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Reducing Legal Costs: British Columbia Legislative Initiatives

In an attempt to curb increasing costs of litigation in British Columbia, Attorney General Geoff Plant has implemented two strategies effective September 1, 2005:

- a) the introduction of new *Rules of Court* in respect of litigation where total monetary claims amount to \$100,000 or less; and
- b) increasing the monetary limit of Provincial (Small Claims) Court from \$10,000 to \$25,000.

THE EXPEDITED LITIGATION PROJECT

Rule 68, otherwise known as the "expedited action rule", will be piloted for two years at Supreme Court registries in Vancouver, Victoria, Prince George and Nelson. The rule will apply to all cases commenced in these registries subsequent to September 1, 2005 where the total monetary claim, exclusive of interest and costs, amounts to \$100,000 or less. The rule provides for streamlined procedures in an attempt to reduce the time and cost required to resolve these matters through the litigation process and may be triggered by any party at the pleadings stage. The streamlined procedures include:

- "automatic" document production requirements undertaken within 15 days of the close of pleadings.
- no examinations for discovery without consent or court order, and, if discovery is required, a two hour time limit thereon.
- delivery of witness lists and "will say" statements within 60 days of the close of pleadings.
- a limit of one expert report of each party's choosing, and, if necessary, one expert report in rebuttal.
- limits on interlocutory applications.

- early "case management conferences" at which counsel and client representatives must be present in order to discuss various matters including pleadings, documents, discovery, experts, issues, settlement and trial.
- early "trial management conference" for which each party must file a brief and the court may make orders regarding trial length, admissions, documents, witnesses, legal authorities and opening and closing statements.

SMALL CLAIMS COURT JURISDICTION

Also effective September 1, 2005 will be the implementation of changes to the monetary jurisdiction and rules governing the Provincial (Small Claims) Court. The changes will include increasing the monetary limit of this Court from \$10,000 to \$25,000 (the first change in monetary jurisdiction since 1991) and affording litigants the right to sue the provincial government outside of Supreme Court. We expect that other changes will be made regarding the operation of this court, including changes to the *Small Claims Court Rules*.

IMPACT FOR THE INSURANCE INDUSTRY

Claims personnel are well advised to familiarize themselves with the application and effects of the "expedited action" rule and increased small claims court jurisdiction well in advance of September 1, 2005. It is important that claims personnel be in position to take advantage of these legislative initiatives and properly respond to their implementation by others. Further, it is our view that the "expedited action" rule in particular will act as fertile ground for the development of precedents. Insurers and their counsel should consider and create strategies that will lead to a favourable development of the law surrounding this new rule.

AUTHOR Alex L. Eged
Direct Line: 604-891-0357 E-mail: aeged@dolden.com

EDITOR Alex L. Eged
Direct Line: 604-891-0357 E-mail: aeged@dolden.com