

*Federation of Law Societies
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*Fédération des ordres professionnels
de juristes du Canada*

NATIONAL COMMITTEE ON ACCREDITATION

SYLLABUS

CIVIL PROCEDURE FOR ALBERTA

JANUARY 2010

ALBERTA CIVIL PROCEDURE**COURSE OUTLINE**

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PART I. COURSE DESCRIPTION AND OBJECTIVES**A. INTRODUCTION**

This course is designed to teach the rules and procedures involved in the court-based civil dispute resolution process in Alberta. The course has three main objectives.

1. **Concepts.** The first objective of the course is to examine the main concepts involved in the Alberta court process. Students will consider the Alberta Rules of Court (the “Rules”), both as ordering mechanisms as well as a regime designed to facilitate and protect substantive rights and obligations. The course also looks beyond the Rules, to various contextual issues including jurisdiction, current procedures, alternative methods, access and professional responsibility.
2. **Skills.** The second objective of the course is to introduce students to some basic procedural skills involved in Alberta civil proceedings. The course will examine how the Rules guide and govern the structure of, and steps involved in, civil proceedings. Students will become familiar with how and when the Rules apply and – in some circumstances – how they have been interpreted by the courts.
3. **Critical Thinking.** The third objective of the course is to foster critical and imaginative thinking about current traditional dispute resolution processes. Thinking about what works, what doesn’t and alternatives is encouraged.

B. CURRENT REFORM INITIATIVES

The Rules are currently in the midst of being fully reformed. The current Rules are still in force, and will be for some time. The proposed new rules have been drafted, are moving through the legislature and – following some final revisions and final reading – are anticipated to be in force sometime later in 2010 or 2011 (exact timing is unknown). As such, students of Alberta civil procedure are in a somewhat challenging situation. The current Rules need to be learned. However, students should be aware of the upcoming reforms.

This course (and the examination) will be based on the Rules that are currently in force in Alberta.

However, for purpose of students’ future practice, students need to be aware of the upcoming changes. Reference will be made from time to time to the proposed reforms. The proposed new rules, however, will not form part of the examination for this course.

C. FORMAT

This course is designed to be self-taught. Required and recommended readings, together with suggested issues to consider set out in this syllabus, will provide the basic teaching materials. Students will be expected to become familiar with the Rules, other relevant statutory materials, and the form and purpose of, and materials required for, the various basic procedural steps and options in the litigation process.

D. READINGS AND MATERIALS

1. The primary required materials for this course are the Rules. They provide the basic procedural tools in the Province. It is suggested that students purchase one of the annotated versions of the Rules. Annotated versions can be found in: W. A. Stevenson and J. E. Côté, *Alberta Civil Procedure Handbook, 2009* (“CPH”) (Edmonton: Juriliber, 2009), or Allan A. Fradsham, *Alberta Rules of Court Annotated, 2009* (Toronto: Carswell, 2008).¹ Further, reference is typically made in this outline to the relevant Rule(s) under the various topics. However, students are strongly encouraged to use the table of contents, index and internal cross-references in the Rules in order both to understand the basic Rules and provisions for any given topic and to become familiar with the complete Alberta procedural regime.
2. To help students understand the Rules, procedures and other statutory regimes in Alberta, various cases, comments, statutory materials² and other sources are included in this syllabus from time to time. These sources are recommended, both for a general understanding of civil procedure in Alberta and for success on the exam.³
3. As mentioned above, students should also be aware that a major rules reform project is nearing completion in Alberta that will result in significant changes to the form and content of the current Rules at some point in the very near future. For information on the new rules project, and related materials, see the following web-based sources.
 - The proposed new Alberta Rules of Court can be accessed through the web materials of the Alberta Law Reform Institute (ALRI). See ALRI, Rules of Court Project, “Proposed Rules of Court (Appendix H)”, online: ALRI <<http://www.law.ualberta.ca/alri/Rules-of-Court.php>>.
 - Various other materials relating to the new Rules of Court project can be found at: ALRI, “Proposed Rules of Court”, *ibid*.
 - A further description of the process, as well as related materials, can be found in the web materials of the Canadian Forum on Civil Justice (CFCJ). See CFCJ, Inventory of Reforms, “Alberta Rules of Court Project”, online: <<http://cfcj-cfcj.org/inventory/reform.php?id=68>>.

