

Part 46

Service of Foreign Process

Procedure by Clerk or Sheriff

584 Where in any civil or commercial matter pending before a court or tribunal of a foreign country a letter of request from such court or tribunal for service on any person in Alberta of any process or citation in such matters is transmitted to the court, the following procedure applies:

- (a) The letter of request for service shall be accompanied by a translation thereof in the English language, and by two copies of the process or citation to be served, and two copies thereof in the English language;
- (b) repealed AR 277/95 s36;
- (c) the service shall be effected by delivering to and leaving with the person to be served one copy and the translation thereof, or may be effected in such other manner as is directed by the letter of request;
- (d) after service has been effected, the person effecting service shall return to the clerk of the court of the judicial district within which the service was effected one copy of the process, together with an affidavit of service and particulars of the charges;
- (e) the clerk shall return the letter of request, together with the affidavit of service, and shall certify, under the seal of the court,
 - (i) the amount properly payable for service,
 - (ii) that the affidavit of service is sufficient proof of service as required by the practice of the court, and
 - (iii) if it is the case, that the service is good and sufficient service as required by the practice of the court.

AR 390/68 s584;277/95;152/98

Part 47 Costs

Fees and Allowances of Court Officers

Tariff or allowance

585(1) There shall be paid to the appropriate court official the fees authorized by the tariff of fees in Schedule “E”.

(2) For any necessary services performed for which no fees are prescribed a judge may make such allowance as he considers reasonable.

AR 390/68 s585;277/95

Payment

586(1) Subject to subrule (3), all fees payable under the tariff of fees are payable in advance by the party at whose instance the service is to be rendered.

(2) Notwithstanding subrule (1), if a fee is payable in respect of

- (a) a document that is issued or filed, or
- (b) a transaction that is carried out,

pursuant to Part 54.1, the fee may be paid at the time that an account is rendered in respect of that matter.

(2.1) For the purposes of paying fees referred to in subrule (2), the clerk may operate charge accounts to enable counsel to charge the fees and be rendered an account at such time as the clerk considers appropriate.

AR 269/97

(3) Where for any reason the amounts to be paid for fees are impossible to ascertain, the amount estimated by the officer or fixed by the judge shall be deposited, paid or accounted for when the correct amount is ascertained.

AR 390/68 s586;50/93;277/95

Fee exemption

586.05(1) In this Rule, “peace officer” means

- (a) “a member of the Royal Canadian Mounted Police,
- (b) a member of a municipal police service within the meaning of the *Police Act*,
- (c) a special constable within the meaning of the *Police Act*,
- (d) a person whose legal functions include written authorization to issue violation tickets under Part 2 or 3, or both, of the

Provincial Offences Procedure Act, or

- (e) a person appointed under the regulations under the National Defence Act (Canada) for the purposes of section 156 of that Act.

AR 38/2003 s3

(2) Notwithstanding anything in these Rules, fees for the search of a name, the inspection of a file or a copy or the certification of a document are not payable by a peace officer when the service in question is required in the execution or discharge of the peace officer's duties.

Legal aid

586.1(1) In this Rule,

- (a) "certificate" means a Legal Aid Certificate that is issued by the Legal Aid Society of Alberta;
- (b) "document" means any document that may be filed by a court official for which a fee is payable under Schedule E, Number 1, section 1 or 2 or Number 2, section 1.

(2) Notwithstanding Rule 585 or 586, where

- (a) a court official has been requested to file a document, and
- (b) a certificate has been issued in respect of a person for whom the document is to be filed,

the court official on being presented with a copy of the certificate shall, if the certificate is subsisting at the time of the filing of the document, waive the fee payable with respect to filing the document.

(3) Where a document has been filed in an action prior to a certificate being issued in respect of the person for whom the document was filed, the fee paid in respect of filing that document is not eligible to be waived under this Rule.

AR 244/96 s2

Restraining orders

586.2(1) In this Rule,

- (a) "document" means a document commencing an action in which the relief being sought by the party commencing the action is a restraining order;
- (b) "party" means a party to an action referred to in clause (a);
- (c) "restraining order" means a restraining order that is being sought in respect of a matrimonial, domestic or family matter or any other inter-personal matter between individuals and includes the costs associated with respect to that restraining order.

(2) Notwithstanding Rule 585 or 586, where a court official has been requested to file or issue a document in which the relief claimed by the party on whose behalf the document is being filed or issued is a restraining order or is a protection order under the *Protection Against Family Violence Act*, the court official shall waive the fee payable in respect of the matter under Schedule E, Number 1, section 1 or 2 or Number 2, section 1.

(3) Notwithstanding subrule (2),

- (a) the fee referred to in subrule (2) shall not be waived if any relief other than a restraining order is being sought in respect of the matter for which the document is being filed or issued, or
- (b) if
 - (i) the fee referred to in subrule (2) has been waived, and
 - (ii) subsequent to the fee's being waived, the party on whose behalf the document was filed or issued claims or seeks relief in respect of the matter other than or in addition to the restraining order, any fee that was waived becomes due and payable and must be paid prior to that other or additional relief's being granted by the court.

Family law actions

586.3(1) In this Rule,

- (a) "document" means any document that may be filed by a court official for which a fee is payable under Schedule E, Number 1, section 2;
- (b) "family law action" means
 - (i) an action related to the breakdown of a relationship between 2 persons who have been cohabitating in a relationship of interdependence, or
 - (ii) an action under the *Child, Youth and Family Enhancement Act*, *Domestic Relations Act*, *Matrimonial Property Act*, *Parentage and Maintenance Act* or *Divorce Act* (Canada);
- (c) "relationship of interdependence" means a relationship of interdependence as defined in the *Adult Interdependent Relationships Act*.

(2) Notwithstanding Rule 585 or 586, where a court official has been requested to file a document in respect of a family law action the court official shall waive \$400 of the fee payable by the individual on whose behalf the document is being filed if the Court is satisfied that the individual's gross family income is below the income threshold set out in the appropriate row of column B or C of the following table:

Table of Income Levels**Table of Income Levels**

A	Gross (Family) Income	
	B	C
Number of Persons in Family Residing in Household (including applicant)	\$Monthly	\$Annually
1	2 500	30 000
2	3 167	38 000
3	3 417	41 000
4	3 917	47 000
5	4 250	51 000
6	4 583	55 000
7+	5 000	60 000

(3) A request for the Court to consider a fee waiver under this Rule shall be made by completing the form established by the Minister of Justice and Attorney General and returning it to the clerk of the court of the judicial centre in which the family law action is pending.

