

Watson and McGowan

**ONTARIO
CIVIL PRACTICE**

Practice Advisor

November 15, 2013

Below please find a comprehensive collection of updates to the legislative provisions that have been amended since the publication of the 2014 edition of *Ontario Civil Practice*.

Cumulative Amendments

(May 25, 2013 to November 15, 2013)

- ***Rules of Civil Procedure, O. Reg. 194/90***

1.03

1.03(1) Definitions

In these rules, unless the context requires otherwise,

"action" means a proceeding that is not an application and includes a proceeding commenced by,

- (a) statement of claim,
- (b) notice of action,
- (c) counterclaim,
- (d) crossclaim, or
- (e) third or subsequent party claim;

"appellant" means a person who brings an appeal;

"appellate court" means the Court of Appeal or the Divisional Court, as the circumstances require;

"applicant" means a person who makes an application;

"application" means a proceeding commenced by notice of application;

"county" includes a district, a regional or district municipality, and the City of Toronto;

"court" means the court in which a proceeding is pending and, in the case of a proceeding in the Superior Court of Justice, includes,

- (a) a master having jurisdiction to hear motions under Rule 37, and
- (b) a case management master;

"defendant" means a person against whom an action is commenced;

"deliver" means serve and file with proof of service, and **"delivery"** has a corresponding meaning;

"disability" where used in respect of a person, means that the person is,

(a) a minor,
(b) mentally incapable within the meaning of section 6 or 45 of the *Substitute Decisions Act, 1992* in respect of an issue in the proceeding, whether the person has a guardian or not, or

(c) an absentee within the meaning of the *Absentees Act*;

"discovery" means discovery of documents, examination for discovery, inspection of property and medical examination of a party as provided under Rules 30 to 33;

"document" includes data and information in electronic form;

"electronic" includes created, recorded, transmitted or stored in digital form or in other intangible form by electronic, magnetic or optical means or by any other means that has capabilities for creation, recording, transmission or storage similar to those means, and

"electronically" has a corresponding meaning;

"hearing" means the hearing of an application, motion, reference, appeal or assessment of costs, or a trial;

"holiday" means,

(a) any Saturday or Sunday,

(b) New Year's Day,

(b.1) Family Day,

(c) Good Friday,

(d) Easter Monday,

(e) Victoria Day,

(f) Canada Day,

(g) Civic Holiday,

(h) Labour Day,

(i) Thanksgiving Day,

(j) Remembrance Day,

(k) Christmas Day,

(l) Boxing Day, and

(m) any special holiday proclaimed by the Governor General or the Lieutenant Governor,

and where New Year's Day, Canada Day or Remembrance Day falls on a Saturday or Sunday, the following Monday is a holiday, and where Christmas Day falls on a Saturday or Sunday, the following Monday and Tuesday are holidays, and where Christmas Day falls on a Friday, the following Monday is a holiday;

"information technology" [Revoked O. Reg. 14/04, s. 1(1).]

"judge" means a judge of the court;

"judgment" means a decision that finally disposes of an application or action on its merits and includes a judgment entered in consequence of the default of a party;

"lawyer" means a person authorized under the *Law Society Act* to practise law in Ontario;

"lawyer's office" means the office of the lawyer of record as set out in the last document filed by him or her;

"limited scope retainer" means the provision of legal services by a lawyer for part, but not all, of a client's legal matter by agreement between the lawyer and the client; ("mandat à portée limitée")

O. Reg. 231/13, s. 1 [To come into force January 1, 2014]

"motion" means a motion in a proceeding or an intended proceeding;

"moving party" means a person who makes a motion;

"order" includes a judgment;

"originating process" means a document whose issuing commences a proceeding under these rules, and includes,

(a) a statement of claim,

(b) a notice of action,

(c) a notice of application,

(d) an application for a certificate of appointment of an estate trustee,

(e) a counterclaim against a person who is not already a party to the main action, and

(f) a third or subsequent party claim,

but does not include a counterclaim that is only against persons who are parties to the main action, a crossclaim or a notice of motion;

"partial indemnity costs" mean costs awarded in accordance with Part I of Tariff A, and "on a partial indemnity basis" has a corresponding meaning;

"person" includes a party to a proceeding;

"plaintiff" means a person who commences an action;

"proceeding" means an action or application;

"referee" means the person to whom a reference in a proceeding is directed;

"registrar" means the Registrar of the Divisional Court or Court of Appeal, or a local registrar of the Superior Court of Justice, as the circumstances require;

"respondent" means a person against whom an application is made or an appeal is brought, as the circumstances require;

"responding party" means a person against whom a motion is made;

"solicitor's office" [Repealed O. Reg. 575/07, s. 7(3).]

"statute" includes a statute passed by the Parliament of Canada.

"substantial indemnity costs" mean costs awarded in an amount that is 1.5 times what would otherwise be awarded in accordance with Part I of Tariff A, and "on a substantial indemnity basis" has a corresponding meaning.

"timetable" means a schedule for the completion of one or more steps required to advance the proceeding (including delivery of affidavits of documents, examinations under oath, where available, or motions), established by order of the court or by written agreement of the parties that is not contrary to an order.

1.04 Interpretation

General Principle

1.04(1) These rules shall be liberally construed to secure the just, most expeditious and least expensive determination of every civil proceeding on its merits.

Proportionality

1.04(1.1) In applying these rules, the court shall make orders and give directions that are proportionate to the importance and complexity of the issues, and to the amount involved, in the proceeding.

Matters Not Provided for

1.04(2) Where matters are not provided for in these rules, the practice shall be determined by analogy to them.

Party Acting in Person

1.04(3) Where a party to a proceeding is not represented by a lawyer but acts in person in accordance with subrule 15.01(2) or (3), anything these rules require or permit a lawyer to do shall be done by the party.

