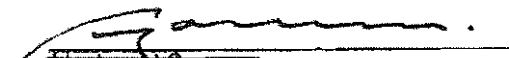


PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

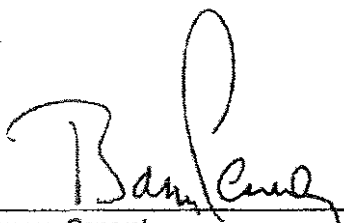
Order in Council No. 191, Approved and Ordered MAY 26 2011

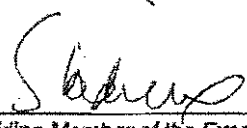

~~Executive Council~~
Administrator

Executive Council Chambers, Victoria

On the recommendation of the undersigned, made after consultation with the Chief Justice of the Supreme Court, the ~~Administrator~~ Administrator, by and with the advice and consent of the Executive Council, orders that, effective July 1, 2011,

- (a) the Supreme Court Civil Rules, B.C. Reg. 168/2009, are amended as set out in the attached Schedule A, and
- (b) the Supreme Court Family Rules, B.C. Reg. 169/2009, are amended as set out in the attached Schedule B.


Attorney General


Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: Court Rules Act, R.S.B.C. 1996, c. 80, s. 1

Other: OTCs 302/2009, 303/2009

SCHEDULE A

1 Rule 3-3 (3) (a) of the Supreme Court Civil Rules, B.C. Reg. 168/2009, is repealed and the following substituted:

- (a) in the case of a notice of civil claim that is served on a person,
 - (i) if the person was served anywhere in Canada, within 21 days after service,
 - (ii) if the person was served anywhere in the United States of America, within 35 days after service, or
 - (iii) if the person was served anywhere else, within 49 days after service; .

2 Rule 3-8 is amended

(a) by repealing subrules (3) to (7) and (9) and (10) and substituting the following:

Claim for specified or ascertainable amount

- (3) If the plaintiff's action against a defendant includes a claim for recovery of money in a specified or ascertainable amount, the plaintiff may
 - (a) on that claim, obtain judgment in Form 8 against that defendant for an amount not exceeding the total of
 - (i) the amount claimed,
 - (ii) the interest, if any, to which the plaintiff is entitled, and
 - (iii) costs, and
 - (b) proceed against one or more of the defendants, including the defendant against whom judgment was obtained, on any other claims brought in the action that are not barred as a result of the judgment referred to in paragraph (a).

Interest

- (4) For the purpose of subrule (3), a claim may be treated as a claim for recovery of money in a specified or ascertainable amount even though
 - (a) part of the claim is for interest accruing after the date of the notice of civil claim, and
 - (b) the interest is to be computed from the date of the notice of civil claim to the date that judgment is granted.

Claim for damages to be assessed

- (5) If the plaintiff's action against a defendant includes a claim for damages in an amount that is neither specified nor ascertainable, the plaintiff may
 - (a) on that claim, obtain judgment in Form 8 against that defendant for damages to be assessed and costs, and
 - (b) proceed against one or more of the defendants, including the defendant against whom judgment was obtained, on any other claims brought in the action that are not barred as a result of the judgment referred to in paragraph (a).

Claim for detention of goods

- (6) If the plaintiff's action against a defendant includes a claim for the detention of goods, the plaintiff may
 - (a) on that claim, obtain
 - (i) judgment in Form 8 against that defendant for the delivery of the goods, or their value to be assessed and costs, or
 - (ii) judgment in Form 8 against that defendant for the value of the goods to be assessed and costs, and
 - (b) proceed against one or more of the defendants, including the defendant against whom judgment was obtained, on any other claims brought in the action that are not barred as a result of the judgment referred to in paragraph (a).

Judgment in other actions

- (9) If the plaintiff's claim against a defendant is not one referred to in subrule (3), (5) or (6), the plaintiff may apply for judgment against the defendant under subrule (10).

