



NATIONAL COMMITTEE ON ACCREDITATION

SAMPLE EXAMINATION

BRITISH COLUMBIA CIVIL PROCEDURE

© 2009 Federation of Law Societies of Canada. All rights reserved.

For personal educational purposes only. This document may not be reproduced or distributed in whole or in part without the prior written permission of the Federation of Law Societies of Canada

© 2009 Fédération des ordres professionnels de juristes du Canada. Tous droits réservés.

Aux fins de formation personnelle seulement. Ce document ne peut être reproduit ou distribué en totalité ou en partie sans la permission écrite préalable de la Fédération des ordres professionnels de juristes du Canada.

To all Candidates:

This is an exam to test you on your knowledge of the British Columbia Rules of Court. All of the answers to this examination can be found within the Rules.

- Please do not include any case references in your answers. None of the answers require case references.
- Please refer to the particular Rule and Subrule which provides the answer to each question.
- Please read each question carefully and be sure to answer all parts of the question.
- Please write in a legible manner.

CIVIL PROCEDURE EXAM

- Q.1. Your client is a defendant in an ongoing action. You served interrogatories upon the Plaintiff 27 days ago. The Plaintiff refuses to provide any answers to your interrogatories and is consequently in non-compliance with Rule 29. What steps may be taken by the court as a result of this non-compliance, and what steps should you take? **(2 marks)**
- Q.2. You are attempting to serve documents on another party in an ongoing action. The courier got stuck in traffic and served the documents at 4:15pm on Wednesday September 15th. On what day are the documents deemed to have been delivered and why? **(2 marks)**
- Q.3. On September 1, 2006, Tom is driving to work in his Toyota car; Dick is driving home from work in his Dodge car; and Harry is driving to the grocery store in a Honda car owned by his employer, ABC Company. Both Dick and Harry hit Tom in a 3-car pile-up. Tom suffers personal injury and damage to his vehicle. **(total of 4 marks)**
- (a) What document(s) must Tom must file to commence the action? **(2 marks)**
 - (b) Who should Tom name as parties? **(1 mark)**
 - (c) How should he effect service? **(1 marks)**

- Q.4. Tom has decided that he only wants to sue Dick. Dick thinks that Harry was responsible for the accident and should be a party. **(total of 7 marks)**
- (a) What can Dick do to have Harry included as a party? **(1 mark)**
 - (b) In what circumstances would Dick require leave of the Court? **(1 mark)**
 - (c) What are the service or delivery requirements? **(1 mark)**
 - (d) Please describe the documentation that Harry must file, including any steps for service/delivery of documentation, after Harry is served by Dick. **(4 marks)**
- Q.5. Your client wishes to start a family law proceeding against his wife. **(total of 4 marks)**
- (a) What document must you file to commence the proceeding? **(2 marks)**
 - (b) What is the rule regarding service of this document and what are the requirements for service? **(2 marks)**
- Q.6. You will need to produce an expert at trial. Note: no trial date has been set and assume the trial will be no earlier than 10 months from today. **(total of 6 marks)**
- (a) How do you ensure that your expert's written opinion is admissible at trial, and what must that written opinion contain. **(4 marks)**
 - (b) Can the expert be required to attend at trial by an adverse party, and how? Are there any circumstances under which the expert does not have to attend the trial, once request to do so by an adverse party? **(2 marks)**
- Q.7. You act for the Plaintiff who is an individual. It is now April 1st and the trial is set to begin April 12th. The Defendant's lawyer sends a notice of appointment to your client indicating he wants to conduct his first examination for discovery on your client in 5 days. Can he do this, and was the notice of appointment properly served? If not, why not? **(3 marks)**
- Q.8. Your client will be examined for discovery tomorrow. He informs you he has a friend who knows about an issue in the case but the information could hurt his case. He says that if he is asked if anyone else has knowledge of the issue he will either not tell the truth or he will refuse to answer the question. What is your response? **(2 marks)**
- Q.9. Your client wants to move quickly and obtain a judgment to her action. However, the trial date is set for 6 months from today. **(total of 2 marks)**
- (a) What process could you use to obtain a judgment prior to this date? **(1 mark)**
 - (b) Are there any time restrictions you need to bear in mind before starting this process? **(1 mark)**

