

Fast Track Litigation

Fast track litigation (Rule 15-1) allows you to shorten the entire litigation process if you have an action where the amount in issue is \$100,000 or less or needs no more than three days of trial. What this means to you is that your case can be concluded much faster and at far lower cost.

When is fast track litigation available?

Rule 15-1 can only be used if you have started your case with a notice of civil claim. It does not apply to cases started with a petition. Fast track litigation cannot be used in family proceedings, class proceedings, or jury trials.

Unless the court otherwise orders, Rule 15-1 applies to an action if:

1. The only claims in the action are for one or more of money, real property, a builder's lien and personal property and the total of the following amounts is \$100,000 or less, exclusive of interest and costs:
 - the amount of any money claimed in the action by the plaintiff for pecuniary (financial) loss;

- the amount of any money to be claimed in the action by the plaintiff for non-pecuniary (such as pain and suffering) loss;
 - the fair market value, as at the date the action is commenced, of:
 - all real property and all interests in real property, and
 - all personal property and all interests in personal property claimed in the action by the plaintiff;
2. The trial of the action can be completed within 3 days;
 3. The parties to the action consent; OR
 4. The court orders the action into the fast track.

Pecuniary loss means a financial loss. For example, in a personal injury case, you might claim \$200,000 for lost future income. Lost future income (even if the exact amount is uncertain) is a pecuniary – or financial loss. Non-pecuniary loss means that damages have occurred, but they are not financial losses. For example in the personal injury case, you have a right to claim damages for “pain and suffering” separate from financial losses.

Note that nothing in Rule 15-1 prevents the judge from awarding damages to a plaintiff in a fast track action for an amount over \$100,000.

This Guidebook provides general information about civil, non-family claims in the Supreme Court of BC. It does not explain the law. Legal advice must come from a lawyer, who can tell you why you should do something in your lawsuit or whether you should take certain actions. Anyone else, such as court registry staff, non-lawyer advocates, other helpers, and this guidebook can only give you legal information about how to do something, such as following certain court procedures.

Standards are in effect for the filing of all Supreme Court civil and Supreme Court family documents, except divorce and probate. When you submit your completed documents, registry staff will check to make sure they meet the minimum standards before accepting them for filing. It is your responsibility to include all other information required by the court and ensure it is correct.

For information about how to get help with your case, see the last page of this document.

Rule 15-1 sets out the information you need to make sure that you take the appropriate steps to have your case heard under the fast track litigation process; however, you should be aware that it does not fully set out all the procedures that will be applicable to the trial of your action. See the guidebook, *Trials in the Supreme Court*.

Choosing fast track litigation

Either the plaintiff or the defendant can decide to carry on the proceeding under the fast track procedure by filing a notice of fast track action in Form 61. You must serve a copy of the notice of fast track on all parties of record.

The words “subject to Rule 15-1” must be added to the style of proceeding immediately below the listed parties for all documents filed after the fast track has been chosen, as in the following example:

	No. 12345
	Vancouver Registry
IN THE SUPREME COURT OF BRITISH COLUMBIA	
BETWEEN:	
JOE GREEN	
	PLAINTIFF
AND:	
FRED BLACK	
	DEFENDANT
	SUBJECT TO RULE 15-1

Can you stop fast track litigation?

The parties can consent to remove a case from the fast track. If the parties do not consent, either party can apply to court to remove the case from the fast track process. You can apply by bringing an application (see the guidebook, *Applications to Court*), on the basis that the value, importance or complexity of the case are higher than what is reasonable for a fast track action. In some cases, the court may make its own decision to remove the case from the fast track process (Rule 15-1(6)).

Remember that if your proceeding is removed from the fast track litigation process, you will have to revert to the regular trial list and your proceeding will take longer and may cost more to complete.

Applying for a trial date

If either party applies for a trial date within 4 months of choosing to use the fast track procedure, the registrar must give you a trial date that starts within 4 months after the date you apply for it (Rule 15-1(13)). The guidebook, *Trials in the Supreme Court* gives you more information about how to apply for a trial date.

Case planning conference

Case planning conferences are described in the guidebook, *The Case Planning Conference*. In brief, a case planning conference is a meeting with a judge or master to deal with issues and timelines in your case such as, discovery of documents or people, dispute resolution procedures, or other pre-trial matters. Rules 5-1 to 5-4 provide more information about case planning conferences.

A party to a fast track action must not serve on another party a notice of application or an affidavit in support of an application unless a case planning conference or a trial management conference has been conducted (Rule 15-1(7)). Trial management conferences are described in the guidebook, *Trials in the Supreme Court*. They are governed by Rule 12-2 and are generally scheduled to ensure that all matters concerning conduct of the trial have been considered.

The requirement for a case planning conference to be held before any applications are filed does not apply to an application to have the action removed from the fast track litigation process, nor does it apply to applications to strike pleadings, an application for summary judgment, an application for a summary trial, or urgent applications.

