

Common Supreme Court Terms

This guidebook provides general information about civil, non-family claims in the Supreme Court of B.C. It does not explain the law. Court staff (and this guidebook) can only give you legal information, not legal advice. They will tell you how to do something, but not whether you should do it or why you might want to do it. Legal advice must come from a lawyer.

Where You Can Get Help With Your Case

Information if You Represent Yourself

The BC Supreme Court Self-Help Information Centre (www.supremecourtselfhelp.bc.ca) provides legal information, education, and referral services for family and civil (non-family) cases for unrepresented litigants who are involved in civil actions in the Vancouver location of the Supreme Court of British Columbia.

Legal Advice

You may be eligible for free (pro bono) legal advice. Services are listed under *legal advice* on the website for the BC Supreme Court Self-Help Information Centre.

Rules of Court

The Rules of Court govern the conduct of litigation in the Supreme Court of BC. Not only do they ensure fairness to all parties involved in a lawsuit, they will guide you through every step of your case and set time limits for when certain steps must be done. You can find these Rules at the courthouse library, or on the court's website at www.courts.gov.bc.ca. (Once you are on the Supreme Court page, click on the link for Supreme Court Act, Rules and Forms.)

Forms

Official court documents (called court forms) must be used when you bring a dispute to court. You can print out blank forms for use in your lawsuit from the Supreme Court website. Go to www.courts.gov.bc.ca. (Once you are on the Supreme Court page, click on the link for Supreme Court Act, Rules and Forms).

For information about family law claims, go to www.familylaw.lss.bc.ca.

Before you start your claim, you should consider talking to a lawyer to help you understand the law and the procedures that might apply to your case. You may be eligible to obtain free (pro bono) legal advice.

If you do not have a lawyer, you will have to prepare your case and do the legal research to represent yourself. You will have to do all the things a lawyer would do and it will not be easy. You will need to learn about:

- the court system;
- the law that relates to your case;
- what you and the other side need to prove;
- the possible legal arguments for your case.

You will also need to know about the Rules of Court and the forms that must be used in your lawsuit. If you do not understand these things, you might miss something (i.e. a deadline) and hurt your case. If you sue and lose, you might be ordered to pay the costs of the other party.

Common Supreme Court Terms

This guidebook is intended to provide you with brief definitions of commonly used terms found in this Self Help Guidebook series. You can find out more about these terms in the Rules of Court. The Rules of Court can be found in any courthouse library, or at the websites set out at the beginning of this guidebook. You can find more detailed information by researching these terms at any courthouse library.

Acceptance of Offer: A document used to accept a formal offer to settle.

Action: A lawsuit started by a writ of summons and a statement of claim. It is the plaintiff's lawsuit against the defendant for the protection or enforcement of a right, or the prevention or redress of a wrong.

Administrative decision maker or administrative tribunal: a specialized body or person that is given the authority by legislation to administer the law and government policy.

Affidavit: A written statement setting out facts and evidence. The statement is sworn to or solemnly affirmed by the person making those statements before a person authorized to administer oaths.

Alternative Dispute Resolution (ADR): Ways to resolve a dispute outside of the court system. Arbitration, mediation and negotiation are all examples of alternative dispute resolution processes.

Appearance: A document that tells the plaintiff or petitioner the defendant is defending the lawsuit. This document provides the plaintiff or petitioner with the defendant's address for delivery. It does not include any defences to the claim.

Arbitration: A method of dispute resolution involving one or more neutral third parties called adjudicators. The adjudicator receives evidence and arguments from both parties and has the authority to make a binding decision to resolve the dispute.

Balance of Probabilities: The burden of proof in a civil trial. The court must be convinced the evidence shows it is more likely than not that one side is right.

Bill of Costs: A document setting out the amount owed by one party to another for legal costs incurred in a lawsuit which are calculated based on the tariff of costs in the Rules of Court.

Book of Authorities: A bound book containing all of the statutes and case law the party is relying on to support his or her case. Copies are made for the opposing parties and the court.

