

INDEX TO THE ALBERTA RULES OF COURT

References are to rule numbers unless otherwise indicated; references to the Surrogate Rules are indicated by the prefix "SR". Any rule number set out without a decimal point being part of it (eg., 534) is a reference to an old rule still in force, and will be found in Appendix II.

A

ABATEMENT OF ACTION

- not after evidence heard, 4.35

ABSENCE OF CLERK OF COURT, 13.40, 13.42

ABUSE OF PROCESS, 1.4 (annotation)

ACCOUNTS AND INQUIRIES

- referral to referee, 6.45
- • application to accept or vary report of referee, 6.46(2)
- • conduct of proceedings, 6.45(4)
- • report of referee, 6.46

ACTION

- category, 4.2
- commencement, place of, 3.3, 3.4
- • transfer, 3.5

ADDING PARTY

- amending statement of claim when defendant added, 3.76
- generally, 3.74, 3.75
- statement of defence of new defendant, 3.76(2)

ADDRESS FOR SERVICE, 11.15

ADJOURNMENT

- trial, of, 1.4(2)

ADMINISTRATORS

- judgment
- • against beneficiary, etc., 9.11
- representing those interested in the property, 2.1

ADMISSIONS

- judgment on, 7.2
- notice to admit, 6.37
- • costs, 10.33(2)
- • deemed admissions if no response, 6.37(3)
- • denial, contents of, 6.37(5)
- • serving notice to admit, 6.37(2)
- offers of compromise are not admissions, 4.27
- records
- • deemed admission of, 5.15
- silence
- • necessity to plead release, payment, statute of limitations, etc., 13.6(3)
- • not an admission, 13.12
- third party proceedings
- • deemed admission by third party
- • • not denying liability to defendant, 3.52
- • • not disputing defendant's liability to plaintiff, 3.52

ADVERSE INFERENCE

- failure to call witness, 8.15

AFFIDAVIT OF RECORDS

- affidavit of records, 5.5–5.16
- • admission of relevancy and admissibility not made, 5.15(3)
- • admissions, deemed unless objected to, 5.15(2)
- • confidentiality, 5.33
- • cross-examination on affidavit, 5.11, 5.6 (annotation)

INDEX TO THE ALBERTA RULES OF COURT

AFFIDAVIT OF RECORDS (*cont'd*)

- failure to comply, 5.12
- further affidavit of records, 5.10
- inspection of records, 5.6, 5.14
- omission of record, 5.10, 5.16
- order for inspection, 5.11
- privilege, 5.6

AFFIDAVITS

- blind or illiterate deponent, 13.22
- conflicts between affidavits filed in an application, 13.18
- contents
 - alterations to be initialed by person administering oath, 13.20
 - formal, 13.19
 - interlocutory motions, 13.18
 - knowledge, 13.18
 - striking out irrelevant etc. contents, 3.68(4)
- cross-examination, 3.13, 6.7, 6.20
- deponent not understanding language, 13.23
- execution, 13.19
- exhibits, 13.21
- filing and service, 6.3
- irregularity of form, 1.5
- more than one deponent, 13.24
- requirements, 13.19
- use throughout proceedings, 13.25
- withdrawal, 3.68

AGREEMENT BETWEEN PARTIES

- service of documents, 11.3
- delay, 4.32, 4.33

AMENDMENT OF JUDGMENT

- default, 9.15(3)

AMENDMENT OF PLEADINGS

- amendment
 - by consent, 3.62(1)
 - of irregularity, 1.5
- application to disallow amendment, 3.64
- costs, 3.66

- disallow, 3.64
- endorsement to be made upon pleading when amended, 3.63
- failure to amend pleading in response to opposite party's amendment, 3.62(5)
- grounds to require other side to amend, 3.68(1)(b)
- method of physically effecting amendment, 3.63, 13.17
- response pleading, 3.62
- trial, at, 3.65(4)
- with permission, 3.65
- without permission, 3.62(1)

AMENDMENT OF RULES OF COURT, 1.6

APPEAL RECORD

- contents, 14.18
- criminal appeals, in, 854
- judge may vary compliance with rules regarding, 14.73
- registrar may refuse to file, 14.92
- service, 14.16(2)

APPEALS

- costs, 14.88
- Court of Appeal, to
 - adjournment
 - hearing, of, 14.73
 - appeal from judge or jury or judge in chambers, 14.4
 - appeal hearing list, placement on, 14.33
 - Chief Justice to preside at sittings, 14.32(5)
 - consent order or judgment, leave required for appeal from, 14.5
 - costs, 14.88
 - costs only, leave required for appeal of, 14.5
 - cross-appeal, 14.6
 - definitions, 14.1
 - discontinuance of appeal, 14.66
 - dismissal for want of prosecution, 14.62, 14.63

INDEX TO THE ALBERTA RULES OF COURT

APPEALS (*cont'd*)

- documents on court file, production of, 14.28
- fast track appeals, 14.14, 14.17, 14.19, 14.22, 14.24, 14.34
- interest on judgment reversed or varied, 14.80
- intervenor status, 14.37, 14.58
- judgment
 - consent, 14.76
 - rendering of, 14.73
- master in chambers, no direct appeal from, 14.4
- new evidence, 14.75
- new issue, 14.75 (Ann.)
- new trial, 14.75
- notice of appeal
 - amendment of, 14.86
 - content of, 14.12
 - filing of, 14.8
 - service of, 14.81
- oral argument, dispensing with, 14.51
- orders incidental to appeals, 14.37
- place of entry of appeal and filing of documents, 14.18
- powers of court, 14.37, 14.40, 14.73, 14.75, 14.86, 14.88
- rearguing appeal, 14.38
- security for costs, 14.67
- stay of execution, 14.48, 14.68
- striking matter from general appeal list, 14.64
- value under \$25,000, leave to appeal required, where, 14(1)(g)
- view by court, 14.73
- criminal appeals, *see CRIMINAL APPEALS*
- divorce proceedings, 12.59
- factums, *see FACTUMS*
- master in chambers
 - Court of Appeal, no direct appeal to, 14.4
 - Court of Queen's Bench, appeal to, 6.14

