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British Columbia and Alberta New Rules of Civil Procedure - Initial Impressions

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The court process in Canada's two western most provinces have much in common. Prominently, new Rules of Civil Procedure has come into effect in both British Columbia and Alberta in the last 8 months. Rules of Civil Procedure, often called Rules of Court, establish the procedures by which lawsuits are commenced and proceed in the superior courts of each province.

In British Columbia, the new [Supreme Court Civil Rules](#) came into effect on July 1, 2010. This was the culmination of a long process which began with the [B.C. Justice Review Task Force](#) in March 2002. The Task Force consulted with a broad range of groups including the Law Society of British Columbia, the Ministry of Attorney General and others to identify a range of potential reforms that could make the justice system more responsive, accessible and efficient. It also formed several working groups, including the Civil Justice Reform Working Group. The working group released a report which outlined a vision for a streamlined civil justice system which an emphasis on proportionality (procedures designed to fit a specific case) and access to justice (ensuring cases are affordable).

This process led to the implementation of the new *Supreme Court Civil Rules*. The main initiatives include a revised system of pleadings, a case planning conference in each case leading to a case planning order designed to implement case specific procedures and deadlines, modified rules for expert witnesses to ensure their independence and accountability, time limits on examinations for discovery, modifications on the requirements to produce documents and a mandatory trial management conference to streamline the ultimate trial process.

In Alberta, the new [Alberta Rules of Court](#) came into force on [November 1, 2010](#). The *Rules* are the result of a multi-year Rules Project, led by the [Alberta Law Reform Institute](#). The goal of the new *Rules* was to maximize their clarity, usability and effectiveness and to contribute to a fair, accessible, timely and cost effective civil justice system.

The new *Alberta Rules of Court* provide for major structural changes in the manner in which litigation proceeds in Alberta. Importantly, the *Rules* expressly set out how they are to be interpreted. The goal is to make all precedent from the former Rules irrelevant and non-binding. Structurally, a number of important changes are made to the litigation process including use of electronic service, service *ex juris* without court order, standardization of timing requirements, mandatory ADR, renaming of Examinations for Discovery as “Questioning” and expressly including undertakings arising from “Questioning” in the *Rules*.

To date, the experience under both new sets of Rules has been uneven. Lawyers in both jurisdictions have not clearly adopted new practices in response to the new Rules. For example, the more limited form of document discovery in British Columbia has not been evident and Lists of Documents have tended to be as inclusive as under the prior Rules. In Alberta, the inclusion of mandatory ADR has been met with some skepticism with some simply seeing it as another procedural hurdle required prior to obtaining a trial date as opposed to a legitimate technique to resolve the dispute prior to trial.

Some time will clearly be required before it can be determined whether the new Rules have met the expectations that led to their implementation. At this point, the jury remains out.

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