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Publisher's Note
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Busby
Manitoba Queen's Bench Rules
Annotated

Publisher's Note

This work provides easy access to the Rules and case annotations and includes the Queen's Bench and Court of Appeal Rules of Practice and Procedure for both civil and criminal matters. The work provides commentary explaining the rules and annotations of all the decisions that interpret the civil rules. Commentary and other secondary resources include Tariffs, forms, practice directions, and Table of Rules Concordance.

What's New in this Update

In this release the author has updated the rule annotations. This release also updates the checklists and contains the Annual Review which covers the period September 1, 2019 to September 1, 2020. The 2021-1 CD included with this release contains updated fillable forms.

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Highlights

Rule 62.01 Appeals to a Judge — The respondents argued that the application judge erred in admitting affidavit evidence and disallowing cross-examination and an order in the sale of three parcels of land. The standard of review for a discretionary decision is highly deferential. This court will not intervene unless the order is so clearly wrong as to amount to an injustice. In admitting the affidavit and disallowing cross-examination, he appropriately considered the principle of proportionality. The parties could also restate their positions at the fresh hearing. The application judge also provided reasonable protection to the respondents, in particular, a right of first refusal. (*Mireault et al. v. Podolsky et al.*, 2020 MBCA 9, *per* Spivak, JA, *aff'g* 2019 MBQB 32 *per* Toews, J.)

Rule 70.18.1 Family Proceedings — Summary Judgment Motions — An agreement reached between the parties at a case conference and summarized in a memorandum on interim support which is then not honoured can be subject to a summary judgment motion. The court repeated the motion judge's statement that, "if the agreements at case conferences are to mean anything, they have to be respected and honoured by the court and enforced by the court and a motion for summary judgment is one of the tools to do that." (*Dhalla v. Dhalla*, 2020 MBCA 69, *per* Cameron, JA)