AR 244/96 s2;101/99, AR 56/2005

Civil Enforcement Agency Fees**Fees and interest**

587 In addition to the amount recovered by the judgment, there may be levied under any writ of enforcement

- (a) the fees and expenses of enforcing the writ of enforcement, and
- (b) interest on the amount recovered.

AR 390/68 s587;277/95;243/96;16/2002

Rendering of account

588 A civil enforcement agency that has rendered a statement of account for services must, at the request of an enforcement debtor or a creditor of the enforcement debtor, provide to that person a detailed account of all fees and disbursements for which the statement of account was rendered.

AR 390/68 s589(1);277/95

Taxing of account

589(1) An enforcement debtor or a creditor of an enforcement debtor may request a taxing officer to tax the account of the civil enforcement agency.

(1.1) A request for taxation under subrule (1) must be made within 180 days from the day that the statement of account was received by the enforcement debtor.

(2) On receiving a request under subrule (1) for the taxation of an account, the taxing officer shall grant an appointment for the taxation of the account.

(3) On service of a notice of the appointment for the taxation of the account on the civil enforcement agency, the taxing officer must,

- (a) on the payment or tendering of the fees of the taxing officer, tax the account presented to the taxing officer, and
- (b) if requested to do so, provide a certificate of the taxation setting out the amount taxed.

(4) Any party who is dissatisfied with a taxation of an account may appeal to the Court for a revision of the taxation of the account.

(5) Rules 655 to 658 apply with any necessary modification to the taxing of an account under this Rule.

AR 390/68 ss589(2),591,592;277/95 s39;243/96

Repealed

590 to 592 Repealed AR 277/95 s39.

Security for Costs**Security for costs**

593(1) Security for costs may be ordered:

- (a) where the plaintiff resides out of Alberta;
- (b) where the plaintiff is ordinarily resident out of Alberta though he may be temporarily resident within Alberta;
- (c) where the plaintiff has brought another action or proceeding for the same cause, which is pending in Alberta or in any other jurisdiction;
- (d) where the plaintiff or any person through or under whom he claims has had judgment or order given against him in another action or proceeding for the same cause in Alberta or in any other jurisdiction with costs, and those costs have not been paid;

- (e) where the plaintiff sues as an informer or seeks to recover any penalty given to an informer or person who sues for the penalty under a statute or law by which a penalty is given to any person who sues for it, either for his sole benefit, for the benefit of the Crown or partly for his benefit and partly for the benefit of the Crown, and the defendant swears that in his belief the plaintiff or informer is not possessed of property within the jurisdiction sufficient to answer the costs of the action if a judgment is rendered in favour of the defendant, and that he, the applicant, has a good defence to the action upon the merits, as he is advised and believes;
- (f) where the action is brought by a nominal plaintiff;
- (g) where upon the examination of the plaintiff it appears that there is good reason to believe that the action is frivolous and vexatious and that the plaintiff is not possessed of sufficient property to answer the costs of the action;
- (h) where an action is brought on behalf of a class and the plaintiff is not possessed of sufficient property within the jurisdiction to answer the costs of the action and it appears that the plaintiff is put forward or instigated to sue by others;
- (i) where under any statute the defendant is entitled to security for costs.

(1.1) Notwithstanding subsection (1), the Court may order security for costs against any party where the Court, on its own motion or on the motion of any other party, finds that it is just and reasonable to do so in the circumstances.

(1.2) Where costs are ordered under subrule (1.1), Rules 594 and 595 apply with the necessary modifications.

AR 269/97

(2) Where either party to a garnishee, interpleader or other issue is an active claimant, he shall be deemed to be a plaintiff for the purposes of this Rule.

AR 390/68 s593

Time for application

594 The application for security may be made at any time after the service of the statement of claim and shall be supported by an affidavit of the defendant or his agent, who can speak positively as to the facts, alleging that there is a good defence to the action on the merits and specifying the nature thereof.

AR 390/68 s594

Refusal of order

595 If it is made to appear upon the application that the plaintiff is possessed of sufficient property within the jurisdiction that will be available for the defendant's costs, the order may be refused.

AR 390/68 s595

Contents of order**596** The order

- (a) shall require the plaintiff to furnish such security as the court directs within two months or such other time as may be specified in the order, and
- (b) shall state that, until the security is given, all further proceedings in the action are stayed, and
- (c) shall state that in default of the security being given the action is dismissed without further order,

unless a court on special application otherwise directs.

AR 390/68 s596

Bond

597 Where the security is given by bond, it shall unless the court otherwise directs be given to the party or person requiring the security.

AR 390/68 s597

Security may be varied

598 The amount of security may be increased or diminished from time to time.

AR 390/68 s598

Payment out

599 Where money has been paid into court as security for costs, it may be paid out and a bond filed for security for costs may be handed out for suit or cancellation, without order upon the written consent of the solicitors.

AR 390/68 s599

Costs for Non-compliance with the Rules**Costs**

599.1(1) Notwithstanding anything in this Part, where

- (a) a party to an action, a counsel acting in respect of an action or any other person who is involved in an action fails, without an excuse or an explanation that in the opinion of the Court is appropriate, to comply with these Rules or a Practice Note of the Court, and
- (b) that failure to comply, in the opinion of the Court, has interfered with or may interfere with the proper or efficient administration of justice,

the Court may order that party, counsel or other person to pay to the clerk a penalty in the form of costs as determined by the Court.

(2) In making an order under subrule (1), the Court may do one or more of the following:

- (a) determine the amount of the costs;
- (b) prescribe the time within which the costs are to be paid;
- (c) prescribe terms or conditions with respect to the payment of the costs or any other matter respecting the making of the order.

(3) Without restricting the amount of costs that may be imposed under subrule (1), the Court in determining the amount of the costs to be imposed may take into consideration the amount of costs set out in Schedule C.

(4) Once costs are ordered to be paid under this Rule, those costs are payable by the person on whom the costs were imposed

- (a) whether or not any settlement was made in respect of the actions, and
- (b) notwithstanding any agreement between the parties to the action or their counsel.

AR 243/96 s32

Costs Between Parties

Definitions

600(1) In Rules 601 to 612

- (a) “costs” includes all the reasonable and proper expenses which any party has paid or become liable to pay for the purpose of carrying on or appearing as party to any proceeding, including, without restricting the generality of the foregoing,
 - (i) the charges of barristers and solicitors,
 - (ii) the charges of accountants, engineers, medical practitioners or other experts for attendance to give evidence and, if the court so directs, the charges made by such persons for investigations and inquiries or assisting in the conduct of the trial,
 - (iii) the charges of legal agents,
 - (iv) expenses for the preparation of plans, models, or copies of documents,
 - (v) the fees payable to officers of the court, and
 - (vi) witness fees or conduct money for witnesses, together with the expenses of obtaining the attendances of

witnesses at trial, and upon any examination;

- (b) “Taxing officer” means the clerk of the court for the judicial district in which the proceeding was determined.