1.04(3) [Revoked O. Reg. 231/13, s. 2. To come into force January 1, 2014]

"Party and Party" Costs

1.04(4) If a statute, regulation or other document refers to party and party costs, these rules apply as if the reference were to partial indemnity costs.

"Solicitor and Client" Costs

1.04(5) If a statute, regulation or other document refers to solicitor and client costs, these rules apply as if the reference were to substantial indemnity costs.

O. Reg. 284/01, s. 3; 575/07, s. 1, item 1; 438/08, s. 2

[...]

15.01 Where Lawyer is Required

15.01(1) A party to a proceeding who is under disability or acts in a representative capacity shall be represented by a lawyer.

15.01(2) A party to a proceeding that is a corporation shall be represented by a lawyer, except with leave of the court.

15.01(3) Any other party to a proceeding may act in person or be represented by a lawyer.

O. Reg. 575/07, s. 1, item 7

15.01(4) Subrule (3) permits a party to be represented by a lawyer acting under a limited scope retainer, but a limited scope retainer does not, in itself, make a lawyer the lawyer of record for the party.

O. Reg. 231/13, s. 3 [To come into force January 1, 2014]

15.01.1 Interpretation

Party Acting in Person

15.01.1(1) Where a party to a proceeding is not represented by a lawyer but acts in person, anything these rules require or permit a lawyer to do shall be done by the party.

Party Represented under Limited Scope Retainer

15.01.1(2) A party who is represented by a lawyer acting under a limited scope retainer is considered for the purpose of these rules to be acting in person and without a lawyer, and, to that end,

(a) a reference in these rules to a party acting in person includes a reference to a party who is represented in this manner; and

(b) anything these rules require or permit a party to do shall be done by the party.

Exception, Lawyer of Record

15.01.1(3) Subsection (2) does not apply if the lawyer acting under the limited scope retainer is the party's lawyer of record.

O. Reg. 231/13, s. 4 [To come into force January 1, 2014]

[...]

17.02 Service Outside Ontario Without Leave

A party to a proceeding may, without a court order, be served outside Ontario with an originating process or notice of a reference where the proceeding against the party consists of a claim or claims,

(a) **Property in Ontario** — in respect of real or personal property in Ontario;

(b) **Administration of Estates** — in respect of the administration of the estate of a deceased person,

(i) in respect of real property in Ontario, or

(ii) in respect of personal property, where the deceased person, at the time of death, was resident in Ontario;

(c) **Interpretation of an Instrument** — for the interpretation, rectification, enforcement or setting aside of a deed, will, contract or other instrument in respect of,

(i) real or personal property in Ontario, or

(ii) the personal property of a deceased person who, at the time of death, was resident in Ontario;

(d) **Trustee Where Assets Include Property in Ontario** — against a trustee in respect of the execution of a trust contained in a written instrument where the assets of the trust include real or personal property in Ontario;

(e) **Mortgage on Property in Ontario** — for foreclosure, sale, payment, possession or redemption in respect of a mortgage, charge or lien on real or personal property in Ontario;

(f) **Contracts** — in respect of a contract where,

(i) the contract was made in Ontario,

(ii) the contract provides that it is to be governed by or interpreted in accordance with the law of Ontario,

(iii) the parties to the contract have agreed that the courts of Ontario are to have jurisdiction over legal proceedings in respect of the contract, or

(iv) a breach of the contract has been committed in Ontario, even though the breach was preceded or accompanied by a breach outside Ontario that rendered impossible the performance of the part of the contract that ought to have been performed in Ontario;

(g) **Tort Committed in Ontario** — in respect of a tort committed in Ontario;

(h) **Damage Sustained in Ontario** — in respect of damage sustained in Ontario arising from tort, breach of contract, breach of fiduciary duty or breach of confidence, wherever committed;

(h) [Revoked O. Reg. 231/13, s. 5. To come into force January 1, 2014]

(i) **Injunctions** — for an injunction ordering a party to do, or refrain from doing, anything in Ontario or affecting real or personal property in Ontario;

(j) [Revoked O. Reg. 131/04, s. 9.]

- (k) [Revoked O. Reg. 131/04, s. 9.]
- (l) [Revoked O. Reg. 131/04, s. 9.]
- (m) **Judgment of Court Outside Ontario** — on a judgment of a court outside Ontario;
- (n) **Authorized by Statute** — authorized by statute to be made against a person outside Ontario by a proceeding commenced in Ontario;
- (o) **Necessary or Proper Party** — against a person outside Ontario who is a necessary or proper party to a proceeding properly brought against another person served in Ontario;
- (p) **Person Resident or Carrying on Business in Ontario** — against a person ordinarily resident or carrying on business in Ontario;
- (q) **Counterclaim, Crossclaim or Third Party Claim** — properly the subject matter of a counterclaim, crossclaim or third or subsequent party claim under these rules; or
- (r) **Taxes** — made by or on behalf of the Crown or a municipal corporation to recover money owing for taxes or other debts due to the Crown or the municipality.

O. Reg. 171/98, s. 2; 131/04, s. 9

[...]

17.05 Manner of Service Outside Ontario

Definitions

17.05(1) In this rule,

"**contracting state**" means a contracting state under the Convention;

"**Convention**" means the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters signed at The Hague on November 15, 1965.

General Manner of Service

17.05(2) An originating process or other document to be served outside Ontario in a jurisdiction that is not a contracting state may be served in the manner provided by these rules for service in Ontario, or in the manner provided by the law of the jurisdiction where service is made, if service made in that manner could reasonably be expected to come to the notice of the person to be served.