Application for judgment

- (10) The following apply to an application under subrule (9):
 - (a) the application may be brought under Rule 8-4;
 - (b) the application must be supported by an affidavit setting out the facts that verify the claim and stating that the person swearing the affidavit knows of no fact that would constitute a defence to the claim except as to amount;
 - (c) if the action in which the application is made is brought against several defendants, the court may
 - (i) impose terms on any judgment for the plaintiff, including a stay of execution of the judgment until the trial of the action against the other defendants, or
 - (ii) adjourn the application until the trial of the action against the other defendants. ,
- (b) in subrule (8) by striking out "subrule (3), (5), (6) or (7)," and substituting "subrule (3), (5) or (6)," and*
- (c) in subrule (13) by striking out "(6) or subrule (7) (a) in relation to subrule (5) or (6)," and substituting "(6),".*

3 *Rule 9-2 (1) is amended by striking out "action," and substituting "action, the parties of record jointly request a settlement conference by filing a requisition in Form 17 or".*

4 *Rule 12-4 (5) is amended by striking out "If" and substituting "Unless the court otherwise orders, if".*

5 *Rule 12-6 (3) (a) and (b) is amended by striking out "28" and substituting "30".*

6 Rule 13-4 is amended

(a) in subrule (7) by striking out “(13) (a) and (b), (14), (16) to (18),” and substituting “(14), (17), (18),”

(b) by adding the following subrules:

Service of notice

- (10) Before conducting an examination for discovery under this rule, the party wishing to conduct that examination must do the following:
- (a) if the person to be examined is a party of record to, and has a lawyer in, the action, ensure that, at least 7 days before the examination,
 - (i) an appointment in Form 59.1 is served on that lawyer, and
 - (ii) witness fees in the amount required under Schedule 3 of Appendix C are tendered to that lawyer;
 - (b) in any other case, ensure that, at least 7 days before the examination,
 - (i) an appointment in Form 59.1 is served on the person to be examined, and
 - (ii) witness fees in the amount required under Schedule 3 of Appendix C are tendered to the person to be examined.

Production of documents

- (11) Unless the court otherwise orders, the person to be examined for discovery under this rule must produce for inspection on the examination all documents in his or her possession or control, not privileged, relating to the matters referred to in subrule (2).

7 Rule 16-1 is amended

(a) by repealing subrule (4) (c) (i) to (iii) and substituting the following:

- (i) if the petition respondent was served with the petition anywhere in Canada, within 21 days after that service;
- (ii) if the petition respondent was served with the petition anywhere in the United States of America, within 35 days after that service;
- (iii) if the petition respondent was served with the petition anywhere else, within 49 days after that service. , *and*

(b) by repealing subrule (17) and substituting following:

Petition respondent may apply for directions

- (17) If the petitioner does not
- (a) set the petition for hearing within a reasonable time after being requested to do so by a petition respondent, or
 - (b) after the hearing of the petition has been adjourned generally, reset the petition for hearing within a reasonable time after being requested to do so by a petition respondent,
- a petition respondent may apply, by requisition in Form 17 on 2 days' notice, for directions.

8 Rule 18-3 (8) (a) is repealed and the following substituted:

- (a) file a notice of interest in Form 70 within the following period:
 - (i) if the person was served with the notice of appeal anywhere in Canada, within 14 days after that service;
 - (ii) if the person was served with the notice of appeal anywhere in the United States of America, within 28 days after that service;
 - (iii) if the person was served with the notice of appeal anywhere else, within 42 days after that service, and .

9 Rule 19-1 (3) to (6) is repealed and the following substituted:

Pleadings

- (4) If a proceeding is transferred to the Supreme Court in the manner referred to in subrule (2),
 - (a) the notice of claim filed in the Provincial Court is deemed to be the notice of civil claim filed in the proceeding in the Supreme Court,
 - (b) the reply filed in the Provincial Court is deemed to be the response to civil claim filed in the proceeding in the Supreme Court, and
 - (c) a counterclaim filed in the Provincial Court is deemed to be a counterclaim filed in the proceeding in the Supreme Court.

Plaintiff must file and serve amended notice of civil claim

- (5) If the claimant in the Provincial Court proceeding wishes to continue with that proceeding after its transfer to the Supreme Court, the claimant must, as plaintiff in the Supreme Court action,
 - (a) amend the notice of claim that is, under subrule (4) (a), deemed to be the notice of civil claim filed in the proceeding in the Supreme Court
 - (i) by adding "Transferred Proceeding" above the style of proceeding, and
 - (ii) by otherwise making the notice of claim accord with Rule 3-1,
 - (b) within 21 days after the transfer order, file, in the Supreme Court registry nearest to the Provincial Court registry in which the Provincial Court proceeding was started, that notice of civil claim as it has been amended by the amendment referred to in paragraph (a) of this subrule, and
 - (c) serve a copy of that filed notice of civil claim in accordance with Rule 3-2.