(2) Where costs of a proceeding are taxed pursuant to Rules 167(2), 170(4), 226 or 611, a Judge may, on application or reference by the taxing officer, make the direction authorized by subrule (1)(a)(ii) of this Rule.

(3) Costs may be dealt with at any stage of the proceedings.

(4) Any direction or order as to costs, whether made under subrule (1)(a)(ii) or Rule 605 or otherwise may be made after entry of judgment unless it is inconsistent with the express provisions of the entered judgment.

AR 390/68 s600;313/81;308/91;166/94

Awarding Costs

601(1) Notwithstanding anything in Rules 602 to 612, but subject to any Rule expressly requiring costs to be ordered, the costs of all parties to any proceedings (including third parties), the amount of costs and the party by whom or the fund or estate or portion of an estate (if any) out of which they are to be paid are in the discretion of the Court, and when deciding on costs the Court may consider the result in the proceeding and

- (a) the amounts claimed and the amounts recovered,
- (b) the importance of the issues,
- (c) the complexity of the proceedings,
- (d) the apportionment of liability,
- (e) the conduct of any party that tended to shorten or to unnecessarily lengthen the proceeding,
- (f) a party’s denial of or refusal to admit anything that should have been admitted,
- (g) whether any step or stage in the proceedings was
 - (i) improper, vexatious or unnecessary, or
 - (ii) taken through negligence, mistake or excessive caution,
- (h) whether a party commenced separate proceedings for claims that should have been made in one proceeding or whether a party unnecessarily separated their defence from another party, and
- (i) any other matter relevant to the question of costs.

(2) In awarding costs, the Court may

- (a) fix all or part of the costs with or without reference to Schedule C;
- (b) award or refuse costs in respect of a particular issue or part of a proceeding;
- (c) award a percentage of taxed costs, or award taxed costs up to or from a particular stage of a proceeding;
- (d) award all or part of the costs
 - (i) to be taxed as a multiple or a proportion of any column of Schedule C, or
 - (ii) on a solicitor and client basis, or as a proportion of those costs;
- (e) award a gross lump sum instead of, or in addition to, any taxed costs;
- (f) award costs to one or more parties on one scale, and to another party or other parties on the same or another scale;
- (g) direct whether or not any costs are to be set off.

(3) When no order is made, the costs follow the event, but the fact that a party is successful in a proceeding or a step in a proceeding does not prevent the Court from awarding costs against the successful party in a proper case.

(4) When costs are to be taxed, the Court may give directions to the taxing officer in respect of any matter referred to in this Rule, and the Court shall record

- (a) any direction to the taxing officer,
- (b) any direction that is requested by a party and refused, and
- (c) any direction that is requested by a party and that the Court declines to make but leaves to the discretion of the taxing officer.

AR 390/68 s601;166/94;152/98

Application of Schedule C

601.1 Schedule C and Rule 605(6), (7) and (8) are effective on and after September 1, 1998 and apply whether the services described in Schedule C were performed before, on or after September 1, 1998.

AR 152/98 s21

Barrister liable

602 In any proper case any barrister and solicitor who has acted for any of the parties to any proceeding, may be ordered to pay any of the costs thereof.

AR 390/68 s602

Infant or person of unsound mind

603 Where the court appoints a solicitor to be guardian ad litem of an infant or person of unsound mind, the court may direct that the costs to be incurred in the performance of the duties of the guardian are to be borne and paid by the parties or some one or more of the parties to the cause or matter in which the appointment is made or out of any fund in court in which the infant or person of unsound mind may be interested and may give directions for the repayment or allowance of costs as the justice and circumstances of the case may require.

AR 390/68 s603

Set-off

604 A set-off for damages or costs between parties may be allowed notwithstanding a solicitor's lien for costs in the particular cause or matter in which the set-off is allowed.

AR 390/68 s604

Charges fixed by Schedule C

605(1) Unless otherwise ordered the charges of barristers and solicitors provided by Rule 600 shall be determined by the taxing officer, but shall not exceed the amounts set out in the columns of Schedule C, depending upon the amount involved.

(1.1) Schedule C shall be applied without reduction by a taxing officer in making a determination under subrule (1) unless the taxing officer specifies reasons by doing so would constitute a significant injustice.

(2) Repealed AR 134/84 s2.

(3) Each item in Schedule C shall be deemed to include all instructions, documents, attendances, letters and other services necessary or convenient to be taken, prepared, made, written, read, performed or had, for the purpose of fully completing the step in the cause referred to or implied in the item; and if any step has been begun but only partially completed a proper proportionate part of the charge may be allowed.

(4) Where services have been performed by a barrister and solicitor in any proceedings which are not provided for in Schedule C, either expressly or by implication, such allowance may be made as the court may see fit.

(5) The amount involved shall be determined as against the plaintiff by the amount claimed or as against the defendant by the amount of the judgment;

(6) Unless otherwise ordered,

- (a) when by a judgment or order relief other than, or in addition to, the payment of money is given, or
- (b) when judgment is given for a defendant in any action in which relief other than, or in addition to, the payment of money is sought, the costs shall be taxed according to Column 1 of Schedule C or according to the scale that would have applied if the other relief had not been given or

sought, whichever is the higher scale.

(7) Notwithstanding anything in this Rule, unless otherwise ordered

- (a) in the case of an action commenced in the Court of Queen's Bench when the amount sued for or the amount of the judgment does not exceed the amount for which the Provincial Court has jurisdiction under section 9.6 of the *Provincial Court Act*, the costs to and including judgment shall be taxed in the amount of 75% of that provided for under Column 1 of Schedule C;
- (b) in respect of subrule (a), post judgment matters shall be taxed in the amount of 100% of that provided for under Column 1 of Schedule C.

(8) Subrule (7) applies only in respect of actions the subject-matter of which is within the jurisdiction of the Provincial Court.

(9) Unless otherwise ordered by the court, a party entitled to costs is entitled to recover the goods and services tax on those costs upon providing a certificate in accordance with subrule (10) that is satisfactory to a taxing officer.

(10) A certificate under subrule (9) shall be in the form of an affidavit endorsed on, attached to or filed with the Bill of Costs depositing that

- (a) the person making the affidavit has a personal knowledge of the facts being deposed to,
- (b) the party entitled to receive payment under the Bill of Costs, and not a third party, will actually be paying the goods and services tax on that party's litigation costs;
- (c) the goods and services tax will not be passed on to, or be reimbursed by, any other person, and
- (d) the party referred to in clause (b) is not eligible for the goods and services tax input tax credit.