Manner of Service in Convention States

17.05(3) An originating process or other document to be served outside Ontario in a contracting state shall be served,

- (a) through the central authority in the contracting state; or
- (b) in a manner that is permitted by Article 10 of the Convention and that would be permitted by these rules if the document were being served in Ontario.
- (b) in a manner that is permitted by the Convention and that would be permitted by these rules if the document were being served in Ontario.

O. Reg. 231/13, s. 6 [To come into force January 1, 2014]

Proof of Service

17.05(4) Service may be proved,

- (a) in the manner provided by these rules for proof of service in Ontario;
- (b) in the manner provided by the law of the jurisdiction where service is made; or

(c) in accordance with the Convention, if service is made in a contracting state (Forms 17A to 17C).

O. Reg. 535/92, s. 7

[...]

24.1.04 Application

Scope

24.1.04(1) This Rule applies to the following actions:

1. Actions that were governed by this Rule immediately before January 1, 2010.
2. Actions that are commenced in one of the following counties on or after January 1, 2010:
 - i. The City of Ottawa.
 - ii. The City of Toronto.
 - iii. The County of Essex.
3. Actions that are transferred to a county listed in paragraph 2 on or after January 1, 2014, unless the court orders otherwise.

O. Reg. 231/13, s. 7 [To come into force January 1, 2014]

[...]

24.1.09 Mediation Session

Time Limit

24.1.09(1) A mediation session shall take place within 180 days after the first defence has been filed, unless the court orders otherwise.

Extension or Abridgment of Time

24.1.09(2) In considering whether to exercise the power conferred by subrule (1), the court shall take into account all the circumstances, including,

- (a) the number of parties, the state of the pleadings and the complexity of the issues in the action;
- (b) whether a party intends to bring a motion under Rule 20 (Summary Judgment), Rule 21 (Determination of an Issue Before Trial) or Rule 22 (Special Case);
- (c) whether the mediation will be more likely to succeed if the 180-day period is extended to allow the parties to obtain evidence under,
 - (i) Rule 30 (Discovery of Documents),
 - (ii) Rule 31 (Examination for Discovery),
 - (iii) Rule 32 (Inspection of Property),
 - (iv) Rule 33 (Medical Examination), or
 - (v) Rule 35 (Examination for Discovery by Written Questions); and
- (d) whether, given the nature of the case or the circumstances of the parties, the mediation will be more likely to succeed if the 180-day period is extended or abridged.

Transition

24.1.09(2.1) Despite subrule (1), in the case of an action described in paragraph 1 of subrule 24.1.04(1), the 180-day period begins to run on January 1, 2010.

Transfer

24.1.09(2.1) In the case of an action described in paragraph 3 of subrule 24.1.04 (1), (a) subrules (1) and (6) do not apply; and (b) the court may make an order, on motion or otherwise, specifying the date by which a mediation session must take place.

O. Reg. 231/13, s. 8(1) [To come into force January 1, 2014]

Postponement

24.1.09(3) Despite subrule (1), the mediation session may be postponed to a later date if,

24.1.09(3) Despite subrule (1) and clause (2.1) (b), the mediation session may be postponed to a later date if,

O. Reg. 231/13, s. 8(2) [To come into force January 1, 2014]

(a) the parties consent to the date in writing; and
(b) the consent is filed with the mediation co-ordinator.

Selection of mediator

24.1.09(4) The parties shall choose a mediator under subrule 24.1.08(2).

24.1.09(5) Before setting the action down for trial, one of the parties shall file with the mediation co-ordinator,

(a) a notice (Form 24.1A) stating the mediator's name and the date of the mediation session; or
(b) a mediator's report under subrule 24.1.15(1) indicating that the mediation has been concluded.

Assignment of Mediator

24.1.09(6) If the mediation co-ordinator does not, within 180 days after the first defence has been filed, receive an order under subrule (1), a consent under subrule (3), a notice under clause (5)(a), a mediator's report or a notice that the action has been settled, he or she shall immediately assign a mediator from the list, unless the court orders otherwise.

24.1.09(6.1) If the mediation co-ordinator does not, within the time provided by an order under subrule (1) or a consent under subrule (3), receive a notice under clause (5)(a), a mediator's report or a notice that the action has been settled, and the action is set down for trial, he or she shall immediately assign a mediator from the list, unless the court orders otherwise.

24.1.09(6.1) If the mediation co-ordinator does not, within the time provided by an order under subrule (1) or clause (2.1) (b) or a consent under subrule (3), receive a notice under clause (5)(a), a mediator's report or a notice that the action has been settled, and the action is set down for trial, he or she shall immediately assign a mediator from the list, unless the court orders otherwise.

O. Reg. 231/13, s. 8(3) [To come into force January 1, 2014]

24.1.09(6.2) In the case of an action described in paragraph 3 of subrule 24.1.04 (1), if the court does not make an order under clause (2.1) (b) and the action is set down for trial without the mediation co-ordinator having received a notice under clause (5) (a), a mediator's report or a notice that the action has been settled, he or she shall immediately assign a mediator from the list, unless the court orders otherwise.

O. Reg. 231/13, s. 8(4) [To come into force January 1, 2014]

24.1.09(7) The assigned mediator shall immediately fix a date for the mediation session and shall, at least 20 days before that date, serve on every party a notice (Form 24.1B) stating the place, date and time of the session and advising that attendance is obligatory.

24.1.09(7.1) The date fixed for the mediation session shall be within 90 days after the appointment of the mediator, unless the court orders otherwise.

24.1.09(8) The assigned mediator shall provide a copy of the notice to the mediation co-ordinator.

