

## Overview of the *Alberta Rules of Court Amendment Regulation*

Included in the *Alberta Rules of Court Amendment Regulation* (AR 143/2011), which became effective on July 14, 2011, are the following provisions:

- **Rule 2.14** [*Self-appointed litigation representatives*] is amended to make it clear when beneficiaries of an estate are required to be served with notice of the appointment of a litigation representative for the estate.
- **Rule 3.2(4)** [*How to start an action*] is amended to clarify which forms are to be used to commence an appeal or reference with the Court, where such an appeal or reference is authorized by an enactment.
- **Rule 3.32** [*Additional options for defendant who files defence*] and Rule 3.49(4) [*Third party statement of defence*] are amended to clarify that a defendant (or third party) is not required to file a statement of defence before filing a counterclaim.
- **Rule 3.62(2)(b)** [*Amending pleading*] is amended to clarify that a plaintiff who amends a pleading that has not yet been served on the defendant has the remainder of the one year expiry period under rule 3.26(1) to serve the defendant with the amended statement of claim.
- **Rule 3.63(1)** [*Identifying amendments to pleadings*] is amended to remove the requirement for an amended pleading to bear the date of the original document.
- **Rule 4.24** [*Formal offers to settle*] is amended to clarify that a formal offer to settle remains open for acceptance for two months after service of the offer (or longer period specified in the offer), or until the application is heard or trial commences, whichever occurs first.
- **Rule 6.14** [*Appeal from master's judgment or order*] is amended to ensure consistency with other rules governing appeals to a Queen's Bench Justice, to clarify what evidence may be considered on the appeal, and to ensure the respondent has sufficient time to respond to any further written argument or additional evidence the appellant wishes to put before the Queen's Bench Justice.
- **Rules 7.5 to 7.11** [*Application for judgment by way of summary trial*] and Rules 8.5 to 8.7 [*Trial date: scheduled by the Court*] are amended to clarify that a Queen's Bench Justice (and not a Master) has authority over summary trials and the setting of trial dates.
- **Rule 9.1(2)** [*Form of judgments and orders*] is amended to require a judgment or order to include the location where the hearing or trial was conducted. Amendments are also made to the various forms of orders in Schedule A of the Rules as a consequence of this amendment.

- **Rule 9.25(3)** [*Order of possession of land*] and 9.26(2) [*Authority to evict occupants*] are amended to ensure that persons who are subject to an order of possession of land and every occupant of the land receive notice of the order of possession.
- **Rule 11.22(1)** [*Recorded mail service*] is amended to clarify that recorded mail service applies to non-commencement documents served inside or outside Alberta.
- **Rule 11.30** [*Proving service of documents*] is amended to remove the requirement for the deponent to state the “time” of service in their affidavit of service.
- **Rule 12.46** [*Provisional order to vary a support order under Divorce Act (Canada)*] is amended to replace two imprecise rule references and to ensure provisional applications are correctly characterized as applications to vary an existing support order.
- **Rule 12.59(b)** [*Appeal from divorce judgment*] is amended to ensure the appeal period from an order made in a divorce proceeding is consistent with s. 21(3) of the *Divorce Act*.
- **Rule 13.4(4)** [*Counting months and years*] is amended to simplify the wording of the provision for calculating a year count which starts on February 29 of a leap year.
- **Rule 13.13(1)** [*Requirements for all filed documents*] is amended to correct an imprecise reference to the appropriate forms to be used in an action.
- **Rule 13.32(2)** [*Fees and allowances*] is amended to ensure that court fees are to be paid in advance, unless the court clerk otherwise permits.
- **Rule 13.41(2)** [*Authority of court clerk*] is amended to clarify that documents may be filed by the party, the party’s lawyer (or the lawyer’s representative), or a person on the party’s behalf.
- **Rule 13.46(2)** [*Official court reporters*] is amended to require an official court reporter to identify where the proceedings or questioning occurred, rather than where the transcript was transcribed.
- **Rule 15.4** [*Dismissal for long delay: bridging provision*] is amended to ensure that the wording of the transitional provision dealing with dismissal for long delay is consistent with rule 4.33 [*Dismissal for long delay*], which will govern after the expiry of the transitional period for this rule on November 1, 2013.
- The forms set out in Schedule A, Division 1 (Civil Forms) are amended as follows:
  - **Form 5** [*Originating Application – Notice of Appeal/Reference*] – to correct an imprecise rule reference.
  - **Form 22** [*Formal Offer to Settle*] – to ensure paragraph (b) under “Interest” corresponds with the wording of rule 4.24(2)(d).

- **Form 27** [*Application*] – to ensure that the form identifies the respondents to the application.
  - **Form 28** [*Notice of Appeal – Master’s Judgment/Order*] – to incorporate the corresponding amendments made to rule 6.14.
  - **Form 29** [*Notice of Appointment for Questioning*] – to include the name of the person to whom the appointment is directed, and to advise them to identify any arrangements necessary to accommodate their reasonable needs under rule 6.16(1)(c).
  - **Form 36** [*Application for Summary Trial*] – to remove the reference to “masters” and to ensure the wording of the form corresponds to the requirements of rules 7.6 and 7.8.
  - **Form 37** [*Request to Schedule a Trial Date*] – to indicate the names of the proposed witnesses, along with the judges which the parties claim are disqualified from hearing the matter.
  - **Form 38** [*Application for Court to Set a Trial Date*] – to remove the references to “masters”.
  - **Form 39** [*Confirmation of Trial Date*] – to require parties to indicate whether parties have obtained an order under rule 8.6(3) to change the trial date or length of trial, and to attach a copy of the order.
- The forms set out in Schedule A, Division 2 (Family Law Forms) are amended as follows:
    - **Form FL-5** [*Counterclaim for Divorce*], **FL-6** [*Counterclaim for Division of Matrimonial Property*], and **FL-7** [*Counterclaim for Divorce and Division of Matrimonial Property*] – to ensure the instructions to the user are clear that a counterclaim does not need to be filed in every action, or at the same time as a statement of defence.
    - **Form FL-17** [*Notice to Disclose / Application*] – to move the notice of the court date to page 1 of the form.
    - **Form FL-21** [*Request for Divorce*] – to ensure the form correctly refers the reader to the consent endorsed on the Divorce Judgment, if the parties have consented to the matter proceeding as a divorce without oral evidence.