AR 390/68 s605;134/84;152/98;251/2001;38/2003;200/2003

Damages must be stated

606 In every action in which a claim for damages is set up the amount of money claimed in respect of the damages must be stated.

AR 390/68 s606

Interlocutory proceedings

607 Notwithstanding the final determination of an action, the costs of any interlocutory proceeding in that action, whether ex parte or otherwise, shall, unless otherwise ordered, be paid forthwith by the party who was unsuccessful on the interlocutory proceeding.

AR 390/68 s607;269/97;152/2000

Cost on appeal

608 On any appeal the scale of costs of the appeal, and if so stated in the judgment, also of the proceedings in the court below, shall be as directed by the judgment in appeal, or in default of direction shall be the same as that applicable under the order or judgment appealed from.

AR 390/68 s608

Repealed

609 Repealed AR 308/91 s8.

Repealed

610 Repealed AR 182/76 s12.

Costs where settlement

611 Where any cause or matter is settled on the basis that any party thereto is to pay or recover costs, if the amount of costs is not determined by the settlement, then upon the filing of a memorandum of the settlement or a consent signed by the party agreeing to pay the costs, the costs shall be taxed by the taxing officer upon application of any party in the same manner as if an order had been made for taxation; but the parties may by the settlement agree that the costs may be taxed under any one of the columns set forth in Schedule C and they shall be so taxed.

AR 390/68 s611

Conduct money

612(1) When a person is provided with conduct money before actual attendance he is entitled to receive such additional sum as may be determined to be payable upon the completion of his attendance.

(2) When any party is permitted or compelled to pay or tender conduct money, he may have the amount thereof fixed ex parte, by the taxing officer in the first instance, subject to adjustment upon completion of the actual attendance.

AR 390/68 s612

Lawyer and Client Charges**Legal charges to be reasonable**

613 Barristers and solicitors are entitled to such compensation as may appear to be a reasonable amount to be paid by the client for the services performed having regard to

- (a) nature, importance and urgency of the matters involved,
- (b) the circumstances and interest of the person by whom the costs are payable,
- (c) the fund out of which they are payable,
- (d) the general conduct and costs of the proceedings,
- (e) the skill, labour and responsibility involved, and
- (f) all other circumstances, including, to the extent hereinafter authorized, the contingencies involved.

AR 390/68 s613

Subject to taxation

614 The charges of barristers and solicitors for services performed by them are, notwithstanding any agreement to the contrary, subject to taxation as provided by these Rules.

AR 390/68 s614

Agreement about legal charges

615 A barrister and solicitor may make an agreement with the client, respecting the amount and manner of payment of the whole or any part of past or future services, fees, charges or disbursements in respect of business done or to be done by the barrister and solicitor either by a gross sum or by commission or percentage or by salary or otherwise and either at the same or at a greater or less rate, than the rate at which he would otherwise be entitled to be remunerated, subject to taxation.

AR 390/68 s615

Contents of contingency fee agreement

616(1) A contingency fee agreement

- (a) must be in writing, and
- (b) must be signed by the lawyer and the lawyer's client, or by their authorized agents.

(2) To be enforceable, a contingency fee agreement must contain the following particulars in precise and understandable terms:

- (a) the name and address of each client;
- (b) the name and address of the lawyer;
- (c) a statement of the nature of the claim;
- (d) a statement of the event or contingency upon which legal fees are to be paid to the lawyer;

- (e) a statement about
 - (i) the manner in which the contingency fee is to be calculated;
 - (ii) the maximum fee payable, or the maximum rate calculated, after deducting disbursements;
 - (iii) whether the client is responsible to pay disbursements and, if so, a general description of types of disbursements likely to be incurred, other than relatively minor disbursements;
- (f) if the lawyer is to receive any taxable costs that are awarded, a statement
 - (i) that the taxable costs are intended to be a complete or partial reimbursement of the client's legal expenses,
 - (ii) that taxable costs are the property of the client and that by signing the contingency fee agreement that client is waiving the right to any taxable costs payable to the lawyer in accordance with subclause (iv),
 - (iii) that taxable costs retained by the lawyer will be in addition to the lawyer's percentage, fixed or other form of legal fees, and
 - (iv) that the percentage of taxable costs that may be received by the lawyer may not exceed the percentage of the judgment or settlement the lawyer is entitled to receive in legal fees;
- (g) a statement that, if the client gives notice in writing to the lawyer within 5 days after the client's copy of the contingency fee agreement is served on the client, the client may terminate the contingency fee agreement, without incurring any liability for fees, but that the client is liable to reimburse the lawyer for reasonable disbursements;
- (h) a statement that
 - (i) a taxing officer may, on request of the client, review the contingency fee agreement and any account rendered under it, or both, and
 - (ii) the agreement and any account may be further reviewed by a judge of the Court of Queen's Bench, on request of the client or the Clerk of the Court.

(3) The contingency fee agreement must be witnessed by a person who sees the client actually sign the agreement, who must then swear an affidavit of execution.

(4) The client must be served with a copy of the signed contingency fee agreement within 10 days after the date on which the agreement is signed, and an affidavit of service to that effect must be executed by the person who served the agreement.

(5) A client may terminate a contingency fee agreement without incurring liability for payment of any legal fees related to or arising from the agreement, but is liable to pay reasonable disbursements, if the client, within 5 days after receipt of the copy of the contingency fee agreement, gives written notice of the termination to the lawyer.

(6) If a contingency fee agreement provides that a lawyer is entitled to taxable costs, the lawyer is not entitled to receive from the taxable costs any more than the percentage the lawyer is entitled to receive in legal fees from a judgment or settlement.

(7) Every account rendered under a contingency fee agreement must contain a statement that

- (a) a taxing officer may, at the request of the client, determine the fairness and reasonableness of the account or the contingency fee agreement, or both, and
- (b) the agreement and any account may be further reviewed by a judge of the Court of Queen's Bench on request of the client or the Clerk of the Court.

(8) Subrules (2)(e), (f), (g) and (h), (3), (4), (5) and (6) do not apply to a contingency fee agreement entered into before May 1, 2000 if

- (a) the agreement complies with this Rule as it existed before May 1, 2000, and
- (b) a copy of the agreement was filed with the Clerk of the Court in accordance with Rule 617 as it existed before May 1, 2000.

AR 390/68 s616;338/83;68/2000;152/2000

Confidentiality of legal fee agreements

617 A memorandum of agreement about legal fees filed with the Court under Rule 619 or 646 is confidential and, unless otherwise directed to do so by the Court,

- (a) neither the Clerk of the Court nor any other person under the supervision of the clerk may disclose the existence of the agreement to any person, and
- (b) the copy of the agreement that is filed with the clerk is not available for inspection by any person other than the following:
 - (i) the parties to the agreement;
 - (ii) the taxing officer;
 - (iii) the court engaged in taxation.