Examinations for discovery

Examinations for discovery are the same as they would be in any other procedure (see the guidebook, *The Discovery Process*), except that each party must only submit to a total of 2 hours of examination, regardless of how many parties are on the other side. For example, if you are the plaintiff and there are 3 defendants, all of the defendants, combined, have a maximum of 2 hours to examine you. They do not have 2 hours each. The parties can consent to making the examination longer or the court can order that the examinations be longer. However, fast track litigation is meant to be just that – quick and inexpensive – and if examinations for discovery take too long, the purpose of fast track litigation will be defeated.

Unless the court orders otherwise, or the parties consent, examinations for discovery must be completed at least 14 days before the scheduled trial date.

Costs

Fast track litigation restricts the amount of costs you can claim after trial. This means that even if you win, you will only get a very limited amount of money for costs, not including disbursements:

- If the trial is one day or less, you can claim \$8,000 in costs;
- If the trial is 2 days or less, but more than one day, you can claim \$9,500 in costs;
- If the trial is more than 2 days, you can claim \$11,000 in costs.

The court can order an increased amount of costs if there are special circumstances. For example, courts may order an increased amount where there has been an offer to settle for more than the final award. (Rule 15-1(16)). However, this does not happen in every such case, and it will depend on factors like the timing of the offer, the difference between the amount and terms of the offer and the result at trial,

and whether the trial was heard within the three day time frame.

Major Steps in a Fast Track Action

1. Any party can file a notice of fast track action in Form 61.
2. Any party (or the court) can schedule a case planning conference.
3. A trial management conference is held at least 28 days before the scheduled trial date.
4. Parties can bring applications, if necessary, but only after a case planning conference has been held.
5. Parties are subject to examinations for discovery for a total of 2 hours.
6. Any party can apply for a trial date, which will be set for a date no later than 4 months after the application is made.
7. Trial is held without a jury.
8. Costs are awarded according to the length of the trial and offers to settle may be considered by the court.

Get Help With Your Case

Before you start your claim, you should think about resolving your case without going to court (see the guidebook, *Alternatives to Going to Court*). If you do not have a lawyer, you will have to learn about the court system, the law that relates to your case, what you and the other side need to prove, and the possible legal arguments for your case. You will also need to know about the court rules and the court forms that must be used when you bring a dispute to court.

Legal Information Online

All *Guidebooks for Representing Yourself in BC Supreme Court Civil Matters*, along with additional information, videos and resources for Supreme Court family and civil cases are available on the Justice Education Society website: www.SupremeCourtBC.ca.

Clicklaw gives you information about many areas of law and free services to help you solve your legal problems: www.Clicklaw.bc.ca.

The Supreme Court of BC's website has information for people who are representing themselves in court: www.Courts.gov.bc.ca/supreme_court/self-represented_litigants/

Legal information services

The Vancouver Justice Access Centre's, Self-help and Information Services includes legal information, education and referral services for Supreme Court family and civil cases. It is located at 290 - 800 Hornby Street in Vancouver (open Monday to Friday): www.SupremeCourtSelfHelp.bc.ca.

For information about other Justice Access Centre services in Vancouver and Nanaimo, see: www.JusticeAccessCentre.bc.ca.

Legal advice

You may be eligible for free (pro bono) legal advice. Access ProBono Society of BC's website gives you information about the legal assistance that is available to you: www.AccessProBono.ca.

Legislation

BC Legislation (statutes), regulations, and Rules of Court can be found at: www.BCLaws.ca.

Court rules and forms

Supreme Court forms can be completed in 3 ways:

1. Completed online and filed at: www.CourtServicesOnline.gov.bc.ca
2. Completed online, printed and filed at the registry
3. Printed, completed manually and filed at the registry

Court forms that can be completed online are available at: www.ag.gov.bc.ca/courts/other/supreme/2010SupRules/info/index_civil.htm

Printable court forms are available at: www.SupremeCourtBC.ca/civil/forms

Common legal terms

You can find out the meaning of legal terms at: www.SupremeCourtBC.ca/glossary

Family law

For information about family law claims, see: www.FamilyLaw.LSS.bc.ca.

This guidebook is part of a series:

Guidebooks for Representing Yourself in Supreme Court Civil Matters.

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NOTES

Form 61

(Rules 14-1 (1) and 15-1 (2))

1

[Style of Proceeding]

NOTICE OF FAST TRACK ACTION

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

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

TAKE NOTICE that this action is a fast track action to which Rule 15-1 of the Supreme Court Civil Rules applies.

2

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

.....
Signature of [] person filing notice

[] lawyer for person filing notice

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

NOTES

Court forms are available at: http://www.ag.gov.bc.ca/courts/other/supreme/2010SupRules/info/index_civil.htm.

They can be completed online and filed electronically using Court Services Online:
www.courtservicesonline.gov.bc.ca.

They can also be printed and completed manually; or completed online, printed and filed.

File this form in the court registry and serve it on the other parties of record.

1. The style of proceeding is the part at the top of the document that identifies your case within the court system. You will use the style of proceeding on every one of your documents, whether they are filed in the court registry or not. Insert the court number, the location of the registry (e.g., Vancouver), as it is part of your style of proceeding. Write in the names of the plaintiff and defendant in capital letters (not addresses) in the style of proceeding.
 2. The date and your name.
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