O. Reg. 453/98, s. 1; 244/01, s. 2; 438/08, s. 20

53.09 Calculation of Awards for Future Pecuniary Damages

Discount Rate

53.09(1) The discount rate to be used in determining the amount of an award in respect of future pecuniary damages, to the extent that it reflects the difference between estimated investment and price inflation rates, is,

(a) for the 15-year period that follows the start of the trial, the average of the value for the last Wednesday in each month of the real rate of interest on long-term Government of Canada real return bonds (Series V121808, formerly Series B113911), as published in the *Bank of Canada Weekly Financial Statistics* for the 12 months ending on August 31 in the year before the year in which the trial begins, less 1 per cent and rounded to the nearest 1/4 per cent; and

(b) for any later period covered by the award, 2.5 per cent per year.

(a) for the 15-year period that follows the start of the trial, the greater of,

(i) the average of the value for the last Wednesday in each month of the real rate of interest on long-term Government of Canada real return bonds (Series V121808, formerly Series B113911), as published in the *Bank of Canada's Weekly Financial Statistics* for the period starting on March 1 and ending on August 31 in the year before the year in which the trial begins, less 1/2 per cent and rounded to the nearest 1/10 per cent, and

(ii) zero; and

(b) for any later period covered by the award, 2.5 per cent per year for each year in that period.

O. Reg. 231/13, s. 9(1) [To come into force January 1, 2014]

Gross Up

53.09(2) In calculating the amount to be included in the award to offset any liability for income tax on income from investment of the award, the court shall,

- (a) assume that the entire award will be invested in fixed income securities; and
- (b) determine the rate to be assumed for future inflation in accordance with the following formula:

"g" rounded to the nearest 1/4 per cent where,

$$g = ((1 + i)/(1 + d)) - 1$$

"i" is the average of the value for the last Wednesday in each month of the nominal rate of interest on long-term Government of Canada bonds (Series V121758, formerly Series B113867), as published in the *Bank of Canada Weekly Financial Statistics*, for the 12 months ending on August 31 in the year before the year in which the trial begins;

"d" is,

- (a) for the 15-year period that follows the start of the trial, the average of the value for the last Wednesday in each month of the real rate of interest on long-term Government of Canada real return bonds (Series V121808, formerly Series B113911), as published in the *Bank of Canada Weekly Financial Statistics* for the 12 months ending on August 31 in the year before the year in which the trial begins, less 1 per cent, and
- (b) for any later period covered by the award, 2.5 per cent per year.

O. Reg. 465/93, s. 5; 288/99, s. 16; 488/99, s. 2; 263/03, s. 4

- (b) determine the rate to be assumed for future inflation in accordance with the following formula:

g rounded to the nearest 1/10 per cent where,

$$g = ((1 + i)/(1 + d)) - 1$$

"i" is the average of the value for the last Wednesday in each month of the nominal rate of interest on long-term Government of Canada bonds (Series V121758, formerly Series B113867), as published in the Bank of Canada's *Weekly Financial Statistics* for the period starting on March 1 and ending on August 31 in the year before the year in which the trial begins;

"d" is,

- (a) for the 15-year period that follows the start of the trial, the greater of,
 - (i) the average of the value for the last Wednesday in each month of the real rate of interest on long-term Government of Canada real return bonds (Series V121808, formerly Series B113911), as published in the Bank of Canada's *Weekly Financial Statistics* for the period starting on March 1 and ending on August 31 in the year before the year in which the trial begins, less 1/2 per cent, and
 - (ii) zero, and

- (b) for any later period covered by the award, 2.5 per cent per year for each year in that period.

O. Reg. 231/13, s. 9(2) [To come into force January 1, 2014]

Transition

53.09(3) This rule, as it read on December 31, 2013, continues to apply with respect to actions in which the trial commenced before January 1, 2014.

O. Reg. 231/13, s. 9(3) [To come into force January 1, 2014]

[...]

59 Orders

59.08 Limited Scope Retainer

59.08(1) Despite subrule 15.01.1 (2), if an order arises from a hearing at which a lawyer who is not a party's lawyer of record appeared under a limited scope retainer for the party, that lawyer shall act in the place of the party for the purposes of this Rule.

59.08(2) Subrule (1) does not apply if,

- (a) the agreement governing the limited scope retainer provides otherwise; and
- (b) the lawyer acting under the limited scope retainer provides written notice of the fact to the other parties and to the registrar.

O. Reg. 231/13, s. 11 [To come into force January 1, 2014]

- **Rules of the Small Claims Court, O. Reg. 258/98**

1.02

1.02(1) Definitions

In these rules,

"court" means the Small Claims Court;

"disability", where used in respect of a person or party, means that the person or party is,

- (a) a minor,
- (b) mentally incapable within the meaning of section 6 or 45 of the *Substitute Decisions Act, 1992* in respect of an issue in the proceeding, whether the person or party has a guardian or not, or
- (c) an absentee within the meaning of the *Absentees Act*;

"document" includes data and information in electronic form;

"electronic" includes created, recorded, transmitted or stored in digital form in other intangible form by electronic, magnetic or optical means or by any other means that has capabilities for creation, recording, transmission or storage similar to those means, and

"electronically" has a corresponding meaning;

"holiday" means,

- (a) any Saturday or Sunday,
- (b) New Year's Day,
- (b.1) Family Day,
- (c) Good Friday,
- (d) Easter Monday,
- (e) Victoria Day,
- (f) Canada Day,

- (g) Civic Holiday,
- (h) Labour Day,
- (i) Thanksgiving Day,
- (j) Remembrance Day,
- (k) Christmas Day,
- (l) Boxing Day, and
- (m) any special holiday proclaimed by the Governor General or the Lieutenant Governor,

and if New Year's Day, Canada Day or Remembrance Day falls on a Saturday or Sunday, the following Monday is a holiday, and if Christmas Day falls on a Saturday or Sunday, the following Monday and Tuesday are holidays, and if Christmas Day falls on a Friday, the following Monday is a holiday;

"information technology" [Repealed O. Reg. 78/06, s. 2(1).]