AR 390/68 s617;166/94;68/2000

Failure to comply with Rule 616

618 If a lawyer does not comply with Rule 616, the lawyer is, on successful accomplishment or disposition of the subject matter of the contingency fee agreement, entitled only to those legal fees that would have been payable in the absence of the contingency fee agreement, and without regard to the contingency.

AR 390/68 s618;68/2000

Review by clerk or judge

619(1) A contingency fee agreement may, at any time after its making until the expiry of six months from the last date on which a solicitor has received on his own account the fee, or any part of it, be reviewed by the clerk at the instance of the client, and the procedure shall be that applicable on the taxation of solicitor and client bill of costs.

(2) At any time while the agreement is before the clerk, or within 15 days after he has given his decision on review, the clerk may, and on the request of the client, shall, refer the agreement to a judge of the Court of Queen's Bench, and the clerk shall thereupon transmit all the material before him to a judge, and shall secure an appointment for the review, and notify the solicitor and client of the appointed time.

(3) The judge reviewing the agreement has the powers which the clerk has on the taxation of a solicitor and client bill of costs.

(4) The clerk or the judge has the power on review to

- (a) approve the agreement, or
- (c) vary, modify or disallow the agreement; and if the agreement is disallowed, the amount payable shall be determined in accordance with Rule 618.

AR 390/68 s619;338/83;68/2000

Void provisions

620(1) Any provision in any agreement respecting solicitor and client fees which purports to relieve any barrister and solicitor for liability for negligence or any other liability to which he might be subject as a barrister and solicitor is void.

(2) Any provision in any agreement respecting solicitor and client fees which purports to provide that a proceeding cannot be abandoned, discontinued or settled without the consent of a barrister and solicitor is void.

(3) Notwithstanding anything in any agreement to the contrary a client may change his solicitor before the conclusion of the retainer.

AR 390/68 s620

Death of solicitor

621(1) Where a barrister and solicitor dies or becomes incapable of acting before his retainer has been completely performed by him, an application may be made by or on behalf of either party to the taxing officer to determine the amount due, if any, in respect of the services rendered under the retainer, and subject to subrule (2) the taxing officer in determining the amount shall have regard to terms of any agreement between the parties.

(2) Where the agreement provides that payment is to be contingent, in whole or in part, upon the successful accomplishment or disposition of the subject matter, the taxing officer has the powers provided by Rule 619 or may refuse any compensation, and no monies in respect of the agreement are payable until the disposition or accomplishment has been made.

(3) Where a client changes or discharges his solicitor before the conclusion of the retainer, the solicitor shall be deemed to have become incapable of acting within the meaning of this Rule.

(4) Where a client personally settles any matter which is the subject of an agreement as described in subrule (2) without changing or discharging his solicitor, he shall be deemed to have discharged him within the meaning of this Rule.

(5) Where a client discontinues or abandons any matter which is the subject of an agreement as described in subrule (2) without changing or discharging his solicitor, then the solicitor may apply to tax his costs against his client and the taxing officer may, if he finds the discontinuance or abandonment to be wholly unreasonable, allow to the barrister and solicitor reasonable compensation therefor, and has the powers provided by Rule 619.

(6) Payment of the amount found to be due under this Rule may be enforced in the same manner as if the barrister and solicitor had completely performed his retainer, except that in any case falling within subrule (2), payment may not be enforced prior to the successful accomplishment or disposition, and then only with the leave of the court.

AR 390/68 s621

Costs of solicitor acting as trustee etc.

622 Any barrister and solicitor who is a guardian, committee, mortgagee, executor, administrator or trustee is entitled as against the estate or fund, or as against the mortgage or estate, to make the same charges for services performed by him as a barrister and solicitor for or in connection with the estate or fund or mortgaged property as might have been payable out of the estate or fund, or be chargeable against the mortgaged estate, if the barrister and solicitor had been employed by some other person acting in that capacity.

AR 390/68 s622

Costs payable out of trust funds

623(1) No costs otherwise payable out of or chargeable against any trust estate, trust fund or mortgaged property, shall be so paid as against any person interested therein, unless

- (a) the costs have been taxed, or
- (b) the interested person is sui juris and has consented to the payment, or
- (c) the court has fixed the amount of, and directed the payment or charge.

(2) This Rule does not apply to clients' funds held by a solicitor in the solicitor's trust account.

AR 390/68 s623

Payment in advance or security taken

624 A barrister and solicitor may obtain payment in advance or take security for his future fees, charges or disbursements subject to the right of taxation.

AR 390/68 s624

Charging property for fees

625(1) The court may, on the application of a barrister and solicitor, declare the barrister and solicitor to be entitled to a charge upon the property recovered or preserved through his instrumentality in any proceedings prosecuted or defended by him for his proper fees and disbursements in reference to the proceeding, and may make such order or orders as may be just for the raising of payment of the fees and disbursements out of that property.

(2) No act or thing defeats any such charge unless the property has been disposed of to a bona fide purchaser for value without notice.

(3) No order shall be made under this Rule where the right of the barrister and solicitor to recover payment of his fees and disbursements is barred by any statute of limitations.

AR 390/68 s625

Action for costs due

626 An action for costs incurred to a barrister and solicitor may be brought but

- (a) no judgment shall be entered on default, and
- (b) no costs of such action shall be allowed,

except upon the order of the court that may direct taxation of the costs.

AR 390/68 s626;182/76

Costs-Taxation and Appeal from Taxation

Repealed

627 Repealed AR 68/2000 s18.

Power of Taxing Officer

628 On any taxation the taxing officer has power:

- (a) to take evidence either by affidavit or viva voce upon oath;
- (b) to direct the production of books, papers and documents;
- (c) to require notice of the taxation to be given to all persons who may be interested in the taxation or in the fund or estate out of which the costs are payable;
- (d) to give directions as to the manner of service of any notice of taxation;
- (e) to require any party or person to be represented by a separate solicitor;
- (f) unless expressly restricted by the court, from time to time to enlarge or abridge the time appointed by any Rule, or fixed by any Rule or order for any proceedings before him and enlargement may be ordered, although the application therefor is not made until after the expiration of the time appointed or allowed.

AR 390/68 s628

Disallowing costs

629 The taxing officer has the power to allow or disallow costs of proceedings before him, and to fix the amount thereof, but on the taxation of a solicitor and client bill

- (a) costs shall not be allowed against the client on a taxation at his instance unless the taxing officer is of the opinion that the client has acted unreasonably in applying for taxation, and
- (b) costs shall not be allowed against the client upon a taxation at the instance of the solicitor except by leave of the court.