Amended reply and counterclaim

- (6) A defendant must, within 14 days after the date of service of the amended notice of claim under subrule (5) (c) of this rule,
 - (a) amend the reply that is, under subrule (4) (b), deemed to be the response to civil claim filed in the proceeding in the Supreme Court
 - (i) by adding "Transferred Proceeding" above the style of proceeding, and
 - (ii) by otherwise making the reply accord with Rule 3-3,

- (b) amend the counterclaim, if any, that is, under subrule (4) (c) of this rule, deemed to be a counterclaim filed in the proceeding in the Supreme Court
 - (i) by adding “Transferred Proceeding” above the style of proceeding, and
 - (ii) by otherwise making the counterclaim accord with Rule 3-4,
- (c) file in the Supreme Court registry referred to in subrule (5) (b) of this rule
 - (i) that response to civil claim as it has been amended by the amendment referred to in paragraph (a) of this subrule, and
 - (ii) that counterclaim, if any, as it has been amended by the amendment referred to in paragraph (b) of this subrule, and
- (d) serve in accordance with Part 3
 - (i) a copy of that filed response to civil claim, and
 - (ii) a copy of that filed counterclaim, if any.

Application of Rule 6-1

- (6.1) Rule 6-1 does not apply to an amendment under subrule (5) (a) or (6) (a) or (b) of this rule, and, for greater certainty, an amendment under subrule (5) (a) or (6) (a) or (b) of this rule does not constitute an amendment for the purposes of Rule 6-1 (1).

10 Rule 20-5 (3) (c) is repealed and the following substituted:

- (c) an affidavit in Form 80.

11 Form 1 of Appendix A is amended by repealing paragraphs (a) to (c) after “A response to civil claim must be filed and served on the plaintiff(s),” and substituting the following:

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,
- (b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or .

12 Form 3 is amended by repealing paragraphs (a) to (c) after “A response to counterclaim must be filed and served on the defendant(s) bringing this counterclaim,” and substituting the following:

- (a) if you were served with the counterclaim anywhere in Canada, within 21 days after that service,
- (b) if you were served with the counterclaim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the counterclaim anywhere else, within 49 days after that service, or .

13 Form 5 is amended by repealing paragraphs (a) to (c) after “A response to third party notice must be filed and served on the claiming party(ies),” and substituting the following:

- (a) if you were served with the third party notice anywhere in Canada, within 21 days after that service,

- (b) if you were served with the third party notice anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the third party notice anywhere else, within 49 days after that service, or .

14 Form 15 is amended by striking out “that person.” and substituting “that person at[city and country].....”.

15 Form 40 is amended by striking out “Item 14.” and substituting “Item 10.”

16 Form 41 is amended

(a) by adding the following before “1 Summary of Issues and Positions”:

The trial of this action is scheduled for[number of days scheduled for trial]..... days and is scheduled to begin on[dd/mmm/yyyy]..... , **and**

(b) by adding the following:

9 Orders that may affect the conduct of the trial

The following orders contain provisions that may affect the conduct of the trial:

Date of order	Nature of order

10 Trial to be heard with or without jury

[Check the correct box.]

The trial of this action is to be heard by the court

without a jury.

with a jury.

17 Forms 51 to 54 are amended by adding the following after “[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]”:

Name and address of lawyer or person causing this writ to be issued:

18 The following form is added:

FORM 59.1 (RULE 13-4 (10))

[Style of Proceeding]

APPOINTMENT FOR EXAMINATION IN AID OF EXECUTION

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

To:[name of person to be examined].....

TAKE NOTICE that you are required to attend for an examination for discovery in aid of execution at the place, date and time set out below. You must, unless the court otherwise orders, bring with you all documents in your possession or control, not privileged, relating to the matters referred to in Rule 13-4 (2), which rule is reproduced below.

Place:

Date:[dd/mmm/yyyy].....

Time:

Date:[dd/mmm/yyyy].....

Signature of [] party wishing to conduct examination [] lawyer for party(ies) wishing to conduct examination

.....[type or print name].....

Rule 13-4 (2) of the Supreme Court Civil Rules states:

Examination of judgment debtor

(2) If a judgment creditor is entitled to issue execution on or otherwise enforce an order of the court, the judgment creditor may examine the judgment debtor for discovery as to

- (a) any matter pertinent to the enforcement of the order,
- (b) the reason for nonpayment or nonperformance of the order,
- (c) the income and property of the judgment debtor,
- (d) the debts owed to and by the judgment debtor,
- (e) the disposal the judgment debtor has made of any property either before or after the making of the order,
- (f) the means the judgment debtor has, had or may have of satisfying the order, and
- (g) whether the judgment debtor intends to obey the order or has any reason for not doing so.