- motions
 - copies of motion filed and served, 14.40, 14.42
- oral argument, transcripts of, 14.32
- re-arguing, 14.38
- reconsidering previous decisions, 14.46, 14.72
- restoring, 14.65
- Supreme Court of Canada
 - effect of entry of judgment from, 14.79

APPLICABILITY OF RULES

- analogy, 1.7

APPLICATIONS, *see MOTIONS*

APPOINTMENT

- litigation representative, 2.15, 2.21
- questioning, for, 5.21

APPROVAL OF SETTLEMENT

- when some persons interested are not parties, 2.18

ASSESSMENT, APPEALS FROM

- assessment officer, 10.44, 10.45
- review officer, 10.26, 10.27

ASSESSMENT OF COSTS, 10.35–10.43

- appointment for assessment
 - appointment, filing by, 10.37
 - failure to attend, 10.16, 10.40
 - service, 10.37
- assessment officer
 - defined, App. I Definitions
 - powers, 10.38, 10.41
- costs consented to by party's lawyer shall be assessed as is, 10.36(3)
- costs of review, 10.23
- disbursements, 10.35
- form of bill of costs, 10.35
- lawyer and client costs
 - agreement provided to assessment officer, 10.13, 10.14
 - appointment for assessment, effect of service upon lawyer, 10.14
- bills of costs

INDEX TO THE ALBERTA RULES OF COURT

ASSESSMENT OF COSTS (*cont'd*)

- not subject to assessment, when, 10.10
- “client” defined, App. I Definitions
- notice, 10.13, 10.18
- order compelling lawyer to deliver client’s documents, 10.25
- order for payment of costs after assessment, 10.20
- re-assessment of assessed bill of costs, none unless ordered, 10.17(2)
- statement of services rendered, 10.2(3), 10.17(1)(f)
- assessment officer may demand further detail, 10.17(1)(f)
- reference to court by assessment officer, 10.39
- review officer
- defined, App. I Definitions
- power, 10.17
- set off of costs, 10.31, 10.41
- winding-up order, costs, 810

ASSESSMENTS, 3.37

AUTHORITIES, BOOKS OF, 14.30

B

BREACH OF TRUST, 13.7

BULLOCK ORDERS, 10.29

C

CALDERBANK OFFERS, 4.24

CASE MANAGEMENT, 4.11–4.15

- appeal from case management order, 14.4

CAUSE OF ACTION, 3.65

CHANGE OF INTEREST

- adding as a party, 4.34

CHOICE OF FORUM, 11.25

CIVIL ENFORCEMENT REGULATON, App III

CLASS

- appointment to represent in relation to estate, trust, or construction of written instrument, 2.16

CLASS ACTIONS

- common interest, 2.6

CLASS PROCEEDINGS ACT, (Annotation, 2.6) App III

- admissions, 6.37
- case management, 4.12
- class, questioning, 2.8
- costs, 10.32
- disclosure of partners, 2.6
- national data base, App IV
- pleadings
- amending, 2.7, 3.62
- specific requirements, 13.11
- procedure, 2.10

CLERK OF COURT

- absence, 13.40, 13.42
- duties, 13.41, 13.44
- seal, 13.43

CLOSE OF PLEADINGS, 3.67

COMMENCEMENT OF PROCEEDINGS

- documents starting an action, 3.2
- judicial centre in which action commenced, 3.3
- originating notice, 3.2
- statement of claim, 3.2

COMMON QUESTION, 3.72

COMPELLING ATTENDANCE OF WITNESS

- conduct money, 8.8(5)
- failure of witness to attend, 8.9, 8.11
- notice to attend
- other party, 8.8
- witness, 8.8
- prisoner, production of, 6.39

COMPLEX CASES, 4.5

CONCURRENT DOCUMENT, 13.28

INDEX TO THE ALBERTA RULES OF COURT

- CONDITION OF MIND**, 13.6(3)
- CONDITIONS PRECEDENT**
 - pleading, 13.6(2)(b)
- CONDUCT MONEY (WITNESS ALLOWANCE)**
 - commission evidence taken outside Alberta, 6.22(3)(d)
 - compelling attendance to give evidence, 6.17, 8.8, 8.9
 - cross-examination on affidavit, 3.13(3), 6.17
- CONFIDENTIALITY**, 5.33
- CONSENT**
 - amendment of pleading by, 3.62
- CONSOLIDATION OF ACTIONS**
 - common question of law or fact, 3.72(2)(a)
 - proceedings arise out of same transaction, 3.72(2)(b)
 - trial at same time, 3.72(1)(b)
- CONTEMPT**
 - civil contempt, 10.51, 10.52, 10.55
 - grounds, 10.52(3)
 - mental disorder, 10.54
 - order compelling person to attend court to show cause, 10.51
 - punishment, 10.53
 - disobeying court order, 10.52
 - failure to attend for questioning, 10.52
- CONTINUATION OF ACTION**
 - assignment or transfer of interest or liability, 4.34
 - death, 4.34
- CONTRIBUTION OR INDEMNITY**
 - co-defendant, 3.43
- COSTS**
 - action by lawyer to recover lawyer-client costs, 10.22
 - actions within jurisdiction of Provincial Court, 10.42
 - affidavit of records
 - failure to file, 5.12
 - amendment of pleadings, 3.66
 - appeal
 - factums, late filing, 14.90
 - leave required for appeal of costs only, 14.5
 - application for production of records in possession of third party, 5.13
 - between parties, *see COSTS BETWEEN PARTIES*
 - contempt proceedings, 10.53 (annotation)
 - discontinuance, 4.36
 - factors to consider, 10.33
 - failure to beat offer of compromise, 4.29
 - litigation representative, payment by, 10.47
 - medical examination, 5.43
 - must be claimed, 13.6
 - non-compliance with the Rules, 10.49
 - objection to notice of intention not to call witness, 8.15(5)
 - omission to prove fact or document, 8.24
 - questioning more than one person of a party, 5.17(2)
 - winding-up order, 809
- COSTS BETWEEN PARTIES**
 - barrister liable for costs, 10.50
 - Bullock Orders, 10.29
 - costs, defined, 10.31
 - costs follow event unless otherwise ordered, 10.29
 - determination of amount, 10.29
 - fraud allegations, 10.29
 - GST, 10.48
 - interlocutory proceedings, 10.29, 10.30
 - litigation representative, 2.17
 - Pierringer Agreement Annotation, 3.46
 - public interest litigation, 10.29
 - Sanderson Orders, 10.29
 - set-off, 10.31(4)