Book of Documents: A bound book containing all of the documents that are to be presented as evidence at trial. Copies are made for the opposing parties and the court.

Case Law: Decisions of courts relating to a particular matter or issue. Case law from the same level of court may be persuasive, but the court does not have to follow it. Case law from a higher court is binding on the lower court. For example, the British Columbia Supreme Court must follow the decisions made by the British Columbia Court of Appeal and the Supreme Court of Canada. Case law is also called jurisprudence.

Case Management Conference: A conference with both parties conducted by a judge or master in an expedited litigation case under Rule 68. The purpose of the conference is to discuss matters relating to the case, obtain orders for how the case should proceed,

simplify or settle any or all issues in the case and deal with scheduling issues.

Cause of Action: The legal claim against the other party.

Chambers: A type of hearing that is different from a full trial. Evidence is presented in the form of affidavits. Lawyers and the judge do not wear robes.

Chambers Applications: In a proceeding started by writ of summons and statement of claim, chambers applications usually deal with procedural issues that come up as the case progresses.

Chambers Brief: A document that is produced for a chambers application. It includes a description of the application, the legal authority for the application, a statement of facts, case law or authorities, the relief asked for, and a draft order.

Chambers Outline: A document that is used for a chambers application that is expected to take longer than 30 minutes to be heard. Both parties must complete this document. The first and second part set out the order the applicant is asking for, provide a brief summary of the evidence the applicant is intending to rely on, and the argument he or she is going to make. The third part sets out why the respondent is opposing the application, a brief summary of the facts and law the respondent is going to rely on at the hearing.

Chambers Record: A bound copy of all the documents that will be referred to during a chambers application; it must include the documents of both the applicant and the respondent. If the application is expected to take more than 30 minutes the applicant is required to prepare a chambers record.

Civil Litigation: A lawsuit that is brought to enforce, redress, or protect a private or civil right. It is initiated by the person who actually suffered the effects of the harm. Civil litigation usually deals with torts, contracts and other private disputes.

Consent Dismissal Order: A document that tells the court the case between the parties has settled and the parties agree to have the court dismiss the claim.

Contempt of Court: Disobeying an order of the court or conduct that interferes with the administration of justice. It may be punishable by fine or imprisonment.

Costs: Money spent to carry out or defend a lawsuit which a party is allowed to recover. The unsuccessful party is usually ordered to pay a part of the expenses associated with the successful party's litigation.

Counterclaim: A document that sets out any claim the defendant might have against the plaintiff or another party related to the lawsuit started by the plaintiff. It is an independent action raised by a defendant that can be tried with the plaintiff's claim. The counterclaim acts as the defendant's statement of claim against those parties.

Court of Appeal: The province's highest court. This court hears appeals from the Supreme Court.

Court Forms: Official court documents that must be used when you bring a dispute to court. Forms can be found in Appendix A of the Rules of Court.

Court Registry: The official record keeper of the pleadings and all other documents that are filed in relation to a case. They are located in courthouses all over the province. Each court registry maintains its own files for each action begun in that registry.

Cross-Examination: Where the opposing party asks your witness questions. It is used to weaken the effect of the witness's testimony, to discredit the witness and to elicit evidence in favour of the cross-examining party.

Damages: An amount of money to compensate for loss or injury.

Default Judgment: A final judgment that is awarded when one party has not complied with the Rules or fails to defend the claim against him or her.

Defendant: The person sued in a civil lawsuit started by a writ of summons and statement of claim.

Direct Examination: Where a party asks their witness questions. Direct examination is also called examination-in-chief.

Discontinuance: The termination of a lawsuit by the plaintiff or petitioner using a document called a notice of discontinuance.

Discovery of Documents: Disclosure by the parties (to each other) of information and documents that relate to the lawsuit. Documents can be photographs, films, sound recordings, any record of a permanent or semi-permanent character, or any information stored or recorded by any means.

Discovery Process: The way the parties in an action started by writ of summons and statement of claim discover what happened in the case. It allows the parties to collect information in order to assess the strengths and weaknesses of the case. The process can include: discovery of documents, examinations for discovery, interrogatories, pre-trial examination of witnesses, and notices to admit.