19 Form 61 is amended by adding the following after “[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]”:

Filed by:[party(ies)].....

20 Form 66 is amended

(a) by adding the following after “[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]”:

ON NOTICE TO:

.....[name and address of each person to be served]..... ,

(b) by repealing paragraphs (a) to (c) after “A response to petition must be filed and served on the petitioner(s),” and substituting the following:

- (a) if you were served with the petition anywhere in Canada, within 21 days after that service,
- (b) if you were served with the petition anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the petition anywhere else, within 49 days after that service, or, **and**

(c) by striking out “..... minutes.” and substituting “.....[time estimate]..... .”

21 Forms 73 and 74 are amended by repealing paragraphs (a) to (e) after “A Notice of Interest must be filed and served on the appellant(s),” and substituting the following:

- (a) if you were served with the notice of appeal anywhere in Canada, within 14 days after that service,
- (b) if you were served with the notice of appeal anywhere in the United States of America, within 28 days after that service,
- (c) if you were served with the notice of appeal anywhere else, within 42 days after that service, or
- (d) if the time for Notice of Interest has been set by order of the court, within that time.

22 Form 80 is amended by repealing section 7 and substituting the following:

7 Attached as Exhibit A is [Check whichever one of the following boxes is correct and attach the required exhibit.]

- a financial statement that accurately sets out the monthly income, expenses and assets of my household.
- proof that I receive benefits under the *Employment and Assistance Act* or the *Employment and Assistance for Persons with Disabilities Act*.

23 Form 82 is amended by repealing paragraphs (a) to (c) after “A response to civil claim must be filed and served on the plaintiff(s),” and substituting the following:

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,
- (b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or .

24 Form 112 is amended by adding “for[name of party].....” after “withdraw as lawyer of record”.

25 Form 118 is amended

(a) by striking out “(maximum 20 including the cover sheet)” and substituting “(maximum 30 including the cover sheet),” and

(b) by striking out the following:

Payment Information:

I authorize you to bill to my credit card or BC Online Account the total amount of the statutory fee for filing and the confirmation fee. I include the payment information for that purpose.

.....
Credit card account number
(Visa or MasterCard): Expiry date on card:

Name as it appears on the card:
.....

[OR] [Note: BC Online is available only in the Prince George Registry.]

BC Online Account Number:

Authorizing Signature:

Print Name: , **and**

(c) by adding the following after "Court Services Branch may use your contact information for the purposes of conducting an evaluation of the fax service.":

Payment Information:

I authorize you to bill to my credit card or BC Online Account the total amount of the statutory fee for filing and the confirmation fee. I include the payment information for that purpose.

.....
Credit card account number
(Visa or MasterCard): Expiry date on card:

Name as it appears on the card:
.....

[OR] [Note: BC Online is available only in the Prince George Registry.]

BC Online Account Number:

Authorizing Signature:

Print Name:

SCHEDULE B

- 1** *Rule 7-1 of the Supreme Court Family Rules, B.C. Reg. 169/2009, is amended by adding the following subrule:*

Proceedings must be recorded

- (19) Proceedings at a judicial case conference must be recorded, but no part of that recording may be made available to or used by any person without court order.

- 2** *Rule 14-5 (5) is amended by striking out “If” and substituting “Unless the court otherwise orders, if”.*

- 3** *Rule 17-1 is amended*

(a) by repealing subrule (4) (c) (i) to (iii) and substituting the following:

- (i) if the petition respondent was served with the petition anywhere in Canada, within 21 days after that service;
- (ii) if the petition respondent was served with the petition anywhere in the United States of America, within 35 days after that service;
- (iii) if the petition respondent was served with the petition anywhere else, within 49 days after that service. , **and**

(b) by repealing subrule (17) and substituting following:

Petition respondent may apply for directions

- (17) If the petitioner does not
- (a) set the petition for hearing within a reasonable time after being requested to do so by a petition respondent, or
 - (b) after the hearing of the petition has been adjourned generally, reset the petition for hearing within a reasonable time after being requested to do so by a petition respondent,
- a petition respondent may apply, by requisition in Form F17 on 2 days’ notice, for directions.

- 4** *Rule 18-3 (8) (a) is repealed and the following substituted:*

- (a) file a notice of interest in Form F77 within the following period:
 - (i) if the person was served with the notice of appeal anywhere in Canada, within 7 days after that service;
 - (ii) if the person was served with the notice of appeal anywhere in the United States of America, within 14 days after that service;
 - (iii) if the person was served with the notice of appeal anywhere else, within 28 days after that service, and .

