

# Costs in the Supreme Court

*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](http://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](http://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](http://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](http://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.

**T**his guidebook provides an overview of the procedure for assessing costs in a Supreme Court action. The rules that govern costs are set out in Rule 57 and Appendix B of the Supreme Court Rules. Read these carefully before preparing your documents. You will also find detailed information about costs in two books that can be found in the

courthouse library: *Practice Before the Registrar* published by the Continuing Legal Education Society of BC and *The Conduct of Civil Litigation in British Columbia* by Peter Fraser and John Horn.

You should also consider talking to a lawyer about the issue of costs. Information about where to obtain free legal advice is set out on the front page of this guidebook.

## What are costs?

The court may award costs to compensate the successful party for disbursements (out-of-pocket expenses) paid during the action, plus time spent, or legal fees relating to the action. They are called “party and party” costs. Therefore, if you are a party to a Supreme Court action and are successful on a chambers application or at trial, you may request that the other party pay your costs.

The general rule is that the amount of costs is based on the tariff set out in Appendix B of the Supreme Court Rules, plus disbursements. Occasionally, if there has been reprehensible conduct in the course of the action, such as fraud, the court may order that “special costs” be paid to the successful party. Special costs are higher and approximate legal fees. You can apply for special costs even if you do not have a lawyer.

## How can I obtain an order for costs?

You must make a claim for costs in your statement of claim, or in your notice of motion, when you bring an application in chambers. If you are defending an action or application, you must make a claim for costs in your statement of defence or in your response to a motion in chambers. Although you have already made a request for costs in

your pleadings, you should ask for costs as soon as the judge or master hearing the application or the trial rules in your favour.

## When are costs assessed?

Usually all costs are assessed at the end of the action, even if you have been successful on a chambers application before trial. In other words, the costs from the chambers application will not be assessed until the end of the action unless the court orders that the costs are to be paid “forthwith” (immediately).

Costs may be assessed:

- when the court orders costs to be assessed;
- if a settlement agreement provides for the payment of costs to be assessed;
- when a party has obtained default judgment;
- by the party whose formal offer to settle has been accepted;
- by the defendant when the plaintiff discontinues the action; or
- by the plaintiff when the defendant withdraws their defence.

If you obtain an order for costs after a trial, you can take out an appointment to assess the costs as soon as the order providing for costs is entered.

Instructions on how to make an appointment with the registrar to have your costs assessed is set out later in this guidebook.

## Entering a court order

The party who is successful in a chambers application or at trial is responsible for:

- drafting the order of the court;
- sending it to the other parties for their signatures. (Note that by signing the order, you are agreeing that the order accurately sets out the terms of the order made by the judge or master. It does not mean that you necessarily agree with the order that was made against you); and
- submitting the order to the court so that it can be entered.

An order is “entered” when it has been signed by the parties and processed and stamped by the court registry.

The order must be in the form set out in the Supreme Court Rules (see Rule 41(9)). You will find more information about drafting court orders, as well as examples, in two books located in the courthouse library: *Supreme Court Chambers Orders*, published by the Continuing Legal Education Society of BC and *The Conduct of Civil Litigation in British Columbia* by Peter Fraser and John Horn.

Once an order is entered, a copy will be given to the party who submitted it for entry. That party is responsible for providing a copy of the entered order to the other parties.

## How do I prepare a bill of costs?

If you are entitled to your costs of the action as described above, you must prepare a bill of costs using Form 67 of the Supreme Court

Rules. Form 67 is set out at the end of this guidebook. Appendix B also gives you important information about preparing your bill of costs.

## Tips for preparing your bill of costs

Appendix B to the Supreme Court Rules gives you information about completing your bill of costs. The following tips will help you prepare your own bill of costs:

- Use Form 67.
- Review the list of tariff items in Appendix B. It tells you the categories and items that you can include in your bill of costs.
- For each item number, fill in amount of units on the far right or leave the item blank if it does not apply to your case. Do not change the item numbers.
- The value of a unit depends on the scale assigned by the court. If the court does not set a scale, each unit is worth \$80. This value may be revised from time to time, so you should always check the current version of Appendix B.
- Add up your claim for tariff item units to get a total number of units. Multiply the total number of units by the unit value according to the scale of costs.
- When the judge or master made the order for costs, he or she may have “fixed the scale” from 1 to 5. For example, if the case was not very difficult, the scale may have been fixed at Scale 1, which means that you are only entitled to claim \$40 per unit. However, if the case was very difficult, the scale may have been fixed at Scale 5, which means that you may claim \$120 for each unit. The value for the scales is set out in section 3 of Appendix B.