"order" includes a judgment;

"paralegal" means a person licensed under the *Law Society Act* to provide legal services in Ontario; ("parajuriste")

"representative" means the lawyer, paralegal or other person representing a person in a proceeding under these rules; ("représentant")

O. Reg. 230/13, s. 1(1) [To come into force January 1, 2014]

"self-represented", when used in reference to a person, means that the person is not represented by a lawyer, student-at-law or agent;

"self-represented", when used in reference to a person, means that the person is not represented by a representative;

O. Reg. 230/13, s. 1(2) [To come into force January 1, 2014]

"territorial division" means,

- (a) a county, a district or a regional municipality, and
- (b) each of the following, as they existed on December 31, 2002:
 - (i) The combined area of County of Brant and City of Brantford.
 - (ii) Municipality of Chatham-Kent.
 - (iii) Haldimand County.
 - (iv) City of Hamilton.
 - (v) City of Kawartha Lakes.
 - (vi) Norfolk County.
 - (vii) City of Ottawa.
 - (viii) County of Prince Edward.
 - (ix) City of Toronto.

[...]

Representation

1.08 For greater certainty, nothing in these rules permits or authorizes the court to permit a person to act as a representative if that person is not authorized to do so under the *Law Society Act*.

O. Reg. 230/13, s. 2 [To come into force January 1, 2014]

[...]

4.01

4.01(1) Plaintiff's Litigation Guardian

An action by a person under disability shall be commenced or continued by a litigation guardian, subject to subrule (2).

4.01(2) Exception

A minor may sue for any sum not exceeding \$500 as if he or she were of full age.

4.01(3) Consent

A plaintiff's litigation guardian shall, at the time of filing a claim or as soon as possible afterwards, file with the clerk a consent (Form 4A) in which the litigation guardian,

- (a) states the nature of the disability;
- (b) in the case of a minor, states the minor's birth date;
- (c) sets out his or her relationship, if any, to the person under disability;
- (d) states that he or she has no interest in the proceeding contrary to that of the person under disability;
- (e) acknowledges that he or she is aware of his or her liability to pay personally any costs awarded against him or her or against the person under disability; and
- (f) states whether he or she is represented by a lawyer or agent and, if so, gives that person's name and confirms that the person has written authority to act in the proceeding.

(f) states whether he or she is represented by a representative and, if so, gives that person's name and confirms that the person has written authority to act in the proceeding.

O. Reg. 230/13, s. 3 [To come into force January 1, 2014]

4.02

4.02(1) Defendant's Litigation Guardian

An action against a person under disability shall be defended by a litigation guardian.

4.02(2) A defendant's litigation guardian shall file with the defence a consent (Form 4A) in which the litigation guardian,

- (a) states the nature of the disability;
- (b) in the case of a minor, states the minor's birth date;
- (c) sets out his or her relationship, if any, to the person under disability;
- (d) states that he or she has no interest in the proceeding contrary to that of the person under disability; and
- (e) states whether he or she is represented by a lawyer or agent and, if so, gives that person's name and confirms that the person has written authority to act in the proceeding.

(e) states whether he or she is represented by a representative and, if so, gives that person's name and confirms that the person has written authority to act in the proceeding.

O. Reg. 230/13, s. 4 [To come into force January 1, 2014]

4.02(3) If it appears to the court that a defendant is a person under disability and the defendant does not have a litigation guardian the court may, after notice to the proposed litigation guardian, appoint as litigation guardian for the defendant any person who has no interest in the action contrary to that of the defendant.

O. Reg. 78/06, s. 5

[...]

4.08(1) Money to be Paid into Court

Any money payable to a person under disability under an order or a settlement shall be paid into court, unless the court orders otherwise, and shall afterwards be paid out or otherwise disposed of as ordered by the court.

4.08(2) If money is payable to a person under disability under an order or settlement, the court may order that the money shall be paid directly to the person, and payment made under the order discharges the obligation to the extent of the amount paid.

Supporting Affidavit

4.08(3) A motion for an order under this rule shall be supported by an affidavit in Form 4B rather than an affidavit in Form 15A.

Costs

4.08(4) In making an order under this rule, the court may order that costs payable to the moving party be paid out of the money in court directly to the person representing that party in the proceeding.

4.08(4) In making an order under this rule, the court may order that costs payable to the moving party be paid out of the money in court directly to the moving party's representative.

O. Reg. 230/13, s. 5 [To come into force January 1, 2014]

O. Reg. 400/12, s. 1

[...]

7.01

7.01(1) Plaintiff's Claim

An action shall be commenced by filing a plaintiff's claim (Form 7A) with the clerk, together with a copy of the claim for each defendant.

7.01(2) Contents of Claim, Attachments

The following requirements apply to the claim:

1. It shall contain the following information, in concise and non-technical language:

i. The full names of the parties to the proceeding and, if relevant, the capacity in which they sue or are sued.

ii. The nature of the claim, with reasonable certainty and detail, including the date, place and nature of the occurrences on which the claim is based.

iii. The amount of the claim and the relief requested.

iv. The name, address, telephone number, fax number if any, and Law Society of Upper Canada registration number if any, of the lawyer or agent representing the plaintiff or, if the plaintiff is self-represented, the plaintiff's address, telephone number and fax number if any.

iv. The name, address, telephone number, fax number if any, and Law Society of Upper Canada registration number if any, of the representative representing the plaintiff or, if the plaintiff is self-represented, the plaintiff's address, telephone number and fax number if any.

O. Reg. 230/13, s. 6 [To come into force January 1, 2014]

v. The address where the plaintiff believes the defendant may be served.