INDEX TO THE ALBERTA RULES OF COURT

COSTS BETWEEN PARTIES (*cont'd*)

- settlement of action, 10.30
- test case, 10.29
- thrown away costs (annotation), 10.33
- unrepresented litigant, 10.31(5)

COUNTERCLAIM

- against person not a party, 3.56
- amendments, 3.62, 3.74, 3.75
- judgment for balance after counterclaim, 9.10
- rules apply, 3.60
- third party proceedings, 3.56, 3.60
- time for service, 3.57
- tried separately, may be, 3.71

CRIMINAL APPEALS

- abandonment of appeal, 860C
- coming in force of rules, 860E
- custody, application for release from, 860A, 860B
- dissemination of rules, 860D
- summary conviction appeals
 - abridgment of time, 860.8
 - clerk of summary conviction court duties, 860.4(1)
 - definitions, 860.1
 - entry of appeal on appeal list, 860.5
 - memorandum of authorities, filing and service of, 860.6
 - non-compliance with rules, 860.9
 - notice of appeal, 860.2, 860.3
 - transcript of trial evidence, 860.4(2), (3), (4)

CROSS-EXAMINATION

- affidavits, 3.13

D

DAMAGES

- assessing
 - to date of assessment for continuing claim, 9.9

DEATH

- no abatement of action after evidence heard, 4.35
- compelling continuation of action, 4.34

DECEASED PERSON

- appoint a representative, 2.16
- interested in claim, 2.16

DEFAMATION ACTIONS

- particulars, 13.7
- plaintiff's reputation, evidence as to, 13.6(4)

DEFAULT

- claim for recovery of property, 3.38
- counterclaims, applies to, 3.60
- filing statement of defence or demand of notice but failing to serve, 3.36(3)
- judgment, 3.36
 - action by lawyer to recover solicitor-client costs, only by order, 10.22
 - against party with litigation representative only with leave, 3.36(2)
 - application for, 3.37
 - liquidated demands, 3.39
 - setting aside, 9.15
 - some defendants not defending or demanding notice, 3.4
- liquidated demands, 3.39
- noting in, 3.36
- procedure, generally, 3.36–3.42
- third party
 - failing to defend, 3.53
 - judgment against third party, 3.53

DEFENCES

- discontinuance of action not a defence to subsequent action, 4.36(5)
- set-off
 - may plead by counterclaim, 3.59
- settlement using Court process rules do not apply, 4.30
- tender before action

INDEX TO THE ALBERTA RULES OF COURT

- DEFENCES** (*cont'd*)
- • payment into court required, 13.9
- DEFENDANTS**
- delivery of statement of defence, 3.31
 - failure to defend or demand notice, 3.37
 - joinder in one action, 3.69
 - offer by plaintiff to settle, 4.24
 - • failure to beat offer of compromise, 4.29
 - • without prejudice, made, 4.27
 - offer of judgment by defendant, 4.24
 - • failure to beat offer of compromise, 4.29
 - • without prejudice, made, 4.27
 - some defendants not defending
 - • continue action against defendants who have defended or demanded notice, 3.40
- DEFINITIONS**, 1.10, Appendix I, 14.1
- DELAY**, 4.31–4.33, 15.4
- standstill agreements, 4.33
- DEMAND OF NOTICE**
- endorsements
 - • required, 13.13, 13.19
 - entitles defendant to notice, 3.34
 - filing but failing to serve, 3.37(3)
 - time to serve, 3.34
- DENIAL**
- contract, promise or agreement
 - • bare denial goes to existence not legality, 13.6(3)(e)
 - costs
 - • when facts which should have been admitted are denied, 10.33
 - evasive, shall not be, 13.12
- DISCONTINUANCE**
- before entry for trial by plaintiff, 4.36
 - class proceeding, 4.36
 - consent, by, 4.36
 - costs, 4.36, 4.37
 - defendant withdrawing defence, 4.37
 - generally by plaintiff, 4.36
- DISMISSAL OF ACTION**
- at end of plaintiff's case, 8.20
 - want of prosecution
 - • action, 4.31
 - • appeal, 14.62, 14.63
- DISOBEYING COURT ORDER**, 10.52
- DISPENSING WITH SERVICE**
- generally, 11.29
- DOCUMENTS**
- filed, 13.5
- E**
- ELECTRONIC SIGNATURES**, 9.2
- ENTRY FOR TRIAL**, 8.4–8.7
- EXHIBITS**, 13.26
- sealing, 6.28–6.36
- EXPERT REPORTS**
- withdrawal, 5.39
- EXPERTS**, 5.34–5.40, 6.40–6.43
- EXTENSION OF TIME FOR SERVICE**, 3.26–3.29
- F**
- FACTS**
- deemed denial, 13.12
- FACTUMS**
- contents, 14.25
 - dispensing with, 14.25(4)
 - failure to comply with rules relating to factums, 14.90, 14.92
 - filing and service, 14.23, 14.24
 - rejection by registrar, 14.92
- FAMILY LAW RULES**, 12.1–12.71
- FAX**, 11.21
- FIATS**, 13.38
- FILED**
- when document, 13.15

INDEX TO THE ALBERTA RULES OF COURT

FORECLOSURE

- affidavit of value to be filed, 9.30
- application for order confirming sale, 9.34
- default, noting in before application for orders, 3.41
- general rules of procedure apply, 1.1
- judicial sales of land, 9.31–9.35
- order confirming sale or rejecting tenders
 - application for, 9.34
 - assessment officer must check calculation, 9.35
- service, method of, 11.23, 11.24
- service on subsequent encumbrancers, 9.36
- subsequent encumbrancers, not to be a party unless possession claimed from them, 3.77

FORUM CONVENIENS, 11.25

FRAUD, 13.6(3), 13.7

G

GENERAL OR OTHER RELIEF

- need not be claimed, 13.8(2)

GROUND

- third party notice, 3.44

H

HAGUE CONVENTION, 11.26, App. VII

I

INDIVIDUAL

- assistance in court, 2.23
- representing self, 2.22

INFANTS

- costs, 2.17, 10.47
- default judgment
 - leave of court required, 3.36
- defending action
 - litigation representative, 2.11