- If the judge or master did not make an order about the scale of costs in your case, the units are assessed as scale 3, which is \$80.00 per unit.
- For the items that have a minimum and maximum number of units that can be claimed, select a number of units that you feel is appropriate in light of the amount of time that would ordinarily be spent on the activity.
- Some items are set at a flat rate (that is, they are assigned a specific number of units). The units reflect a full day's work. If the activity took a half day or less, the units should be divided in half. If the activity took more than a day, the units should be multiplied by the number of days it took to complete the activity.
- You can add tax to your tariff costs if you retained a lawyer during the action and had to pay tax on the lawyer's legal fees.

## Disbursements

In addition to the items under the tariff, you may claim for your disbursements (out-of-pocket expenses). Generally, this includes things like court filing fees, photocopying, faxes, long distance telephone calls, amounts paid to experts for expert's reports or testimony in court, witness fees, and postage.

You should prepare an itemized list of your disbursements, with a total.

## What do I do when I have prepared my bill of costs?

Once you have a total of the disbursements and the amount claimed for the tariff items, you should send your bill of costs to the

opposing party who has been ordered to pay your costs. Ask the other party to state whether they agree with the amounts you have claimed or, if not, which items or disbursements are in dispute.

The other party may agree to pay the costs that you have claimed or an amount that you agree is acceptable. If the other party does not agree to pay the costs, you will need to make an appointment to have your costs assessed by the registrar.

## Assessment of costs by the registrar

You may have your costs assessed (reviewed and calculated) by a registrar of the Supreme Court. This means that you and the other party will go to a hearing and go through the bill of costs with the registrar. At the end of the assessment the registrar will sign a certificate of costs (Form 68) that you can file in the court registry and enforce as if it were a judgment. A sample Form 68 is set out at the end of this guidebook.

## Getting a hearing to assess your costs

You can make an appointment for a hearing with a Trial Co-ordinator by calling the court registry where the action was started and asking for a date for an assessment of costs. As a courtesy to the opposing party, you should set the hearing date at a time when the opposing party is available. If you do not, the opposing party may apply for an adjournment to a time that is more convenient.

When you call the registry to set the date for the assessment of costs, you will need to know the name of your action, and the Supreme Court action number.

After the registry has given you a date for the assessment of costs, file these documents at the court registry to confirm the date:

- An appointment in Form 24 of the Supreme Court Rules (see the sample Form 24 at the end of this guidebook); and
- Your bill of costs in Form 67.

File the original bill of costs with the court, plus one copy for yourself and the party who has been ordered to pay your costs. A filed copy of the appointment and any affidavits relating to the items must be served on the other party at least five days before the date scheduled for the assessment (Rule 57(29)).

## Preparing for the assessment hearing

If the party required to pay costs disagrees with any disbursements or items you have claimed, you should prepare an affidavit setting out the reason for your claim. For disbursements that are in dispute, attach a copy of the invoice or bill, and a receipt showing that you have paid for it.

Take these documents to the assessment hearing:

- The entered order awarding you your costs (from a chambers application or trial);
- A copy of the appointment and bill of costs;
- A copy of your affidavit;
- A certificate of costs (Form 68), with the name of the case filled in for the registrar to sign at the completion of the hearing;
- Receipts in support of all your disbursements; and
- Copies of any documents for which you are making a claim on your bill of costs,

such as the statement of claim, list of documents, discovery transcripts and interrogatories.

## The assessment hearing

You should stand when the registrar enters or leaves the hearing room. When you speak to the registrar, he or she is addressed as Madam Registrar or Mr. Registrar.

The party claiming costs must prove that he or she is entitled to the costs and that the costs are reasonable. The party claiming costs must prove:

- Entitlement to claim costs (such as the entered order awarding the costs).
- Disputed disbursements. Bring receipts showing that you paid the disbursements and that they were reasonable and necessary expenses.
- Disputed tariff items. You must show that you performed the listed activities. For items that are set at a flat rate, you should prove the length of the activity. For example, an examination for discovery transcript shows the amount of time that the discovery took. For items that have a minimum or maximum value that can be claimed, you must explain the work that you did in order to justify the amount of units that you claimed.

The registrar will make a decision about the amount of costs to which you are entitled. You should provide the registrar with a certificate of costs for his or her signature. File the signed certificate of costs (Form 68) in the court registry. A filing fee is required.