- 5** *Rule 20-5 (3) (c) is repealed and the following substituted:*

- (c) an affidavit in Form F86.

6 *Item 1 of Schedule 1 of Forms F3 and F5 of Appendix A is amended by adding the following:*

Date of marriage:	[dd/mmm/yyyy]
-------------------	---------------

after

Place of marriage: [city or town; province or state; country]

7 *Form F15 is amended*

(a) by striking out “that person.” and substituting “that person at[city and country]..... .”, and

(b) by striking out the following:

attached to this affidavit and marked as Exhibit B is a photograph that is a true likeness of the person I served and I am informed by[name]..... that Exhibit B is a photograph of[name of person served].....[If this box is checked, the person who provided the information on the identity of the person served must file an affidavit to confirm that information.]

and substituting the following:

attached to this affidavit and marked as Exhibit B is a photograph that is a true likeness of the person I served. [If this box is checked, there must be filed an affidavit that exhibits the same photograph and confirms that the person shown in the photograph is the person identified in section 1 of this affidavit as the person served.]

8 *Form F36 is amended by striking out “CERTIFICATE” and substituting “CERTIFICATE OF PLEADINGS”.*

9 *Item 6 of Form F37 is amended by striking out “Check box (a), (b) or (c)” and substituting “Check box (a), (b), (c), (d) or (e)”.*

10 *Forms F37 and F38 are amended by striking out the following:*

I,[name]....., of[address]..... SWEAR (OR AFFIRM) THAT:

and substituting the following:

I,[name]....., of[address].....,[occupation]....., SWEAR (OR AFFIRM) THAT: .

11 *Form F38 is amended in section 5 (b) by striking out “Schedule 4” in both places and substituting “Schedule 1”.*

12 *Form F44 is amended by striking out “Item 14.” and substituting “Item 10.”*

13 *Form F45 is amended*

(a) by adding the following before “1 Summary of Issues and Positions”:

The trial of this family law case is scheduled for[number of days scheduled for trial]..... days and is scheduled to begin on[dd/mmm/yyyy]..... , **and**

(b) by adding the following:

5 Orders that may affect the conduct of the trial

The following orders contain provisions that may affect the conduct of the trial:

Date of order	Nature of order

14 Form F54 is amended by striking out the following:

[Check the box(es) and complete any required information.]

and substituting the following:

[Check the correct box(es) and complete any required information.]

15 Forms F58 to F61 are amended by adding the following after “[Rule 21-1 of the Supreme Court Family Rules applies to all forms.]”

Name and address of lawyer or person causing this writ to be issued:

16 Form F73 is amended

(a) by adding the following after “[Rule 21-1 of the Supreme Court Family Rules applies to all forms.]”:

ON NOTICE TO:

.....[name and address of each person to be served]..... ,

(b) by repealing paragraphs (a) to (c) after “A response to petition must be filed and served on the petitioner(s),” and substituting the following:

- (a) if you were served with the petition anywhere in Canada, within 21 days after that service,
- (b) if you were served with the petition anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the petition anywhere else, within 49 days after that service, or, **and**

(c) by striking out “..... minutes.” and substituting “.....[time estimate].....”.

17 Forms F79 and F80 are amended by repealing paragraphs (a) to (e) after “A Notice of Interest must be filed and served on the appellant(s),” and substituting the following:

- (a) if you were served with the notice of appeal anywhere in Canada, within 7 days after that service,
- (b) if you were served with the notice of appeal anywhere in the United States of America, within 14 days after that service,

- (c) if you were served with the notice of appeal anywhere else, within 28 days after that service, or
- (d) if the time for Notice of Interest has been set by order of the court, within that time.

18 Form F86 is amended by repealing section 7 and substituting the following:

7 Attached as Exhibit A is [Check whichever one of the following boxes is correct and attach the required exhibit.]

- a financial statement that accurately sets out the monthly income, expenses and assets of my household.
- proof that I receive benefits under the *Employment and Assistance Act* or the *Employment and Assistance for Persons with Disabilities Act*.

19 Form F89 is amended by adding “for[name of party].....” after “withdraw as lawyer of record”.

20 Form F95 is amended

(a) by striking out “(maximum 20 including the cover sheet)” and substituting “(maximum 30 including the cover sheet)”;

(b) by striking out the following:

Payment Information:

I authorize you to bill to my credit card or BC Online Account the total amount of the statutory fee for filing and the confirmation fee. I include the payment information for that purpose.