INJUNCTIONS, 1.3

INSUFFICIENT PARTIES IN ACTION

- judgment of court shall save rights of non-parties, 3.73

INTEREST

- earned on money in court, 13.54

INTERPLEADER, 6.54–6.65

INTERVENEORS, 2.10

ISSUE MAY BE TRIED SEPARATELY, 7.1

J

JOINER OF CAUSES OF ACTION, 3.69–3.77

JUDGMENT

- admissions, based on, 7.2
- consent
 - by party personally with affidavit of execution, 3.35
 - by solicitor or counsel, 3.35
- correction of errors, 9.12
- counterclaim
 - for balance after counterclaim, 9.10
- date, 9.1, 9.6
- default, 3.36
 - against infant only with leave, 3.36
 - amendment, 9.15(3)
 - application for judgment, 3.37
 - claim for recovery of property, 3.38
 - filing statement of defence or demand of notice but failing to serve, 3.36
 - liquidated demand, 3.39
 - proof of service required, 3.36
 - setting aside, 9.15
 - demand of notice filed, when
 - only granted on motion with notice to defendant, 3.34
- documents, based on, 7.2
- emergency, application for judgment in, 6.4

INDEX TO THE ALBERTA RULES OF COURT

JUDGMENT (*cont'd*)

- entry
 - after three months with leave, 9.5(2)
 - certified copy, 9.7
 - further directions after entry, 9.14
- form
 - formal content, 9.1(2)
 - numbered paragraphs, 9.1(1)
- granted conditionally
 - condition not met, 9.18
- jury, 8.21, 8.23
- litigation representative
 - default judgment only with leave of court, 3.36
 - dismissal at close of plaintiff's case, 8.20
 - inferences court may draw, 8.23(2)
 - when resolution of one issue makes resolution of others unnecessary, 7.1(3)
- preparation, 9.2
- satisfaction, memorandum of, 9.22
- setting aside, 9.15
- settlement of contents, 9.3
- signing, 9.4
- summary, 7.2–7.4
- third party proceedings
 - default, 3.53
- unsatisfied
 - motion for new judgment, 9.21

JUDICIAL DISTRICTS, App IV

JUDICIAL REVIEW IN CIVIL MATTERS, 3.15–3.24

- standards of review, 3.15

JUDICIAL REVIEW IN CRIMINAL MATTERS

- appeal
- *certiorari*
 - endorsement on motion, 831, 832(6)
 - *ex parte* application by Crown, 833

- record, 831(2)
- return by Provincial Court judge, 832
- time limit for application, 830
- civil rules apply, 825
- directions of judge, 829
- effective date of rules, 838
- *habeas corpus*
 - order, 837
- *mandamus*
 - affidavit in support, 834
 - immunity, 835
 - order, 836
- orders granted instead of writs, 826
- participation in proceedings when not served, 827(4)
- service of notice of motion, 827

JURY

- disagreement of jury
 - action may be re-tried, 8.21
- mode of trial, as, 8.1
- omission to prove fact or record, 8.24
- view, 6.26

L

LAWYER

- appointing, 2.24, 2.28, 2.32
- change of, 2.28
 - address for service to be included in notice, 2.28
 - notice of, 2.24, 2.28, 2.32
- leaving practice of law or dying, 2.32
- proof of service upon, 11.30
- service upon lawyer of record, 11.17
- withdrawal after trial date set
 - not without leave, 2.31
 - change by client, 2.28
 - effective date, 2.24, 2.28–2.32

LAWYERS' CHARGES

- action to recover
 - costs of action only by order, 10.22

INDEX TO THE ALBERTA RULES OF COURT

LAWYERS' CHARGES (*cont'd*)

- default judgment only by order, 10.22
- charging order against property, 10.4
- client abandoning action, 10.24
- contingency fee agreements
 - agreement must be in writing, 10.7
 - change of lawyer permitted notwithstanding, 10.6(2)
 - confidentiality, 10.15
 - contents of agreement, 10.7, 10.9, 15.5
 - death of solicitor, 10.24(1)(a)
 - failure to comply with, 10.7, 10.8
 - permitted, 10.5
 - provisions which are void, 10.6
 - review of agreement by court, 10.9–10.25
 - settlement or discontinuance, 10.24
- discharge of lawyer, 10.24
- factors to be considered, 10.2
- funds held in lawyer's trust account, charges against, 10.3
- future fees, 10.2(2)
- lawyer acting in representative capacity, 10.3
- lawyer incapable of acting any longer, 10.24
- review, 10.9

LIQUIDATED DEMAND

- judgment in default, 3.39

LITIGANTS' ACCOUNT, 13.51

LOST DOCUMENTS, 13.27

M

MALICE, 13.6(3)

MASTER IN CHAMBERS

- applications before, 6.9(2)
- appeals from, 6.14
- defined, App. I

MATRIMONIAL CAUSES

- general rules apply, 12.3
- parties, 12.5

MATRIMONIAL PROPERTY

PROCEEDING, 12.8–12.12

MEDICAL EXAMINATION, 5.41–5.44

MENTAL DISORDER

- civil contempt, 10.54

MISJOINDER

- causes of action, 3.71
- parties, 3.73–3.75

MISREPRESENTATION, 13.7

MONEY IN COURT

- investment of money, 13.54
- payment out, 13.53
- possession of property by debtor by payment of money into court, 6.25(1)(d)
- replevin, 6.50, 6.51
- stop order regarding payment out, 6.27

MONEY RECEIVED AS TENDER ON JUDICIAL SALE, 13.50

MOTIONS

- applications
 - consideration of, 6.9(1)
 - content of notice of application, 6.3
 - disposed of by judge or master, 6.9(2)
 - *ex parte* order, 6.4
 - judge cannot act or inconvenient to act, 13.1
 - length of notice required, 6.3(3)
 - service upon parties affected, 6.3(3)
 - varying or rescinding order if party has failed to attend through mistake, etc., 9.13, 9.15, 9.16
 - varying orders, generally, 9.13, 9.15, 9.16
- electronic application, 6.10