2. If the plaintiff's claim is based in whole or in part on a document, a copy of the document shall be attached to each copy of the claim, unless it is unavailable, in which case the claim shall state the reason why the document is not attached.

7.01(3) [Repealed O. Reg. 78/06, s. 9(2).]

O. Reg. 461/01, s. 5; 78/06, s. 9; 56/08, s. 1

[...]

8.01(7) Summons to Witness

A summons to witness (Form 18A) shall be served personally by the party who requires the presence of the witness, or by the party's lawyer or agent, at least 10 days before the trial date; at the time of service, attendance money calculated in accordance with the regulations made under the *Administration of Justice Act* shall be paid or tendered to the witness.

A summons to witness (Form 18A) shall be served personally by the party who requires the presence of the witness, or by the party's representative, at least 10 days before the trial date; at the time of service, attendance money calculated in accordance with the regulations made under the *Administration of Justice Act* shall be paid or tendered to the witness.

O. Reg. 230/13, s. 7 [To come into force January 1, 2014]

[...]

8.02 Personal Service

If a document is to be served personally, service shall be made,

(a) **Individual** — on an individual, other than a person under disability, by leaving a copy of the document with him or her;

(b) **Municipality** — on a municipal corporation, by leaving a copy of the document with the chair, mayor, warden or reeve of the municipality, with the clerk or deputy clerk of the municipality or with a lawyer for the municipality;

(c) **Corporation** — on any other corporation, by leaving a copy of the document with,

(i) an officer, a director or an agent of the corporation, or

O. Reg. 230/13, s. 8 [To come into force January 1, 2014]

(ii) a person at any place of business of the corporation who appears to be in control or management of the place of business;

[...]

8.03(5) Acceptance of Service by Lawyer

Service on a party who is represented by a lawyer may be made by leaving a copy of the document with the lawyer or an employee in the lawyer's office, but service under this subrule is effective only if the lawyer or employee endorses on the document or a copy of it an acceptance of service and the date of the acceptance.

8.03(6) By accepting service the lawyer is deemed to represent to the court that he or she has the client's authority to accept service.

Acceptance of Service by Lawyer or Paralegal

8.03(5) Service on a party who is represented by a lawyer or paralegal may be made by leaving a copy of the document with the lawyer or paralegal, or with an employee in the lawyer's or paralegal's office, but service under this subrule is effective only if the lawyer, paralegal or employee endorses on the document or a copy of it an acceptance of service and the date of the acceptance.

8.03(6) By accepting service, the lawyer or paralegal is deemed to represent to the court that he or she has the client's authority to accept service.

O. Reg. 230/13, s. 9 [To come into force January 1, 2014]

[...]

8.07(1) Service by Mail

If a document is to be served by mail under these rules, it shall be sent, by regular lettermail or registered mail, to the last address of the person or of the person's lawyer or agent that is,

If a document is to be served by mail under these rules, it shall be sent, by regular lettermail or registered mail, to the last address of the person or of the person's representative that is,

O. Reg. 230/13, s. 10 [To come into force January 1, 2014]

- (a) on file with the court, if the document is to be served by the clerk;
- (b) known to the sender, if the document is to be served by any other person.

[...]

8.07.1(1) Service by Courier

If a document is to be served by courier under these rules, it shall be sent by means of a commercial courier to the last address of the person or of the person's lawyer or agent that is on file with the court or known to the sender.

If a document is to be served by courier under these rules, it shall be sent by means of a commercial courier to the last address of the person or of the person's representative that is on file with the court or known to the sender.

O. Reg. 230/13, s. 11 [To come into force January 1, 2014]

[...]

9.02(1) Contents of Defence, Attachments

The following requirements apply to the defence:

1. It shall contain the following information:

- i. The reasons why the defendant disputes the plaintiff's claim, expressed in concise non-technical language with a reasonable amount of detail.
- ii. If the defendant is self-represented, the defendant's name, address and telephone number, and fax number if any.
- iii. If the defendant is represented by a lawyer or agent, that person's name, address and telephone number, fax number if any, and Law Society of Upper Canada registration number if any.
- iii. If the defendant is represented by a representative, that person's name, address and telephone number, fax number if any, and Law Society of Upper Canada registration number if any.

O. Reg. 230/13, s. 12 [To come into force January 1, 2014]

2. If the defence is based in whole or in part on a document, a copy of the document shall be attached to each copy of the defence, unless it is unavailable, in which case the defence shall state the reason why the document is not attached.

[...]

10.01(4) Contents of Defendant's Claim, Attachments

The following requirements apply to the defendant's claim:

1. It shall contain the following information:

- i. The full names of the parties to the defendant's claim and, if relevant, the capacity in which they sue or are sued.
- ii. The nature of the claim, expressed in concise non-technical language with a reasonable amount of detail, including the date, place and nature of the occurrences on which the claim is based.
- iii. The amount of the claim and the relief requested.
- iv. If the defendant is self-represented, the defendant's name, address and telephone number, and fax number if any.
- v. If the defendant is represented by a lawyer or agent, that person's name, address and telephone number, fax number if any, and Law Society of Upper Canada registration number if any.
- v. If the defendant is represented by a representative, that person's name, address and telephone number, fax number if any, and Law Society of Upper Canada registration number if any.

O. Reg. 230/13, s. 13 [To come into force January 1, 2014]

vi. The address where the defendant believes each person against whom the claim is made may be served.

vii. The court file number assigned to the plaintiff's claim.

2. If the defendant's claim is based in whole or in part on a document, a copy of the document shall be attached to each copy of the claim, unless it is unavailable, in which case the claim shall state the reason why the document is not attached.