.....
 Credit card account number
 (Visa or MasterCard): Expiry date on card:

Name as it appears on the card:

[OR] [Note: BC Online is available only in the Prince George Registry.]

BC Online Account Number:

Authorizing Signature:

Print Name: , **and**

(c) by adding the following after “Court Services Branch may use your contact information for the purposes of conducting an evaluation of the fax service.”:

Payment Information:

I authorize you to bill to my credit card or BC Online Account the total amount of the statutory fee for filing and the confirmation fee. I include the payment information for that purpose.

.....
Credit card account number
(Visa or MasterCard): Expiry date on card:

Name as it appears on the card:
.....

[OR] [Note: BC Online is available only in the Prince George Registry.]

BC Online Account Number:

Authorizing Signature:

Print Name:

21 Form F100 is repealed and the following substituted:

FORM F100 (APPENDIX C, SCHEDULE 1, SECTION 2 (2))

CERTIFICATE OF MEDIATION

[Rule 21-1 of the Supreme Court Family Rules applies to all forms.]

I,[name of mediator]....., certify that I am a qualified mediator within the meaning of Schedule 1 of Appendix C of the Supreme Court Family Rules and that

I conducted a mediation session in which the following persons participated:
.....[if a participant in the mediation attended in a representative capacity, indicate that
and identify the person(s) on whose behalf the representative participated]..... and

the parties to the mediation were unable to resolve all of the issues at the mediation session
and I terminated the mediation.

[OR]

the parties to the mediation were able to resolve all of the issues at the mediation session and
are now seeking an order from the court.

[OR]

I determined that mediation was not appropriate between and
and therefore did not conduct a mediation session.

Date:[dd/mmm/yyyy].....

.....
Signature of mediator

.....[type or print name, address
and phone number of mediator].....

22 Schedule 1 of Appendix C is amended

(a) by repealing section 1 and substituting the following:

Definitions

1 In this Schedule:

“Item” means an Item in the table to this Schedule;

“qualified mediator” means a person who is

- (a) a member of the Family Roster of Mediate BC Society,
- (b) a Family Mediation Canada Certified Family Mediator, or
- (c) a person designated by the Ministry of Attorney General as a Family Justice Counsellor. , **and**

(b) in section 2 (2) by striking out “indicating,” and substituting “indicating that the mediator is a qualified mediator and,”.

23 *Item 19 (c) of Schedules 1 and 4 of Appendix C is amended by adding “, other than a certificate in Form F36” after “provided for”.*

**EXPLANATORY NOTES
SUPREME COURT RULES PACKAGE 2011**

SCHEDULE A

Amendments to Supreme Court Civil Rules, B.C. Reg. 168/2009

Section 1

Rule 3-3 (3) (a) is amended, in conjunction with amendments to Form 1 (in Section 11), Form 3 (in Section 12) and Form 5 (in Section 13), to tie the timeframe for responding to the notice of civil claim, counterclaim (through Rule 3-4 (6)) and third party notice (through Rule 3-5 (11)) to the place where the person is served rather than to the place where the person resides.

Section 2

Rules 3-8 (3) to (7) and (9) and (10), which concern default judgment proceedings, are repealed and new provisions are substituted to clarify that default judgment can be available in relation to certain claims within an action rather than only for actions that have but one claim and that default judgment against a defendant on one claim does not, on its own, preclude proceeding against that defendant or any other defendant on any other claims.

Section 3

Rule 9-2 (1) is amended to provide that parties of record in an action may jointly request a settlement conference.

Section 4

Rule 12-4 (5) originally provided that a trial must be removed from the trial list if no party of record files a trial certificate. The rule is amended to allow the court to relieve the parties from that result in appropriate circumstances.

Section 5

Rule 12-6 (3) (a) and (b) is amended to increase the timeframe for filing a jury notice from 28 days to 30 days to make that timeframe accord with the notice requirements of the *Jury Act*.

Section 6

Rule 13-4 is amended to reflect a new form of appointment (Form 59.1 created by Section 18) that is designed to apply to examinations in aid of execution. The Rule is also amended to require the judgment debtor to bring to the examination, all documents in his or her possession or control, not privileged, that relate to his or her ability to pay the judgment (i.e.

the items listed in Rule 13-4 (2) (a) to (g)) rather than documents that relate to the matters in issue in the lawsuit.