INDEX TO THE ALBERTA RULES OF COURT

MOTIONS (*cont'd*)

- evidence, 6.11

N

NEW EVIDENCE AT APPEAL, 14.75

NON-COMPLIANCE WITH RULES, 1.5

NON-SUIT, 8.20

NOTICE OF INTENTION NOT TO CALL WITNESS, 8.15

NOTICE TO ATTEND, 8.8

NOTICE TO CO-DEFENDANT, 3.43

NOTICE TO OBTAIN NAMES OF PARTNERS, 2.4

O

OFFER TO SETTLE, 4.24

- acceptance, 4.25
- court not to know of offer, 4.28
- failure to beat offer of compromise, 4.29
- judgment upon acceptance, 4.25
- withdrawal if not accepted, 4.24
- without prejudice, made, 4.27

ORDERS

- consent, 3.35
- correction of errors, 9.12
- date, 9.1, 9.6
- disobeying, 10.52
- enforcement, 9.17
 - non-party, against, 9.19
- entry, 9.5
 - certified copy, 9.7
 - further directions after entry, 9.14
- *ex parte* order, 6.4
- form
 - formal content, 9.1
 - numbered paragraphs, 9.1(1)
 - granted conditionally, 9.18
 - issues to be tried, 7.1
 - nullity

- cannot be, 9.6
- sale of property transferred to delay or defraud creditors, 9.24
- settlement of contents, 9.3
- signing, 9.4
 - approval by opposing party, 9.4
- varying or rescinding, 9.15

ORIGINATING APPLICATION

- commencement of action, 3.2
- application for judicial review, 3.15–3.24
- reciprocal enforcement of judgment, 9.50
- reciprocal enforcement of United Kingdom judgment, 9.40–9.49
- content, 3.8
- directions by court, 3.10, 3.12, 3.14
- form, 3.8
- oral evidence, 3.10, 3.12, 3.14
- service, 3.9, 3.15

P

PARTICULARS

- further particulars, 3.61
- required if pleading misrepresentation, etc., 13.7

PARTIES

- adding, 3.73–3.76
- common interest, 2.6
- listing more than four, 13.13(4)
- misjoinder, 3.73–3.75
- striking, 3.74, 3.75
- substituting, 3.75
- third parties, 3.46
- trustees, 2.1
- want of, 3.73

PARTNERSHIP

- action by or against, 2.2
- execution against, 2.3, 9.23
- notice to obtain names and residences of partners, 2.4
- person denying being a partner, 2.3

INDEX TO THE ALBERTA RULES OF COURT

PAYMENT OUT OF COURT

- generally, 13.53
- interest earned, 13.54

PERSONS INTERESTED BUT NOT PARTIES, 3.73

- approval of settlement, 2.18

PIERRINGER AGREEMENT, Annotation, 3.46

PLEADINGS, see also App. I DEFINITIONS, pleadings.

- amendments, *see* AMENDMENT OF PLEADINGS
- close of, 3.67
- conditions precedent, 13.6(2)(b)
- contents
 - damages, amount must be stated, 13.6(2)(c)
 - material facts, 13.6
 - misrepresentation, fraud, breach of trust, wilful default, undue influence, 13.6, 13.7
- costs, 13.6, 13.8(2)
- denial, 13.6, 13.12
 - costs when facts improperly denied, 10.33(2)(b)
- general or other relief need not be claimed, 13.8(2)
- fraud, 13.6, 13.7
- numbered paragraphs, 13.6(1)(b)
- particulars, 3.61
- pleading
 - claims or defences in the alternative, 13.8(1)(a)
 - point of law, 13.8(1)(b)
- silence
 - not an admission (generally), 13.12(1)
- striking, 3.68

POINT OF LAW

- generally, 13.8
- issue may be tried separately, 7.1
- setting question of law by consent, 7.1

PRESERVATION AND INSPECTION OF PROPERTY, 6.25–6.27

PRESERVING EVIDENCE, 6.21

PRE-TRIAL CONFERENCE, 4.10

PRIVILEGE

- records, 5.6

PROCEEDINGS

- commencement, 3.2
- judicial centre in which carried on, 3.6

PRODUCTION OF RECORDS, 5.5–5.16

- records in possession of third party, 5.13

PROOF

- service upon lawyer, 11.30(1)(b), 11.30(2)(b)

PROSECUTION OF ACTION

- timing, 4.32, 4.33, 4.4, 4.5

PUBLIC INTEREST STANDING, Annotation, 2.10

Q

QUESTIONING

- acknowledgment of corporate witness's evidence, 5.29
- allowance, 6.17
- appointment for questioning, 5.21
- continuing duty to disclose, 5.27
- costs, 5.17(2); 5.18(5)
- exhibits, 5.26(3)
- limiting or cancelling questioning, court may, 5.19
- objections, 5.25
 - Court, application to, 5.25(4)
- oral or written, 5.22; 5.24; 5.28
- prepare, witness's obligation to, 5.23
- questioning by party for whom person is a witness, 5.25(5)
 - re-questioning by adverse party, 5.25(6)

INDEX TO THE ALBERTA RULES OF COURT

QUESTIONING (*cont'd*)

- rule applies whether person to be questioned is within or outside Canada, 5.17(3)
- transcript of oral questioning, 5.26
- • obligation of questioning party to arrange, 5.26(2)
- • use of, 5.31
- • court, when it may be placed before, 5.32
- • confidentiality, 5.33
- undertaking regarding confidentiality, implied, 5.33 (annotation)
- undertakings when witness does not have answer, 5.30
- when questioning may occur, 5.20
- who may be questioned, 5.17(1)
 - • relevant and material records and information, 5.17(1); 5.25
 - • adverse in interest, parties which are, 5.17(1)(a)
 - • litigation representation, 5.17(1)(c)
 - • employees or former employees, 5.17(1)(d)
 - • • limitations, 5.18
 - • partners or former partners of an partnership adverse interest, 5.17(1)(f)
 - • parties to a negotiable instrument, 5.17(1)(g)
 - • experts, 5.18(3)
 - • written questions, 5.28

QUESTIONING IN AID OF ENFORCEMENT, 9.29

R

REAL ESTATE

- mode of sale, 9.38, 9.39

RECEIVER, 6.47

RECIPROCAL ENFORCEMENT OF JUDGMENTS ACT

- application, 9.50
- notice of registration, content, 9.51
- setting aside registration, 9.51(c)