Evidence: Oral and written statements, information and objects presented to the court to prove the facts that are necessary to a claim or to a defence. It can be given by witnesses or can be presented to the court in the form of documents or other things.

Examinations for Discovery: A meeting where one party asks an opposing party a series of questions. The examination takes place in the presence of a court reporter who records each question and its answer and then provides a transcript (a written record) of the examination. The party answering questions must take an oath or give a solemn affirmation that they will tell the truth. No judges or court officials are present during examinations for discovery.

Exhibit: A document, record, or object admitted as evidence in court or before a tribunal. A document attached to and made a part of an affidavit.

Expedited Litigation or Expedited Action: A proceeding under Rule 68. A streamlined action that limits pre-trial procedures and evidence the parties can call at trial, and requires parties to engage in earlier and more comprehensive exchange of information. Rule 68 is a pilot project and only applies to actions started in Vancouver, Victoria, Prince George and Nelson, where the total amount of money, real property and or personal property claimed is \$100,000 or less.

Expert: A witness who gives evidence to help the court to understand technical and scientific issues raised by the pleadings. He or she may give opinions in areas that would not normally be within the judge's knowledge. The expert must be shown to possess the necessary skill and qualifications in the area in which the opinion is sought. An expert can give evidence in person or by writing a report called an expert report.

Fast Track Litigation: A shortened litigation process pursuant to Rule 66 that applies to actions that can be heard in a trial of only two days or less.

Federal Court: This court has jurisdiction over all matters involving federal laws and tribunals.

File: Taking a document to the court registry to be stamped and placed in the court file.

Final Judgment: A court's final decision about the rights and obligations of the parties in a case.

Final Submission: A statement made after all the evidence has been presented at trial. A party, or their lawyer, summarizes the facts they have proven and points out anything the other party has failed to prove. A party may also discuss any case law that supports their case. It is also called a closing statement.

Formal Offer to Settle: A document used to make an offer to settle according to the Rules. Sets out what the party is willing to accept or do to settle the case. It is not filed with the court or mentioned to the judge until after a judgment is released.

Hearsay: Testimony that is given by a witness who relates what others have said.

Indigent Status: Status granted by the court to individuals who cannot afford to pay the fees required to file court documents. Individuals who cannot afford to pay court fees may apply to the court for this status.

Inherent Jurisdiction: A power vested in the court that does not come from a statute or law, but from the very nature of the court as a superior court. Courts use this power to maintain their authority and to prevent the abuse of court processes.

Interlocutory Application: One party asks the court to make an order, which in most cases is not a final one. These applications often deal with issues that arise in the course of a lawsuit that require a court order.

Interlocutory Judgment: A judgment that determines a preliminary or side issue in the case, but does not finally decide the case.

Interlocutory Order: An order that relates to an intermediate issue in the case. It usually directs one of the parties to carry out a step in the proceeding before the trial is heard.

Interrogatories: A series of written questions addressed to one party by the other party to be answered in writing. The questions are usually straightforward to answer. The answers must be provided in the form of an affidavit.

Jointly and Severally Liable: Where two or more individuals are liable for the same wrong the person wronged may bring an action against all of the individuals, or against one of the individuals for the full amount.

Jointly-Instructed Expert: An expert witness directed by the court to act on behalf of both parties to an expedited action under Rule 68. The parties must agree on who that expert should be; where the parties cannot agree, the court may select one.

Judicial review: A court's power to review the actions of other branches or levels of government as provided for by law. A court's

review of a lower court's or an administrative body's factual or legal findings.

Legal Advice: Advice from a lawyer about the law as it applies to a particular case. It usually includes information about whether a party should do something or why a party should do something.

Legal Information: General information about the law or how to do something in a lawsuit.

Limitation Period: The period of time that a party is allowed to wait before starting a case. The *Limitation Act* sets out different time periods for different types of cases. Most limitation periods range from 2 to 6 years and start on the day the event being sued over happened, or the day the party found out about his or her possible claim. After a limitation period has passed a lawsuit cannot be started.