AR 390/68 s629

Bill of costs consented to

629.1 Notwithstanding anything in these Rules, a bill of costs that is consented to by a barrister and solicitor on behalf of the party responsible for payment of the costs shall be taxed and allowed without alteration or further consideration.

AR 160/93 s22

Appointment for taxation

630 A person entitled to tax any costs or to require any costs to be taxed shall secure an appointment therefor from the taxing officer and, where he is the person entitled to tax, he shall deposit with the taxing officer a copy of the proposed bill and an affidavit or certificate of disbursements, if any.

AR 390/68 s630

Service

631 A copy of the appointment, together with the bills of costs and certificate or affidavit (if any) shall be served on every person interested in the taxation at least five days before the time fixed for the taxation.

AR 390/68 s631

Failure to attend

632 If a person has served or has been served with an appointment and fails to attend, the taxing officer may proceed with the taxation in his absence upon proof of service of the appointment and any other documents required to be served.

AR 390/68 s632;182/76

Fees or disbursements to be separate

633 In every bill of costs the charges of barristers and solicitors shall be distinguished from disbursements, and every column on every bill shall be totalled when the bill is deposited.

AR 390/68 s633

Reference to court by taxing officer

634 The taxing officer may refer to the court for determination any question arising on a taxation.

AR 390/68 s634

Excessive or improper costs

635(1) The taxing officer may refuse to allow costs which are excessive having regard to the circumstances of the matter, including its nature and the interests and amounts involved.

(2) The taxing officer may refuse to allow the costs of all or any part of proceedings that were

- (a) improper, vexatious, prolix or unnecessary, or
- (b) taken through over-caution, negligence or mistake.

AR 390/68 s635

Certificate of Taxing Officer

636 On any taxation, the taxing officer shall certify the amount of the costs taxed by him for and against each party or person, and may give such interim certificates as may be convenient or necessary, and may certify any special circumstances.

AR 390/68 s636

Certificate is final

637 Subject to appeal and the terms contained in the certificate or in the order under which the taxation has been made, any certificate given upon any taxation is final and conclusive as to the amounts therein mentioned against all persons who have received notice of the taxation.

AR 390/68 s637

Taxation Between Party and Party

Bill of costs must be produced

638(1) The service of an appointment on

- (a) a party entitled to costs, or
- (b) a party entitled to set off any other costs against the amount of the bill to be taxed, or
- (c) a party required to bring in a bill of any other costs for the purpose of ascertaining the amount of the bill to be taxed,

requires him to bring in a bill of his costs for taxation at the appointed time.

(2) Where a party required to bring in a bill of costs fails to do so, the taxing officer may tax the costs of any other parties, and

- (a) allow the defaulting party a nominal or other sum for costs, or
- (b) direct that the defaulting party forfeits his right to any costs, or
- (c) defer the taxation of the defaulting party's costs.

(3) Proceedings under this Rule may be instituted by any person liable to pay costs or by any person whose costs depend upon the determination of any other person's costs.

AR 390/68 s638

Where party fails to appear

639 Where a party against whom costs are to be taxed has not appeared in the proceedings, costs may be taxed ex parte.

AR 390/68 s639

No taxation until after judgment entered

640 No costs shall be taxed until after the judgment or order allowing the costs has been signed, entered or otherwise perfected, and the costs may be taxed notwithstanding any stay of proceedings, unless the stay expressly applies to the taxation.

AR 390/68 s640

Set off or delay

641 Where in any proceeding any party liable to pay costs is also entitled to receive costs, the taxing officer may, notwithstanding any lien any solicitor may have for his costs, adjust the amount payable by way of deduction or set-off, or may delay the allowance of costs to one of the parties until he has paid or tendered any costs for which he may be liable.

AR 390/68 s641

Affidavit of disbursements

642(1) No disbursements other than fees paid to officers of the court shall be allowed unless the liability therefor is established either by the certificate of the solicitor conducting the matter, or by affidavit.

(2) The certificate or affidavit shall state how the amount of any witness fees claimed is calculated.

AR 390/68 s642

Taxation Between Lawyer and Client**Definitions**

643 In this Rule and Rules 643.1 to 658,

- (a) “client” includes
 - (i) any person from whom a barrister and solicitor has demanded any sum for costs;
 - (ii) any person who may be liable for costs;
 - (iii) any person who, not being chargeable as the principal party, is liable to pay or has paid any solicitor and client bill of costs or part of that bill of costs;
- (b) “taxing officer” means,
 - (i) where the barrister and solicitor carries on business in Alberta, the clerk or deputy clerk of the judicial centre nearest to where the solicitor carries on business,
 - (ii) where the barrister and solicitor does not carry on business in Alberta, the clerk or deputy clerk of the judicial centre nearest to where the client resides, or
 - (iii) notwithstanding subclauses (i) or (ii), any other clerk or deputy clerk as may be designated by the Court.

AR 390/68 s643;269/97

Who may request taxation of costs

643.1 An account of a barrister and solicitor may be taxed in Alberta

- (a) at the request of a client if
 - (i) the barrister and solicitor resides in Alberta,
 - (ii) the barrister and solicitor’s principal office is in Alberta,

- (iii) the barrister and solicitor's account specifies an Alberta address for the barrister and solicitor or the law firm of the barrister and solicitor,
 - (iv) most of the services were performed in Alberta,
 - (v) the services were performed in connection with legal proceedings commenced in Alberta in which the barrister and solicitor was a barrister and solicitor of record, or
 - (vi) the retainer agreement between the barrister and solicitor and the client so provides;
- (b) at the request of the barrister and solicitor if
- (i) the client resides in Alberta,
 - (ii) the principal office or place of business of the client is in Alberta,
 - (iii) most of the services were performed in Alberta and the barrister and solicitor has no office in the jurisdiction where the client resides or carries on business, or
 - (iv) the retainer agreement between the barrister and solicitor and the client so provides.

AR 269/97 s16

Bill to be signed

644 Every bill of costs to be taxed shall be signed by the barrister and solicitor or by a member of the firm claiming the costs.

AR 390/68 s644

Statement of services rendered

645(1) Every bill of costs shall contain a reasonable statement or description of the services rendered, showing the charge or charges therefor, together with a detailed statement of the disbursements.

(2) The taxing officer may order further details of the services and charges, including the work done, time spent, monies collected and expended, and other matters which may be required for a complete understanding of the bill.

AR 390/68 s645

Copy of retainer agreement

646(1) When an account is taxed under Rule 643.1, a copy of the retainer agreement must be provided to the taxing officer at least 7 days before the date scheduled for the taxation.