RECIPROCAL ENFORCEMENT OF UNITED KINGDOM JUDGMENTS

- appeal
 - • order arising from application to set aside *ex parte* order, 9.46(4)
 - • order made on notice, 9.48
 - • order refusing *ex parte* relief, 9.47
- application
 - • affidavit in support, 9.43
 - • *ex parte*, 9.44
 - • heading of pleadings, 9.42(3)
 - • originating notice, 9.42
 - • service, if application is not *ex parte*, 9.44(2)
- definitions, 9.40
- factors to be considered by court, 9.49
 - order, 9.45
 - scope of Pt. 9, Division 7, 9.41
 - setting aside *ex parte* order, 9.46

RECORD

- amendments
 - • manner of physically effecting, 13.17
 - • trial, at, 3.65(4)

RECORDED MAIL

- defined, App. I
- service, 11.5, 11.22
 - • address for service, upon, 11.15
 - • deemed date of service, 11.22

REFEREES, OFFICIAL, 6.44, 6.46

- list of designated persons, 6.44

REPLEVIN

- application where action for recovery of personal property, 6.48
 - • procedure, 6.49
- bond, 6.50
- civil enforcement agency, 6.50, 6.51
- order
 - • application to vary, discharge or modify order, 6.52
 - • content, 6.50

INDEX TO THE ALBERTA RULES OF COURT

REPLEVIN (*cont'd*)

- • *ex parte*, 6.49
- • granted by court, 6.49
- property, detention by civil enforcement agency, 6.51
- respondent's application for relief, 6.52

REPLY

- amended reply, 3.62

REPRESENTATION (Self), 2.22, 2.23

RESTRICTED COURT ACCESS ORDER, 6.28–6.36

S

SEALING ORDER, *see* RESTRICTED COURT ACCESS ORDER

SECURITY FOR COSTS

- appeals, 14.67
- generally, 4.22
- matrimonial actions, 13.36
- order
 - • contents of, 4.23
 - • variation of security ordered, 4.23(4)
- payment out of security, 4.23(3)
- security by bond, 4.23(2)

SERVICE OF DOCUMENTS, 11.1–11.32

- agreement between parties, 11.3, 11.20
- business representative, on, 11.19
- commencing document, 11.3, 11.19
- contribution or indemnity claim, 3.43
- corporation, 11.9
- dispensing with service, 11.29
- electronic, 11.21
- evaded, 11.27
- lawyer, upon, 11.16, 11.17
- litigation representative, 11.7
- missing person, 11.8
- outside Alberta, 11.25–11.26

- personal
 - • corporation, 11.9
 - • documents commencing action, 11.4
 - • individual, 11.5
- proof required
 - • default judgment, 3.36
- recorded mail, 11.22
- setting aside service, 3.30, 11.31
- substitutional service, 11.28
- third party notice, 3.45
- validating, 11.27

SERVICE OF FOREIGN PROCESS, 11.32

SERVICE OUTSIDE ALBERTA

- generally, 11.25–11.26
- third party notice, 3.49(3)

SETTING ASIDE

- *ex parte* order or judgment, 9.15
- judgment
 - • default, 9.15
- service, 11.31
- third party proceedings
 - • third party notice, 3.47(a)
- verdict or judgment
 - • when party does not appear at trial, 9.15(1)(b)

SILENCE

- costs
 - • when facts not admitted but should have been, 10.33(2)(b)
- not an admission, 13.12
- • necessity to plead performance, release, payment, limitation, fraud, illegality, etc., 13.6, 13.7

SIMILAR FACT EVIDENCE, 5.6

SLIP RULE, 9.12

SOLE PROPRIETORS

- actions by or against, 2.5

STANDARD CASES, 4.4

STATEMENT OF CLAIM

- commencement of action, 3.2

INDEX TO THE ALBERTA RULES OF COURT

- STATEMENT OF CLAIM (*cont'd*)
 - content, required, 3.25, 13.13
 - divorce, 12.7, 12.9
 - serve copy with third party notice, 3.45
- STATEMENT OF DEFENCE**
 - amended, 3.62
 - divorce actions, 12.11
 - endorsements, required, 13.13
 - filing but failing to serve, 3.36(3)
 - new statement of defence after amended statement of claim, 3.62
 - struck out, 3.36
 - time to serve, 3.31
- STATUTE OF FRAUDS**, 13.6
- STATUTE OF LIMITATIONS**, 13.6
- STAY OF ACTION**
 - execution
 - appeals, 14.48, 14.68
 - originating documents falsely identifying solicitor who commenced action, 2.26(2)
 - replevin, 6.52
- STAY OF EXECUTION**, 1.4, 14.68
- STRIKING OUT PLEADINGS**, 3.68
- SUBSTITUTING PARTY**
 - generally, 3.74
- SUBSTITUTIONAL SERVICE**, 11.28
- SUMMARY JUDGMENT**, 7.2–7.4
- SUMMARY TRIAL PROCEDURE**, 7.5–7.11
- SURROGATE RULES**, App. V
 - accounting, SR 97
 - financial statements, contents of, SR 98
 - ownership of property by estate, confirmation of, SR 99
 - passing accounts, SR 107–117
 - passing accounts, dispensing with, SR 103–106
 - affidavit
 - may predate filing, SR 7
 - ancillary grants, SR 36
 - application of rules, SR 137
 - applications
 - additional information requested by court, SR 8
 - clerk, duties of, SR 45
 - contentious matters, SR 55
 - contested claims, SR 96
 - directions, for, SR 80, 82, 85
 - formal proof of will, SR 75
 - notice of, SR 26
 - service, SR 26(3)(4)(5)(6)
 - testamentary document, production of, SR 68
 - wills and codicils, attachment to, SR 15
 - beneficiary
 - unknown, SR 27
 - bonds, SR 28, 30
 - dispensation from, SR 29, 53
 - powers of court, SR 31
 - releases do not cancel, SR 102
 - trusteeship, SR 52
 - caveat, SR 71
 - frivolous or vexatious, SR 74
 - notice of objection, SR 73
 - warning to caveator, SR 72
 - claimants
 - notice by, SR 39
 - notice to, SR 38
 - verification of claim, SR 40
 - claims
 - contested, SR 42, 95, 96
 - not yet payable, SR 43
 - clerk
 - duties, SR 44–49
 - codicils
 - attach to application, SR 15
 - compensation
 - personal representatives and lawyers, SR Sched. 1
 - application respecting, SR 55, 58