- Q.10. Before your client retained you, she commenced two actions. They are for different relief, but they involve the same incident and arise from the same set of facts. What should you do to avoid the necessity of conducting two trials? **(1 mark)**
- Q.11. A client hired you to start a lawsuit. You filed the writ of summons but did not serve it on the other party as it got lost in a pile of papers on your desk. You notice that the writ was issued 13 months ago. **(total of 3 marks)**
- (a) Can you serve the writ today? **(1 mark)**
 - (b) What steps must you take to be able to serve the writ? **(2 marks)**
- Q.12. You have had a writ of summons issued on behalf of your client, but you are having difficulty serving it on the defendant as they are evading service. What options do you have to effect service, and what steps must you take? **(2 marks)**
- Q.13. Your client comes into your office and hands you a writ of summons that was served on him. You ask when he was served and he tells you "5 days ago". **(total of 2 marks)**
- (a) What do you advise your client must be done to address the writ that was served on him? **(1 mark)**
 - (b) What advice do you give the client if he says he is going on holidays tomorrow and wants to wait and handle it when he gets back? **(1 mark)**
- Q.14. You were in a hurry to begin a lawsuit for your client and so you did not bother to file the statement of claim. Instead, you endorsed the writ with a concise statement of the nature of the claim. You now want to press the action forward, and obtain the defendant's pleadings. **(total of 4 marks)**
- (a) What is the next step that you need to take in this proceeding? **(1 mark)**
 - (b) What are the applicable time requirements? **(1 mark)**
 - (c) What information must be included? **(2 marks)**
- Q.15. You just won a huge judgment for your client. However, you have no idea if the defendant will be able to pay. Describe the two procedures you can perform to determine the defendant's ability to pay? **(10 marks)**

- Q.16. Your client has decided to sue two parties for breach of contract that occurred in British Columbia : an individual who lived and worked in BC at the time of the alleged breach but now lives in Hawaii, and a British Columbia corporation. What is the procedure for serving each party and is leave of the Court required? **(3 marks)**
- Q.17. Poor Paula comes into your office on September 2, 2006 and tells you about an incident that occurred on September 5, 2004. Poor Paula was walking to work when Peter ran into her while he was riding his skateboard. She believes Peter was in his 20's at the time. Poor Paula was knocked to the ground and was not able to go to work for 1 week due to the personal injuries she suffered. **(total of 32 marks)**
- (a) What are the two main methods to start a proceeding. Which method would you choose and why? **(2 marks)**
 - (b) You serve Peter with the requisite originating documents requesting general damages, but not claiming a specific amount. Peter does not immediately enter an appearance. How long does he have to respond? If he does not respond, what steps can you take to get judgment? Describe what you would do next to get judgment, how damages would be assessed, and who would hear the application. **(6 marks)**
 - (c) Assume you want Peter to agree to certain facts before the trial. Describe the process you would follow to have him admit facts. What occurs if Peter does not respond? **(3 marks)**
 - (d) Assume you apply for and obtain default judgment, what can Peter do? **(1 mark)**
 - (e) Assume instead that you decide to make a demand for discovery of documents **(4 marks)** and you wish to obtain answers to interrogatories **(6 marks)**. What is the purpose of each procedure? Describe the process for each including the applicable timeframes and rules.
 - (f) Assume Peter refuses to provide the list of documents. What steps or avenues are available to you? **(2 marks)**
 - (g) You were successful in your action and have been awarded costs. What two steps do you take to determine the amount of costs. **(3 marks)**
 - (h) You and the other side cannot agree on an amount for costs. Describe the process that you need to follow to have a bill of costs assessed. **(5 marks)**
- Q.18. You are concerned that a key witness in your client's case will be returning to Finland next month and he may not be able to provide testimony at the trial that is scheduled to begin 6 months from today. Describe the process you would follow to ensure the witness' testimony is put before the Court. **(5 marks)**

- Q.19. Your client wishes to appeal an order of a master. Who would hear the appeal? **(1 mark)**
- Q.20. You represent the plaintiff. The Defendant has sent an offer to settle but your client does not want to accept it. What advice should you give your client of the possible consequences of not accepting the offer to settle? **(2 marks)**
- Q.21. Your client wants to apply for summary judgment under Rule 18A. There is a strong likelihood that you will not be successful in getting summary judgment, and you advise your client of this. Your client asks if the court can make any orders as part of the summary judgment process that may assist you in the trial, even if summary judgment is not granted. What is your response and what types of orders may be made? **(3 marks)**