Liquidated Damages: A claim where the amount sued for can easily be determined by referring to documents or other evidence.

List of Documents: A list of all the documents that relate to the issues in a case and are in a party's possession or under a party's power and control. The list also includes any documents that may be privileged. This list is provided to the other parties in the discovery process and tells them where the documents can be examined.

Litigation: The process of bringing disputes to court to have them resolved by a judge on the basis of evidence presented by those involved in the dispute.

Master: A judicial officer of the Supreme Court who may decide certain matters before or after a trial. Masters hear most chambers applications, but generally speaking cannot give a judgment which finally resolves a case.

Material Fact: A fact that is essential to the case/defence. It tends to establish an issue that is raised.

Mediation: A non-binding process in which a neutral third party with no decision making authority attempts to facilitate a settlement between disputing parties. Mediation is usually a private, voluntary dispute resolution process.

Mini-Trial: A form of dispute resolution at which both parties, or their lawyers, present their case to a judge or master who then gives a non-binding opinion as to the likely outcome if the case goes to trial.

Negotiation: Any form of non-facilitated communication that allows the parties to discuss the steps they need to take to resolve the dispute. Negotiations can take place between the parties directly, or through others (such as lawyers) acting on behalf of the parties.

Notice to Admit: A document that contains information and documents relevant to the case. This document is sent to the other party who will then admit or deny the information and documents. Information and documents that have been admitted by the other party do not need to be proven by a witness at trial.

Notice of Hearing: A document that tells the parties and the court the date of a chambers application.

Notice of Motion: A document that starts a chambers application where the lawsuit was started by a writ of summons and statement of claim. It sets out what the party wants the court to order. It is usually filed and delivered with an affidavit setting out the facts relied upon by the party asking for the order.

Notice of Withdrawal of Offer: A document that withdraws a formal offer to settle.

Opening Statement: A statement made by each party at the beginning of the trial. The party or their lawyer gives a brief overview of the issues and the evidence/facts they intend to prove.

Originating Application: A lawsuit started with a petition.

Order: A ruling made by a judge or master that tells a party to do something or not do something. It can also refer to the document that sets out the decision of the judge or master.

Petition: A document that starts an originating application. It sets out the basic facts of the event or transaction, the legal consequences and the remedy or relief the petitioner is asking for.

Petitioner: A person who starts a lawsuit by a petition.

Plaintiff: A person who starts a lawsuit by a writ of summons and statement of claim.

Pleadings: A written statement of the facts that a party relies on to support their claim or defence. These documents must be filed with the court to start and respond to a lawsuit.

Pre-trial Conference: A short meeting with a judge or a master to consider settling any or all of the issues in a lawsuit, simplify the issues and deal with any concerns, scheduling problems, or pre-trial matters that might happen right before the trial.

Pre-trial Examination of Witnesses: This process is used if there is a witness to the proceeding who is not a party to the action. The examination takes place in the presence of a court reporter and a transcript is provided. The witness must give an oath or solemn affirmation that he or she will tell the truth during the examination.

Privileged Document: A document the other party is not entitled to see because it was created during confidential communications between a lawyer and his or her client, or was created to help conduct the litigation.

Pro Bono Legal Advice: Legal services donated to individuals free of charge.

Process Server: A professional document server.

Provincial Court: The lower level trial court which deals with small claims, family, youth criminal offenders, criminal and traffic matters.

Registered Office: A head office or chief place of business. It is the office where documents may be served on the company and where certain documents and books must be kept. The address of this office is on file with the provincial Registrar of Companies.

Regulations: Statutory instruments that usually set out practical information or procedures relating to a particular statute. They provide specific instructions about how to implement the statute and tend to change more often than the statute itself.

Release: A document signed by the parties to acknowledge that they are giving up all claims in connection with the legal dispute. It is usually signed as part of a settlement.

Requisition: A document that asks the court registry to do something. For example, a document that asks the registry to search the court file for an appearance or statement of defence from the defendant.

Respondent: A person who defends a lawsuit started by a petition.