(2) Any such agreement shall be allowed only to the extent that it is fair and reasonable in the circumstances, and it may be allowed or disallowed, in whole or in part, and as well with respect to sums paid thereunder as to sums unpaid.

AR 390/68 s646;68/2000

Bills not subject to taxation

647 Unless the court otherwise orders no bill of costs is subject to taxation

- (a) after judgment has been obtained in respect thereof, or,
- (b) if it is unpaid after one year from the date of delivery thereof, or
- (c) if it was fully paid before the completion of the services for which it was rendered, after six months from the date of completion or the delivery of the bill, whichever is later, or,
- (d) if it was fully paid following the completion of the services, after six months from delivery.

AR 390/68 s647

Service on solicitor

648(1) The service of an appointment on a barrister and solicitor requires him to bring in his bill of costs for taxation at the appointed time.

(2) If a barrister and solicitor fails to bring in his bill he forfeits his right to his costs, unless the taxing officer otherwise directs.

(3) If a barrister and solicitor fails to bring in his bill the court may, on notice to him, on the application of the client or the taxing officer, order that the barrister and solicitor repay the whole or any part of any monies paid to or retained by him on account of the costs, and the order may be enforced as an order of the court.

AR 390/68 s648

Order to deliver up documents

649 The court may, on the application of the client, order any barrister and solicitor to deliver up any deeds, documents or papers of the client in the possession, custody or power of the barrister and solicitor, his assignee or representative.

AR 390/68 s649

Proof of service of bill of costs

650 To prove delivery of a taxable bill of costs it is sufficient to prove by affidavit that a bill of the particulars of the amount claimed and signed as required by these Rules was delivered or mailed to the client or to the party to be charged, or his agent in that behalf, at his proper address, and sufficient notice thereof shall be deemed to have been received at the time of the delivery, or in the ordinary course of mail, as the case may be, unless the contrary is shown.

AR 390/68 s650

Court may order payment on taxation

651(1) Where the court has ordered the delivery of a taxable bill or the taxation of a bill, it may provide that the bill is to be paid upon taxation, in which case it becomes a judgment of the court upon taxation.

(2) Upon taxation payment of any other bill of costs may be enforced upon the order of the court to be obtained on notice.

AR 390/68 s651

Not to be retaxed

652 Unless the court otherwise orders, a taxing officer shall not tax a bill of costs which has been previously taxed.

AR 390/68 s652

Repealed

652.1 Repealed AR 160/93 s23.

Title of applications

653 Any application for taxation or for the delivery up of a bill of costs or for the delivery up of deeds, documents or papers shall be entitled with the following general title:

“In the Court of Queen’s Bench of Alberta, Judicial District
of _____”

“In the matter of _____, barrister and solicitor, and
_____ client.”

AR 390/68 s653;338/83

Procedure

654 Any application to the court by the solicitor or client shall be by notice of motion, and any reference or application by the taxing officer shall be by appointment obtained by the taxing officer, who shall give notice thereof to the parties.

AR 390/68 s654

Appeals from Taxation**Time for appeal and contents**

655(1) Any person pecuniarily interested in the result of any taxation may, not later than 10 days after he has received notice of any certification on taxation, appeal the taxation as herein provided.

(2) The appellant shall appeal to a judge in chambers by filing with the taxing officer and the clerk of the court to which the appeal lies a notice of appeal and serving it upon the opposite party or parties.

(3) The notice of appeal shall specify the items objected to, the grounds of the objection and the date of the hearing of the appeal.

(4) The notice of appeal shall be

- (a) returnable within 20 days from filing it with the clerk, and
- (b) served on all parties directly affected by the appeal not less than seven days before the date set for the hearing of the appeal.

AR 390/68 s655

Appeal confined to items specified

656 Unless otherwise ordered, the appeal shall be confined to the items and grounds specified and shall be heard on the evidence before the taxing officer.

AR 390/68 s656

Powers of court

657(1) On any such appeal the court may exercise all of the powers of the taxing officer and may review any discretion exercised by the taxing officer as fully as if the taxation were made by the court in the first instance.

(2) The court may make such order as to costs of the appeal and taxation as seems fit.

AR 390/68 s657

Amendment of writ

658(1) If a writ of enforcement has been issued for costs which are reduced on appeal, the writ of enforcement shall be returned to the clerk issuing it for amendment in accordance with the order made upon the appeal.

(2) If the amount as originally taxed by the taxing officer has been paid and after payment is reduced on appeal, the court hearing the appeal may order the return of the excess by the party who has received it and the order may be enforced as an order of the court, but if the costs have been paid to a solicitor, the solicitor may be ordered to return the excess (and if he fails to do so he may be guilty of a civil contempt.).

AR 390/68 s658;277/95

Part 48 Streamlined Procedure

Application

659(1) Unless excluded by subrules (2) to (4), this Part applies only

- (a) to actions when money is claimed in the statement of claim and the total claimed, whether as debt, indemnity, damages or otherwise, is \$75,000 or less, not including interest and costs,
- (b) when the Court, by order, considers it appropriate, or
- (c) when the parties so agree in writing and file the agreement with the clerk.

(2) This Part or any provision of it may be excluded or modified by

- (a) a written signed agreement filed with the clerk and approved by the Court, subject to any terms or modifications the Court imposes, or
- (b) the Court.

(3) This Part does not apply to any action commenced before September 1, 1998, unless

- (a) ordered by the Court, or
- (b) agreed by the parties in writing and filed with the clerk.

(4) This Part does not apply to proceedings under Part 44, 49, 56 or 56.1.

AR 152/98 s23

Modifications by Court

660(1) The Court may exclude or modify the application of this Part or any provision of it to a particular action, declare whether the conditions for its application are met, or modify the time limits in this Part on terms or otherwise.

(2) When this Part applies,

- (a) other Rules continue to apply but only to the extent that they are consistent with this Part, and the Court may modify those other Rules as it considers appropriate, and
- (b) there is to be no discovery or inspection, except as provided by this Part or as ordered by the Court.

AR 152/98 s23

Affidavit of records

661(1) Within 30 days after service of a statement of defence, each party to an action must file and serve on all parties an affidavit of records.

(2) Before examinations for discovery or interrogatories under Rule 662(5), each party to an action must, on request and payment of copy charges, supply to all parties opposite in interest, if practicable, true copies of the producible records listed in the affidavit, that are in the party's possession, custody or power.

(3) The affidavit of records need include only each of the following:

- (a) those records on which the party filing the affidavit relies or may rely;
- (b) those records which assist or may assist the case of any adverse party;
- (c) those records directly relevant and material to the issues in the action.

