court may consider offers to settle when exercising court discretion with respect to costs  (5) court may deprive a party of costs from date of offer, award double costs in respect of certain steps undertaken after the date of offer, if an offer is made by a D and P recovers amount that does not beat the offer, award D costs from date of offer  (6) in considering offer, court may consider: whether offer should reasonably have been accepted, relationship between the terms of the offer and the final judgement, relative financial circumstances of the parties, and anything else appropriate</p>
		<i>Giles v Westminster</i>
		<i>Ward v Klaus</i> Security for Costs: <i>Integrated Contractors v Leduc, Han v Cho</i>