Rules of Court: Rules that govern the practice and procedure of the Supreme Court. They provide guidelines for each step in the litigation and set time limits for when certain steps must be completed.

Serving a Document: Bringing a legal document to the attention of the parties to a lawsuit. The Rules set out certain procedures that must be followed when serving a document.

Settlement: An agreement between the parties in a dispute. A settlement can end or avoid a court proceeding. It usually involves the payment of money.

Standing: A party's right to make a legal claim or seek judicial enforcement of a duty or right.

Statement of Claim: A document that notifies both the court and the people who are being sued that a lawsuit has started. This document sets out the facts of the claim, the legal

consequences arising from those facts, the remedy or relief the plaintiff is asking for and where the trial is going to be held.

Statement of Defence: A document that sets out the facts of the defence. It responds directly to the allegations in the statement of claim.

Statutes: Laws created by the Parliament of Canada or the Provincial Legislature. They are also called legislation or Acts.

Style of Proceeding: The top part of every court document that identifies the registry number and location, the level of court and the names of the parties. It is how the court registry identifies the file. It is also known as the style of cause.

Subpoena: A document that notifies a witness that he or she is required to attend in court to give evidence at a trial and that failure to do so may result in a charge of contempt of court.

Summary Judgment: A different way to obtain a final judgment without having to go through a full trial. A summary judgment application is usually only made in those cases where it is clear that the other party cannot win because he or she has no case or defence.

Summary Trial: A trial based on affidavit and other evidence that can result in a judgment even if there is a dispute between the parties about the facts behind the claim or the defence to the claim. This is different than a summary judgment which is only given if there is no outstanding issue that needs to be resolved.

Supreme Court: The higher level trial court. This court also hears appeals from the Provincial Court, and sometimes reviews the decisions of certain provincial tribunals and public decision-making bodies.

Supreme Court of Canada: The highest level of court in Canada. This court hears appeals from decisions of the Federal Court and from decisions of all the appeal courts of the provinces.

Trial: The hearing of the case before a judge where evidence is presented, arguments are submitted and a final judgment is made.

Trial Agenda: A precise and complete outline of what will happen during a fast track trial under Rule 66. It sets out estimates of the time required for opening statements, direct and cross examinations, closing submissions, and any other issues that might need to be dealt with.

Trial Brief: A bound book of documents used in expedited actions under Rule 68. It contains a summary of the issues, a list of witnesses and the evidence they will give, a list of expert reports, time estimates for opening and closing statements, the order or result each party is seeking, and any case law or legislation that will be used at trial.

Trial Certificate: A short document that states the party submitting the form will be ready to proceed with the trial on the date scheduled, the current estimate of the length of the trial, and that the party submitting the form has completed all examinations for discovery.

Trial Management Conference: A meeting between the parties, conducted by a judge that is held 15-30 days before the start of trial in expedited litigation under Rule 68. The purpose of this meeting is to settle any or all of the issues in a lawsuit, simplify the issues and deal with any concerns, scheduling problems, or pre-trial matters that might happen right before the trial.

Trial Record: A bound book that contains all the pleadings and other documents to be put before the court at the trial. Copies are made for the opposing parties and the court.

Torts: The legal term for injury or harm for which damages may be obtained. Someone who commits a tort is called a tortfeasor.

Undertaking: A promise or assurance that a person will do what is asked of them.

Unliquidated Damages: An amount claimed that must be assessed and determined by a judge. For example; a claim for pain and suffering arising from an injury.

Withdrawal: When a defendant withdraws his or her defence using a document called a notice of withdrawal.

Without Prejudice: Information contained in a document or communicated between the parties that cannot be used against that party in court if the parties are unable to settle the matter. Generally, negotiations to settle a dispute are conducted on a “without prejudice” basis.

Witness: A person who gives evidence in a proceeding orally under oath or affirmation, or by affidavit.

Writ of Summons: A document that notifies both the court and the people who are being sued that litigation has started.

This guidebook is part of a series, *Guidebooks for Representing Yourself in Supreme Court*, produced by:



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