(4) A party filing an affidavit of records must endorse on it or attach to it, before filing and service, a list of persons who, at the relevant time, might reasonably have some connection with the person filing the affidavit of records and be expected to know about any of the following:

- (a) matters on which the party filing the affidavit relies or may rely;
- (b) matters which assist or may assist the case of any adverse party;
- (c) matters directly relevant and material to the issues in the action.

(5) A corporate party filing an affidavit of records must, in its affidavit, nominate its representative under Rule 214(2).

(6) In case of dispute over the copy charges to be paid under subrule (2), a sum may be fixed ex parte by the taxing officer on application by any party, subject to adjustment by the Court at a later date.

(7) In this Rule, "records" has the same meaning as it has in Rule 186.

AR 152/98 s23;172/99;68/2000

Limitation on examination for discovery

662(1) Subject to this Rule, no party or representative designated by a party under Rule 214 shall be examined for discovery for more than a total of 6 hours of actual examination, not including recesses or answering undertakings, but including examining on answers to undertakings.

- (2)** A party, and a representative designated by a corporation under Rule 214, shall make all reasonable efforts before attendance for examination to

be fully informed of the matters in issue in the action.

(3) Where there are multiple parties adverse in interest to the party examined, the Court may give special directions.

(4) By written consent filed with the clerk, the parties may eliminate or restrict examination for discovery, or extend the time limits for it.

(5) Any party entitled to examine another party for discovery may elect that the examination be by written interrogatories only, directed to that other party, and the interrogatories shall not exceed 1000 words.

AR 152/98 s23

Application for inspection or further affidavit

663(1) When appropriate, a party may apply under Rule 195 or 196 without affidavits, but the application must comply with Rule 384(2).

(2) The Court may make any order it sees fit, balancing the need for disclosure with the need for an expeditious and cost effective determination of the action.

AR 152/98 s23; 314/2003

Evidence by affidavit

664(1) The evidence of a witness may be given at trial by affidavit, together with any cross-examination on it, but subject to

- (a) cross-examination on it before trial under Rule 314;
- (b) subrule (5);
- (c) an order of the Court.

(2) The affidavit shall not be filed with the Court until the cross-examination on it is complete, or until cross-examination is waived, at which time the affidavit and cross-examination, if any, are to be filed together, unless the Court otherwise orders.

(3) At least 90 days before trial a party intending to adduce trial evidence by way of affidavit shall serve the affidavit to be adduced on every party opposite in interest.

(4) If a party objects to any proposed evidence being adduced by affidavit and cross-examination, the party objecting may file and serve a written notice of objection within 15 days after service under subrule (3), specifying the affidavit or part of the affidavit objected to, with grounds of objection.

(5) No affidavit or cross-examination objected to shall be received in evidence except with leave of the trial judge, or by the written consent of all counsel.

(6) If it appears to the Court that there is any good reason, the Court may order the evidence objected to be given under Rule 261(2)(c), Rule 261.1 or

Rule 270, under any terms the Court considers appropriate.

(7) Subject to Rule 305, affidavits under this Rule may have exhibits.

AR 152/98 s23;101/99

Pre-trial conference

665(1) After examinations for discovery have been completed (whether or not undertakings flowing from them have been answered), any party may apply to the Court for a pre-trial conference which, if the application is granted, shall be conducted by a judge, unless a judge orders the conference to be conducted by a master or referee.

(2) If the Court orders a pre-trial conference, it may also order any or all of the following:

- (a) that at least 21 days before the date set for the pre-trial conference, the plaintiff shall file with the clerk and serve on counsel for the other party or parties a statement of facts which the plaintiff seeks to establish, and the issues which the plaintiff believes to remain in dispute;
- (b) that within 7 days following receipt of the plaintiff's statement of facts, the defendant shall file with the clerk and serve an answer setting out any further facts that the defendant seeks to establish, and commenting on the plaintiff's list of issues;
- (c) that following service of the defendant's statement, the plaintiff shall within 7 days of the date of service file and serve an answer stating what, if any, facts proposed by the defendant the plaintiff disputes;
- (d) to the extent that facts are not disputed by the parties in their answers, they are deemed to be admitted for the purposes of the action, and Rule 230 applies with necessary changes.

AR 152/98 s23;172/99

Statement of factual and legal theory

666(1) At least 7 days before the commencement of the trial, each of the parties shall file with the clerk and serve on the other parties a short written statement of the factual and legal theory of the case of the party filing it.

(2) Except with leave of the Court, the statement shall not be more than 5 pages long, and include a brief list, in point form, of the major facts and the law on which that party relies.

(3) If appropriate, the statement may duplicate, or incorporate by reference, all or part of a document given under Rule 665.

AR 152/98 s23

Third Party proceedings

667 If a third party notice is filed in a suit to which this Part applies, this Part applies to the third party proceedings as if the party seeking indemnity were a plaintiff and the third party were a defendant.

AR 152/98 s23

Case management

668(1) Any party may apply to the Court for case management to be conducted by one judge, or if so ordered by a judge, to be conducted by one master.

(2) If case management is ordered, Rule 665 applies.

AR 152/98 s23

No motions without leave

669 No motions shall be made without leave of the Court

- (a) when forbidden by a case management or pre-trial judge or a case management or pre-trial master, or
- (b) except to enforce rights given by this Part, more than 6 months after the close of pleadings.

AR 152/98 s23

Unnecessary or ill founded motions and missed deadlines

670(1) A party making an unnecessary or ill-founded motion, or failing to comply with a deadline fixed by the Rules or by order, shall be ordered to pay costs in any event and forthwith, except for special reason.

(2) A deadline is complied with if the necessary action is taken before the date to which the deadline is extended under Rule 548 or Rule 549.

AR 152/98 s23

Appeal

671(1) An appeal lies to the Court of Appeal, or from a master to a judge, only from a judgment or order finally determining all or some part of the substantive rights in issue in the action, including

- (a) an order striking out a statement of claim, statement of defence or third party notice;
- (b) an order refusing to open up default judgment or a noting in default;
- (c) an order permitting or directing default judgment;
- (d) an order staying the action indefinitely;
- (e) an order dismissing the action on procedural grounds;
- (f) a final judgment at trial;
- (g) summary judgment on the merits.

(2) Notwithstanding Rules 500 and 505, in an action to which this Part applies, no appeal lies, except as provided in subrule (1).

AR 152/98 s23

Order excluding Rule 236

672(1) The Court may order that all or part of Rule 236 does not apply to the action.

(2) The Court may allow the provisional selection of a trial date, on terms, including a term that the selection end if certain steps are not certified or proven to be complete before a certain date.

AR 152/98 s23

Orders made on application only

673 Orders or leave of the Court under this Part shall be given only on application by one or more parties.

AR 152/98 s23