INDEX TO THE ALBERTA RULES OF COURT

- SURROGATE RULES (*cont'd*)
- contentious matters
 - chambers, proceedings to be conducted in, SR 63
 - convict, service in respect of, SR 59(2)
 - costs, SR 64
 - documents to be served, SR 59(1)
 - missing person, service in respect of, SR 59(2)
 - notice to be given, SR 61
 - order to accept or refuse probate, SR 67
 - parties, SR 56
 - procedure at hearing of application, SR 64
 - representation, SR 62
 - security for costs, SR 69
 - service of documents, SR 59(2), 60
 - standing, SR 65
 - testamentary documents, application for production of, SR 68
 - time for completion, SR 70
 - trial of an issue, SR 66
 - Court of Queen's Bench
 - reference to, SR 3
 - court fees, SR Sched. 2
 - death, proof of, SR 94
 - definitions, SR 1
 - directions
 - application for, SR 4, 80, 82, 85
 - documents, provision of copies by clerk, SR 48
 - double probate, SR 34
 - fees, SR 44
 - formal proof of will
 - appeal, SR 92
 - application, SR 23, 75
 - court, duties of, SR 86
 - directions, application for, SR 80, 82, 85
 - documents to commence application, SR 77
 - evidence at hearing, SR 84
 - hearing in chambers, when, SR 83
 - interested persons, SR 78–80
 - other proceedings, combined with, SR 88
 - order of proceedings, SR 87
 - order final, SR 91
 - order requiring, SR 81
 - powers of the court, SR 90
 - revocation of informal grant, SR 93
 - trial, SR 85
 - witness fees, SR 89
 - forms, SR 9, 13, 16(6)
 - accountant's appointment, SR 115(4), 130(4)
 - caveat, SR 71(1), 73(1)
 - clerk's certificate, SR 49
 - death, permission to swear as to, SR 94(2)
 - dependent adults, passing accounts, SR 121, 122, 124, 126, 130(4), 133
 - dispensation from bond, SR 29
 - double probate, SR 34
 - nomination of personal representative, SR 33
 - notice of contestation, SR 95
 - notice of objection, SR 73, 114
 - notice to claimants, SR 38(1)
 - passing accounts, SR 107–109, 114
 - releases, SR 100(1)
 - renunciation, SR 32
 - report by accountant, SR 117, 132
 - service, proof of contentious matters, SR 60(2)
 - trusteeship, SR 50, 51
 - unknown beneficiary, SR 27
 - verification of claims, SR 40(2)
 - warning to caveator, SR 72
 - gifts
 - void, SR 14
 - grants, SR 10

INDEX TO THE ALBERTA RULES OF COURT

SURROGATE RULES (*cont'd*)

- ancillary, SR 36
- caveat, SR 71
- clerk, duties of, SR 46, 47
- clerk's certificate, SR 49
- double probate, SR 34
- limited grant, SR 12
- preferences, SR 11
- resealing, SR 35
- interested persons, SR 57
- minor testator, SR 21
- nomination of personal representative, SR 33
- notices, SR 5
 - claimants, by, SR 39
 - claimants, to, SR 38
 - objection by caveator, SR 73
- passing accounts
 - court's powers on application for passing of accounts, SR 113
 - dependent adults, SR 121–136
 - dispensing with, SR 103–106
 - examination of accounts by accountant, SR 115, 116
 - interested person seeking order requiring passing of accounts, SR 108
 - final passing of accounts, SR 113(4)
 - forms to be filed and served, SR 107
 - notice of objection by interested person, SR 114
 - reply to application for passing of accounts, SR 109, 111, 112
 - report by accountant, SR 117
 - withdrawal of application for passing of accounts, SR 110
- personal representatives' duties, SR Sched. 1
- preferences, SR 11
- releases, SR 100–102
- renunciation, SR 32
- re-sealed administration, SR 35
- re-sealed probate, SR 35
- rules of court
 - application of, SR 2
- testamentary document, production of, SR 68
- trusteeship
 - application, SR 50
 - bond, SR 52, 53
 - notice of application, SR 51
 - rules, application of, SR 54
- unadministered property, SR 37
- valuation of security, SR 41
- venue, SR 6
- verification of claims, SR 40
- void gift, SR 14
- wills
 - alterations, SR 25
 - attach to application, SR 15
 - foreign language, SR 18
 - formal proof, SR 23, 75, 81
 - holograph, SR 16(4)
 - lost or destroyed, SR 24, 76
 - other documents, SR 22
 - proving signing of, SR 17
 - undated, SR 20
- witnesses
 - deceased, SR 19
 - identification of document by, SR 16

T

TENDER BEFORE ACTION

- payment into court required, 13.9

THIRD PARTY PROCEEDINGS

- admissions, deemed
 - by third party when not denying defendant's liability to plaintiff, 3.52(1)
 - by third party when not denying liability to defendant, 3.52(2)
- counterclaim, 3.49, 3.60
- default
 - third party failing to file defence, 3.53
- grounds, 3.45