## Responding to an assessment of costs

You can object to a claim for costs if:

- the court has not ordered them; or
- you disagree with any claimed items or disbursements.

Prior to the assessment hearing, you should request, in writing, copies of the receipts for any disbursements that you believe are unreasonable or unnecessary.

You may also negotiate with the opposing party to settle the amount of costs. In other words, you can agree on an amount that you are willing to pay for costs. In this case, you may be asked to sign a consent certificate of costs, which means that you are agreeing to pay the amount set out in the consent certificate. When the consent certificate is filed with the court, the other party may enforce the certificate as if it were an order of the court if you don't pay.

At the assessment of costs hearing, the registrar will ask you what items you are disputing on the bills of costs. You should be prepared to explain why you disagree with the other party's claim for costs.

## Other resources

### Other guidebooks in this series:

*Guide to a Successful Interview with a Lawyer*

*Common Supreme Court Terms*

*Overview of the Supreme Court Civil Process*

*Starting a Civil Proceeding in Supreme Court*

*Defending a Civil Proceeding in Supreme Court*

*Alternatives to Trial*

*Preparing for Trial and Trial in Supreme Court*

*Discovery Process*

*Summary Judgment and Summary Trials in Supreme Court*

*Fast Track Litigation in Supreme Court – Rule 66*

*Expedited Litigation in Supreme Court – Rule 68*

*A Guide to Preparing Your Affidavit*

*Chambers Applications*

*Judicial Review*

**For definitions of common court terms, see the guidebook called:**

*Common Supreme Court Terms*

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## Appendix 1: APPOINTMENT

FORM 24 (RULES 32 (6) AND 57 (29) )

*[Style of Proceeding]*

### APPOINTMENT

I appoint:

Time .....

Date .... *[Day, Month, Year]*

Place

as the time and place for the *(check one or more)*:

- assessment of the bill of costs of .....*[party]*.....
- review of the bill of .....*[name of lawyer or law firm]*.....
- examination of the agreement between .....*[lawyer]*..... and .....*[client]*.....
- settlement of the order of .....*[Mr. Justice, Madam Justice or Master]*.....  
made *[date]*.....
- examination of .....*[name of debtor]*..... pursuant to subpoena
- passing of accounts of .....*[executor, administrator, receiver or other]*.....
- reference under the *Court Order Enforcement Act*
- reference ordered by .....*[Mr. Justice, Madam Justice or Master]*.....
- assessment of sheriff's fee
- other

Attached to this Appointment is the bill of costs, lawyer's bill(s), sheriff's bill(s), agreement or order that is the subject of the Appointment.

Dated .....  
[Master, Registrar or Special Referee]

Full name, address and telephone number of party or party's solicitor:

name .....

address .....

telephone .....

*[Indicate whether application will be of time consuming or contentious nature, and estimate the amount of time required.]*

## Appendix 2: BILL OF COSTS

FORM 67 (RULE 57 (28) )

*[Style of Proceeding]*

**BILL OF COSTS OF ..... [1]**

Tariff scale ..... [2]      Unit value \$ ..... [3]

Item	Description	Number of Units		
<b>[4]</b>				
Claimed:		Allowed:		
	Total number of units:	.....	.....	
	Multiply by unit value:	\$ .....	\$ .....	
	Subtotal	.....		
	Tax	.....		
	Tax	.....		
	Total	\$ .....	\$	
Disbursements	Description:	Claimed:	Allowed:	
	Tax			
	Tax			
	Total	\$	\$	
TOTAL ALLOWED:			\$	
Date of assessment: .....				
Signature of assessing officer: .....				

**[1] Insert your name, and whether you are the plaintiff, respondent, etc.**

**[2] State what scale you are claiming, e.g., *Tariff scale 3***

**[3] State the dollar value, e.g., *£80***

**[4] List the items you are claiming, for example:**

Item	Description	Number of Units
1	<i>Correspondence</i>	10
14(b)	<i>Preparation for discovery of plaintiff (1 day)</i>	3

### Appendix 3: CERTIFICATE OF COSTS

FORM 68 (RULE 57 (32) )

*[Style of Proceeding]*

#### CERTIFICATE OF COSTS

I CERTIFY that on .....*[date]*....., the costs of the .....*[description and name of party]*....., have been allowed against the .....*[description and name of party]*..... at \$..... .

Dated

Registrar

*[This certificate may be set out in a separate document or be endorsed on the bill of costs.]*