Dismissal — Defended Actions

11.1.01(2) The clerk shall make an order dismissing an action as abandoned if the following conditions are satisfied, unless the court orders otherwise:

1. More than 150 days have passed since the date the first defence was filed.
2. All settlement conferences required under Rule 13 have been held.

3. The action has not been disposed of by order and has not been set down for trial.
4. The clerk has given 45 days notice to all parties to the action that the action will be dismissed as abandoned.

O. Reg. 78/06, s. 24; O. Reg. 56/08, s. 3 (2); O. Reg. 393/09, s. 10 (2); O. Reg. 56/12, s. 4.

[...]

13.02(1) Attendance

A party and the party's lawyer or agent, if any, shall, unless the court orders otherwise, participate in the settlement conference,

A party and the party's representative, if any, shall, unless the court orders otherwise, participate in the settlement conference,

O. Reg. 230/13, s. 14 [To come into force January 1, 2014]

(a) by personal attendance; or

(b) by telephone or video conference in accordance with rule 1.07.

[...]

19.04 Representation Fee

If a successful party is represented by a lawyer, student-at-law or agent, the court may award the party a reasonable representation fee at trial or at an assessment hearing.

If a successful party is represented by a lawyer, student-at-law or paralegal, the court may award the party a reasonable representation fee at trial or at an assessment hearing.

O. Reg. 230/13, s. 15 [To come into force January 1, 2014]

O. Reg. 78/06, s. 39; 440/10, s. 5

[...]

20.05(1) Delivery of Personal Property

An order for the delivery of personal property may be enforced by a writ of delivery (Form 20B) issued by the clerk to a bailiff, on the request of the person in whose favour the order was made, supported by an affidavit of that person or the person's agent stating that the property has not been delivered.

An order for the delivery of personal property may be enforced by a writ of delivery (Form 20B) issued by the clerk to a bailiff, on the request of the person in whose favour the order was made, supported by an affidavit of that person or someone acting on that person's authority stating that the property has not been delivered.

O. Reg. 230/13, s. 16 [To come into force January 1, 2014]

[...]

20.06(1) Writ of Seizure and Sale of Personal Property

If there is default under an order for the payment or recovery of money, the clerk shall, at the creditor's request, supported by an affidavit for enforcement request (Form 20P) stating the amount still owing, issue to a bailiff a writ of seizure and sale of personal property (Form 20C), and the bailiff shall enforce the writ for the amount owing, postjudgment interest and the bailiff's fees and expenses.

20.06(1.1) If more than six years have passed since the order was made, a writ of seizure and sale of personal property may be issued only with leave of the court.

20.06(1.2) If a writ of seizure and sale of personal property is not issued within one year after the date on which an order granting leave to issue it is made,
(a) the order granting leave ceases to have effect; and
(b) a writ of seizure and sale of personal property may be issued only with leave of the court on a subsequent motion.

20.06(1.3) A writ of seizure and sale of personal property shall show the creditor's name, address and telephone number and the name, address and telephone number of the creditor's lawyer or agent, if any.

20.06(1.3) A writ of seizure and sale of personal property shall show the creditor's name, address and telephone number and the name, address and telephone number of the creditor's representative, if any.

O. Reg. 230/13, s. 17(1) [To come into force January 1, 2014]

20.06(2) Duration of Writ

A writ of seizure and sale of personal property remains in force for six years after the date of its issue and for a further six years after each renewal.

20.06(3) Renewal of Writ

A writ of seizure and sale of personal property may be renewed before its expiration by filing a request to renew a writ of seizure and sale (Form 20N) with the bailiff.

20.06(4) Direction to Enforce

The creditor may request enforcement of a writ of seizure and sale of personal property by filing a direction to enforce writ of seizure and sale of personal property (Form 20O) with the bailiff.

20.06(5) Inventory of Property Seized

Within a reasonable time after a request is made by the debtor or debtor's agent, the bailiff shall deliver an inventory of personal property seized under a writ of seizure and sale of personal property.

Within a reasonable time after a request is made by the debtor or someone acting on the debtor's authority, the bailiff shall deliver an inventory of personal property seized under a writ of seizure and sale of personal property.

O. Reg. 230/13, s. 17(2) [To come into force January 1, 2014]

20.06(6) Sale of Personal Property

Personal property seized under a writ of seizure and sale of personal property shall not be sold by the bailiff unless notice of the time and place of sale has been,

- (a) mailed, at least 10 days before the sale,
 - (i) to the creditor at the address shown on the writ, or to the creditor's lawyer or agent,
- and

(i) to the creditor at the address shown on the writ, or to the creditor's representative, and

O. Reg. 230/13, s. 17(3) [To come into force January 1, 2014]

(ii) to the debtor at the debtor's last known address; and

(b) advertised in a manner that is likely to bring it to the attention of the public.

O. Reg. 78/06, s. 43; 393/09, s. 18

[...]

The Table of Forms to the Regulation is amended by adding the following:

4B	Affidavit (Motion for Payment Out of Court)	November 1, 2012
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O. Reg. 400/12, s. 3

The Table of Forms to the Regulation is amended by striking out,

4A	Consent to Act as Litigation Guardian	June 1, 2009
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.....

8A	Affidavit of Service	September 1, 2010
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and substituting the following:

4A	Consent to Act as Litigation Guardian	June 1, 2013
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.....