INDEX TO THE ALBERTA RULES OF COURT

- THIRD PARTY**
- PROCEEDINGS** (*cont'd*)
- judgment
 - against third party if third party fails to defend, 3.53
 - leave to execute, 3.53(2)
 - reply by plaintiff, 3.54
 - service of third party claim, 3.45
 - setting aside
 - by plaintiff after service of third party notice, 3.48
 - by third party, 3.47
 - statement of claim
 - serve with third party notice, 3.45(d)
 - statement of defence to third party claim, 3.49
 - generally, 3.49, 3.52
 - party, makes third party a, 3.46
 - reply by plaintiff, 3.48
 - time to serve, 3.49
 - tried as part of action, 3.46(3)
- TIME**
- abridge or enlarge, court may, 13.5
 - admissions
 - deemed if notice not responded to, 6.37
 - opinion, admission of, 6.37
 - admissions regarding documents
 - time to object, 5.15(4)
 - affidavit of records
 - inspection of records, 5.6, 5.14
 - objections to deemed admissions, 5.15
 - serving, 5.5
 - affidavits, filing and serving, 3.11, 6.6
 - amended pleading, 3.62
 - amendment of pleading with leave, 3.65
 - appeals
 - cross-appeal, 14.11
 - dismissal for want of prosecution, 14.62, 14.63
 - extending time, 14.37
 - factums, filing and serving, 14.23, 14.24
 - notice of appeal to Court of Appeal, 14.8
 - service of notice of appeal, 14.81
 - application
 - for order confirming sale or rejecting tender, 9.34
 - to disallow amendment, 3.64
 - to quash conviction, service of, 827(3)
 - to set aside a decision under judicial review rules, 3.15(2)
 - applications, length of notice required, 6.3
 - appointment for questioning, service of, 5.21, 6.16
 - appointment for questioning in aid of enforcement, 9.29
 - calculation, 13.2–13.5
 - *certiorari*, 830
 - compelling attendance of other party to give evidence, 8.8
 - contingent fee agreement
 - review of, 10.10, 10.13
 - contribution or indemnity from co-defendant, 3.43
 - costs
 - bills of costs, assessment of, 10.10
 - criminal appeals, 843, 850, 851, 853, 855, 860B, 860.3, 860.5, 860.6, 860.8
 - cross-examination of court appointed expert, 6.42
 - delivery of pleading
 - amended pleading, 3.62, 3.65
 - divorce pleadings, 12.12, 12.55
 - demand of notice, 3.34
 - enlarging by consent, 13.5
 - entry of judgment or order after three months, 9.5
 - evidence
 - notice to use evidence from another action, 6.11, 8.17

INDEX TO THE ALBERTA RULES OF COURT

TIME (*cont'd*)

- experts
 - reports, service of, 5.35
- inquiries
 - application to accept or vary report of referee, 6.46
- interpleader
 - notice to civil enforcement agency regarding disputed claims, 6.63
- month, 13.14
- new judgment, motion for if original judgment unsatisfied, 9.21
- notice
 - lawyer withdrawing, 2.29
 - of intention not to call witness, 8.15
 - of termination of contingency agreement by client, 10.7(5)
 - to admit, reply to, 6.37(3)
- offer to settle, 4.24
- originating notice
 - service, 3.9
- pleadings, close of, 3.67
- replevin, 6.50–6.53
- service of appointment for assessment of costs, 10.37
- service of contingency fee agreement, 10.7(4)
- setting aside verdict or judgment
 - when party does not appear at trial, 9.15
- statement of claim
 - service, 3.26, 3.27, 3.29
- statement of defence, 3.31, 12.12
- step in an action, 4.33
- summary trial, 7.5, 7.6
- third party notice
 - defence, 3.49
 - filing and serving, 3.45
 - reply by plaintiff, 3.54
- winding up, appointment of liquidator, 763
- winding-up action, abridging of time by judge, 811

- winding-up order
 - advertising, 758
 - entry, 759(1)

TIMING OF ACTION

- agreement, 4.32, 4.33
- general, 4.1–4.15

TRANSFER OF ACTIONS, 3.5

TRANSLATING DOCUMENTS, 5.7

TRIAL

- address to court, 8.10
- adjournment, 1.4, 8.6
- at same time, 3.72
- consolidation of actions, 3.72
- contribution or indemnity from co-defendant, 3.43
- entry for, 8.4, 8.5
- evidence
 - affidavit, 3.14, 6.11
 - court documents, 13.29
 - oral, 8.17
 - outside Alberta, 6.21–6.23
 - use in subsequent proceedings, 6.11, 8.17(3), 8.19
- fact, question of, 7.1(1)(d)
- judgment
 - setting aside when party did not appear, 9.15
- jury
 - disagreement of, 8.21
 - view by, 6.26
- mode of
 - jury, 8.1–8.3
 - referees, 6.45
- motion for dismissal at close of plaintiff's case, 8.20
- omission to prove fact or document, 8.24
- place of trial, 3.6
- setting aside when party did not appear at trial, 9.15
- summary, 7.5–7.11
- third party proceedings, 3.46
- view, 6.26

INDEX TO THE ALBERTA RULES OF COURT

U

UNDUE INFLUENCE, 13.7

UNDERTAKING, IMPLIED, 5.33
annotation

UNITING CAUSES OF ACTION

- generally, 3.69
- same transaction, 3.70

V

VERDICT

- setting aside
- • when party did not appear at trial, 9.15

VEXATIOUS LITIGANTS, 3.2

VIEW

- Court of Appeal, by, 14.73
- judge, by, 6.26
- jury, by, 6.26

W

WILFUL DEFAULT, 13.6, 13.7

WINDING UP ACT, RULES UNDER

- advertisements, 793
- applications
 - • affidavit, 791
 - • made in chambers, 790
 - • sanction of court, 792
- appointment of representative of class, 800
- attendance and appearance of parties, 799, 801
- calls, 782–789
- costs
 - • fees, 809
 - • taxation, 810
- documents
 - • filed, 795
 - • inspection, 797
 - • not filed, 796
- forms, 807
- general rules and practice to apply, 812

- liquidator
 - • accounts of, 771
 - • contents of notice, 764
 - • duties, 770, 774
 - • evidence in support of application, 765
 - • notice of time and place of appointment by advertising, 763
 - • order, 767
 - • replacement of, 769
 - • security, 766, 768
 - • solicitor, 806
- list of contributories, 779–781
- order
 - • advertising, 758
 - • delegation of powers of court, 808
 - • entry, 759(1)
 - • notice of motion after entry of order, 759, 760
 - • service, 758
 - • winding-up order, 762
- petition
 - • filing of petition and affidavits, 755
 - • provision of copies to creditors, etc., 757
 - • service of, 756
 - • title of, 754
- powers of judge
 - • abridgment of time, 811
 - • directions, 811
 - • proof of debts, 772–778
 - • provisional liquidator, 761, 798
 - • register of proceedings, 794
 - • service, 802
 - • termination of winding up, 803–805

WITNESS

- calling of
 - • failure to call, 8.15
 - • notice to attend, 8.8