Section 7

Rule 16-1 (4) (c) (i) to (iii) is amended, in conjunction with amendments to Form 66 (in Section 20), to tie the timeframe for responding to a petition to the place where the petition respondent is served with the petition rather than to the place where the petition respondent resides.

Rule 16-1 (17) is amended to expressly authorize a petition respondent to apply for directions if the petitioner does not set the petition for hearing within a reasonable time after being requested to do so.

Section 8

Rule 18-3 (8) (a) is amended to provide different timeframes for filing a notice of interest in relation to a notice of appeal depending on where the person intending to oppose the appeal was served with the notice of appeal.

Section 9

Rule 19-1 is amended to remove administrative detail about what documents need to be transferred between courts when proceedings are transferred from the Provincial Court to the Supreme Court, to provide that the claimant need only amend and file in the Supreme Court the notice of claim if the claimant wishes to pursue his or her claim in that court, to clarify terminology between the Provincial Court pleadings and the Supreme Court pleadings and to provide that the requirement to amend the Provincial Court pleading for use in the Supreme Court does not constitute an amendment of that pleading in the Supreme Court (because, without this rule amendment, the party would be denied a right to further amend that pleading without court approval).

Section 10

Rule 20-5 (3) (c) is amended, in conjunction with Form 80 (in Section 22), to ensure that all applicants for indigent status complete the required affidavit rather than simply provide proof that they are in receipt of benefits under the *Employment and Assistance Act* or the *Employment and Assistance for Persons with Disabilities Act*.

Section 11

Form 1 of Appendix A is amended, in conjunction with amendments to Rule 3-3 (3) (a) (in Section 1), to tie the timeframe for responding to the notice of civil claim to the place where the person is served rather than to the place where the person resides.

Section 12

Form 3, the Counterclaim, is amended, in conjunction with amendments to Rule 3-3 (3) (a) (in Section 1), to tie the timeframe for responding to the counterclaim to the place where the person is served rather than to the place where the person resides.

Section 13

Form 5, the Third Party Notice, is amended, in conjunction with amendments to Rule 3-3 (3) (a) (in Section 1), to tie the timeframe for responding to the third party notice to the place where the person is served rather than to the place where the person resides.

Section 14

Form 15, the Affidavit of Personal Service, is amended to include the place at which the person was served.

Section 15

Form 40, the Notice of Trial, is amended to correct a cross reference error.

Section 16

Form 41, the Trial Brief, is amended to include reference to the scheduled duration and start date of the trial, to add a section listing prior orders which may affect the conduct of the trial and to add a section in which to note whether or not the trial of the action is to be heard by a jury.

Section 17

Forms 51 to 54, respectively the Writ of Sequestration, Writ of Possession, Writ of Delivery, and Writ of Delivery or Assessed Value, are amended to require in each instance that the name of the lawyer or person causing the writ to be issued be included on the form.

Section 18

Form 59.1, the Appointment for Examination in Aid of Execution, is added to reflect the amendments to Rule 13-4 (in Section 6).

Section 19

Form 61, the Notice of Fast Track Action, is amended to include the name of the party(ies) filing the Notice.

Section 20

Form 66, the Petition, is amended to indicate on whom the petition is to be served and to allow the time estimate for the hearing of the petition to be described generically rather than only by reference to a proposed number of minutes. It is also amended, in conjunction with amendments to Rule 16-1 (4) (in Section 7), to tie the timeframe for responding to the petition to the place where the person is served rather than to the place where the person resides.

Section 21

Forms 73 and 74, respectively, the Notice of Appeal if Directions Required, and the Notice of Appeal- Standard Directions, are amended to reflect the timeframe amendments to Rule 18-3 (8) (a) (in Section 8).

Section 22

Form 80, the Affidavit in Support of Indigent Application, is amended to reflect the amendment to Rule 20-5 (3) (c) (in Section 10).

Section 23

Form 82, the Notice of Civil Claim - Admiralty (*In Rem and In Personam*) is amended to tie the timeframe for responding to the notice of civil claim to the place where the person is served rather than to the place where the person resides.

Section 24

Form 112, the Notice of Intention to Withdraw as Lawyer, is amended to state the name of the party for whom the withdrawing lawyer acted.

Section 25

Form 118, the Fax Cover Sheet, is amended to increase the number of pages that may be transmitted by fax from 20 to 30 and to move the payment information to the end of the form so it can later be removed.

SCHEDULE B

Amendments to Supreme Court Family Rules, B.C. Reg. 169/2009

Section 1

Rule 7-1 of the Supreme Court Family Rules, B.C. Reg. 169/2009, is amended to provide that proceedings at a judicial case conference must be recorded but that no part of the recording may be made available to or used by any person without court order.