8A	Affidavit of Service	June 1, 2013
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O. Reg. 230/13, s. 18 [To come into force January 1, 2014]

• ***Superior Court of Justice and Court of Appeal – Fees, O. Reg. 293/92***

1. The following fees are payable, except in respect of proceedings to which section 1.2 applies:

1.	On the issue of,	
	i. a statement of claim or notice of action	\$181.00
	ii. a notice of application	181.00
	iii. a third or subsequent party claim	181.00
	iv. a statement of defence and counterclaim adding a party	181.00
	v. a summons to a witness	22.00
	vi. a certificate, other than a certificate of a search by the registrar required on an application for a certificate of appointment of estate trustee, and not more than five pages of copies of the	22.00

	Court document annexed	
	for each additional page	2.00
	vii. a commission	44.00
	viii. a writ of execution	55.00
	ix. a notice of garnishment (including the filing of the notice with the sheriff)	115.00
2.	On the signing of,	
	i. an order directing a reference, except an order on requisition directing the assessment of a bill under the <i>Solicitors Act</i>	235.00
	ii. an order on requisition directing the assessment of a bill under the <i>Solicitors Act</i>	
	A. if obtained by a client	75.00
	B. if obtained by a solicitor	144.00
	iii. a notice of appointment for the assessment of costs under the Rules of Civil Procedure	104.00
3.	On the filing of,	
	i. a notice of intent to defend	144.00
	ii. if no notice of intent to defend has been filed by the same party, a statement of defence, a defence to counterclaim, a defence to crossclaim or a third party defence	144.00
	iii. a notice of appearance	102.00
	iv. a notice of motion served on another party, a notice of motion without notice, a notice of motion for a consent order or a notice of motion for leave to appeal, other than a notice of motion in a family law appeal	127.00
	v. a notice of return of motion, other than a notice of return of motion in a family law appeal	127.00
	vi. in a family law appeal, a notice of motion served on another party, a notice of motion without notice, a notice of motion for a consent order or a notice of return of motion	90.00

	vii. a notice of motion for leave to appeal in a family law case	90.00
	viii. a requisition for signing of default judgment by registrar	127.00
	ix. a trial record, for the first time only	337.00
	x. a notice of appeal or cross-appeal from an interlocutory order	181.00
	xi. a notice of appeal or cross-appeal to an appellate court of a final order of the Small Claims Court	104.00
	xii. a notice of appeal or cross-appeal to an appellate court of a final order of any court or tribunal, other than the Small Claims Court or the Consent and Capacity Board	259.00
	xiii. a request to redeem or request for sale	104.00
	xiv. an affidavit under section 11 of the <i>Bulk Sales Act</i>	75.00
	xv. a jury notice in a civil proceeding	104.00
4.	For obtaining an appointment with a registrar for settlement of an order	104.00
5.	For perfecting an appeal or judicial review application	201.00
6.	For the making up and forwarding of papers, documents and exhibits	75.00 and the transportation costs
7.	For making copies of documents,	
	i. not requiring certification, per page	1.00
	ii. requiring certification, per page	4.00
8.	For the inspection of a court file,	
	i. by a solicitor or party in the proceeding	No charge
	ii. by a person who has entered into an agreement with the Attorney General for the bulk inspection of court files, per file	4.00
	iii. by any other person, per file	10.00
9.	For the retrieval from storage of a court file	61.00
10.	For the taking of an affidavit or declaration by a commissioner for taking affidavits	13.00
11.	For a settlement conference under rule	127.00

	77.14 of the Rules of Civil Procedure	
12.	For a copy on compact disc (CD) of a digital recording of a court hearing in respect of a case, if such a recording exists and a copy is available:	
	i. For a single day's recording	22.00
	ii. For each additional day's recording, if the request is made at the same time as a request under subitem i	10.50

O. Reg. 10/05, s. 1; 272/05, s. 1; 169/07, s. 1; 247/12, s. 1.

1.1 (1)

[...]

(2)

[...]

1.2 (1) The following fees are payable in respect of proceedings that are governed by Ontario Regulation 114/99 (Family Law Rules), except for proceedings under rule 38 (appeals), to which section 1 applies:

1.	On the filing of an application	\$157.00
2.	On the filing of an answer, other than an answer referred to in item 3	125.00
3.	On the filing of an answer where the answer includes a request for a divorce by a respondent	157.00
4.	On the placing of an application on the list for hearing	280.00
5.	On the issue of a summons to a witness	19.00
6.	On the issue of a certificate with not more than five pages of copies of the Court document annexed	19.00
	For each additional page	2.00
7.	For making copies of documents,	
	i. not requiring certification, per page	1.00
	ii. requiring certification, per page	3.50
8.	For making up and forwarding papers, documents and exhibits	65.00 and the transportation costs
9.	For a copy on compact disc (CD) of a digital recording of a court hearing in respect of a case, if such a recording exists and a copy is available:	
	i. For a single day's recording	22.00
	ii. For each additional day's recording, if the request is made at the same time as a request under subitem i	10.50

O. Reg. 136/04, s. 3; 169/07, s. 2; 247/12, s. 2

[...]

PRACTICE DIRECTIONS

- Ontario Court of Justice
 - [*Practice Direction Regarding the Integrated Domestic Violence Court at 311 Jarvis Street, Toronto*](#)

POLICIES/PROTOCOLS

- Superior Court of Justice
 - [*Policy on the Release of Digital Court Recordings*](#)
 - [*Protocol on the Use of Electronic Devices in the Courtroom*](#)
- Ontario Court of Justice
 - [*Policy Regarding Access to Digital Audio Recordings*](#)
 - *Undertaking of Counsel/Licensed Paralegal of Record to the Court for Access to Digital Court Recordings/Request Form: [Word](#), [PDF](#)*
 - *Undertaking to the Court for Access to Digital Court Recordings/Request Form: [Word](#), [PDF](#)*
 - [*Designation of Judges Authorized to Appoint Case Management Judges*](#)
 - [*Protocol Regarding the Use of Electronic Communication Devices in Court Proceedings*](#)

NOTICE OF THE COURT

- Court of Appeal for Ontario
 - [*Notice of Release of Judgment – Reserved*](#)
- Superior Court of Justice
 - [*Notice of Release of Judgment*](#)