Section 2

Rule 14-5 (5) originally provided that a trial must be removed from the trial list if no party of record files a trial certificate. The rule is amended to allow the court to relieve the parties from that result in appropriate circumstances.

Section 3

Rule 17-1 (4) (c) (i) to (iii) is amended, in conjunction with amendments to Form F73 (in Section 16), to tie the timeframe for responding to a petition to the place where the petition respondent is served with the petition rather than to the place where the petition respondent resides.

Rule 17-1 (17) is amended to expressly authorize a petition respondent to apply for directions if the petitioner does not set the petition for hearing within a reasonable time after being requested to do so.

Section 4

Rule 18-3 (8) (a) is amended to provide different timeframes for filing a notice of interest in relation to a notice of appeal depending on where the person intending to oppose the appeal was served with the notice of appeal.

Section 5

Rule 20-5 (3) (c) is amended, in conjunction with Form F86 (in Section 18), to ensure that all applicants for indigent status complete the required affidavit rather than simply provide proof that they are in receipt of benefits under the *Employment and Assistance Act* or the *Employment and Assistance for Persons with Disabilities Act*.

Section 6

Item 1 of Schedule 1 of Forms F3, the Notice of Family Claim, and F5, the Counterclaim, is amended to include the date of marriage.

Section 7

Form F15, the Affidavit of Personal Service, is amended to include the place at which the person was served, and to elaborate the basis upon which the identity of the person served is to be confirmed.

Section 8

Form F36, is amended to rename the form from "Certificate" to "Certificate of Pleadings".

Section 9

Item 6 of Form F37, the Child Support Affidavit, is amended in the instruction to ensure that only one of the optional boxes is checked.

Section 10

Forms F37, the Child Support Affidavit, and F38, the Affidavit-Desk Order Divorce, are amended to include the occupation of the person swearing or affirming the affidavit.

Section 11

Form F38, the Affidavit-Desk Order Divorce, is amended to correct a cross reference.

Section 12

Form F44, the Notice of Trial, is amended to correct a cross reference.

Section 13

Form F45, the Trial Brief, is amended to include reference to the scheduled duration and start date of the trial and to add a section listing prior orders which may affect the conduct of the trial.

Section 14

Form F54, the Restraining Order, is amended in the instruction to ensure that only one of the optional boxes is checked.

Section 15

Forms F58 to F61, respectively the Writ of Sequestration, Writ of Possession, Writ of Delivery, and Writ of Delivery or Assessed Value, are amended to require in each instance that the name of the lawyer or person causing the writ to be issued be included on the form.

Section 16

Form F73, the Petition, is amended to indicate on whom the petition is to be served and to allow the time estimate for the hearing of the petition to be described generically rather than only by reference to a proposed number of minutes. It is also amended, in conjunction with amendments to Rule 17-1 (4) (in Section 3), to tie the timeframe for responding to the petition to the place where the person is served rather than to the place where the person resides.

Section 17

Forms F79 and F80, respectively the Notice of Appeal if Directions Required and the Notice of Appeal - Standard Directions, are amended to reflect the amendments to Rule 18-3 (8) (a) (in Section 4).

Section 18

Form F86, the Affidavit in Support of Indigent Application, is amended to reflect the amendment to Rule 20-5 (3) (c) (in Section 5).

Section 19

Form F89, the Notice of Intention to Withdraw as Lawyer, is amended to state the name of the party for whom the withdrawing lawyer acted.

Section 20

Form F95, the Fax Cover Sheet, is amended to increase the number of pages that may be transmitted by fax from 20 to 30 and to move the payment information to the end of the form so it can later be removed.

Section 21

Form F100, the Certificate of Mediation, is repealed and replaced to ensure that only a qualified mediator can complete the form and to ensure that the form can be used in circumstances where all issues have been resolved at the mediation but that the parties still require an order of the court (for example, to obtain a divorce).

Section 22

Schedule 1 of Appendix C, Fees Payable to the Crown, is amended to define “qualified mediator” for the purposes of Form F100 to be a member of the Family Roster of Mediate BC Society, a Family Mediation Canada Certified Family Mediator or a person designated by the Ministry of the Attorney General as a Family Justice Counsellor.

Section 23

Item 19 (c) of Schedules 1 and 4 of Appendix C is amended to clarify that no fee applies to the filing of a certificate of pleadings.