¹ For purposes of this syllabus, it will be assumed that students will be using the CPH. The CPH provides a consolidation of relevant Rules, practice notes/directions, regulations, case references and other materials. It also provides a useful commentary on the source and application of the Rules. For an expanded and more comprehensive discussion of the materials found in the CPH, see Stevenson & Côté, *Civil Procedure Encyclopedia* (Edmonton: Juriliber, 2004). The official (non-annotated) version of the Rules can be purchased from the Alberta Queen’s Printer. They can also be accessed through the Alberta Government’s web-based legal materials collection (see: <http://www.qp.gov.ab.ca/display_rules.cfm>). See also Canadian Legal Information Institute (CanLII), online: CanLII <<http://www.canlii.org/en/ab/laws/regu/alta-reg-390-1968/latest/alta-reg-390-1968.html>>.

² For information and on-line versions of the statutes, regulations and other materials, see : <http://www.qp.gov.ab.ca/display_gazette.cfm>.

³ All of these materials should be available through one or more on-line and/or paper legal research source.

- For the legislative status of the new Rules, and accompanying legislation, see Legislative Assembly of Alberta, Bills and Amendments, Bill 31, Rules of Court Statutes Amendment Act, 2009, online: Legislative Assembly of Alberta <http://www.assembly.ab.ca/net/index.aspx?p=bills_status&selectbill=031>.

E. EVALUATION

Evaluation for this course is based on a 100%, open-book written examination. Further details about the examination and grading requirements for this course are available from the National Committee on Accreditation.⁴

⁴ For further details and contact information for the National Committee on Accreditation, see: <<http://www.flsc.ca>>.

PART II. COURSE OUTLINE AND READINGS

A. INTRODUCTION, COURTS AND JURISDICTION

1. Introduction

Issues to Consider⁵

- A. What is civil procedure?
- B. What is the operation and function of a lawsuit?
- C. What are the various relevant definitions, terms and Rules?
- D. What is the general scope and landscape of the practice of civil litigation in Alberta?
- E. How do the Rules promote fairness, equality, access, efficiency? Are they successful?
- F. How do they avoid a multiplicity of proceedings?

Materials

- A. Introduction
 - (i) Rules 1-5
 - (ii) CPH, Introduction (recommended)⁶
 - (iii) G. Turriff, “Why are there Rules of Court?” (Fall 2002) *5 News & Views on Civil Justice Reform* (Canadian Forum on Civil Justice (“CFCJ”)) 15 (see online: CFCJ <<http://www.cfcj-fcjc.org/>>) (recommended)

2. Jurisdiction

Issues to Consider

- A. Which Rules govern which courts in Alberta?
- B. Under what statutory (or other) authority are the various Rules created and binding?
- C. What authority governs the jurisdiction of masters, judges and courts?
- D. What are the various courts in Alberta?
- E. What other tribunals are available in Alberta? What gives them jurisdiction?
- F. What other, non-traditional (ADR) options are available to litigants?
- G. How does the federal system of courts fit within this structure?
- H. What are the basic avenues of appeal from these various courts/tribunals?
- I. What are Practice Notes/Directions? Under what authority are they made?

Materials

- A. General sources for Alberta and Federal court Rules, forms, notes, directions, etc. (skim)
 - (i) <http://www.qp.gov.ab.ca/catalogue>
 - (ii) <http://www.albertacourts.ab.ca/>

⁵ These “issues to consider”, set out here and under the other various topics, are included simply to help focus students’ thinking when going through the readings and various topics. They are not, however, meant to be exhaustive lists of all important aspects of a given topic, nor are students required to answer all of the questions raised by these issues.

⁶ The “recommended” resources are included to provide students with extra materials designed to help further illuminate a given topic.

- (iii) <http://www.justice.gov.ab.ca/home/>
 - (iv) <http://www.lawsocietyalberta.com>
- B. Supreme Court of Canada, Federal Court and Alberta Court of Queen’s Bench (skim)
- (i) *Judicature Act*, R.S.A. 2000, c. J-2, ss. 1-5, 8-10
 - (ii) *Federal Court Act*, R.S.C. 1985, c. F-7, 17-18
 - (iii) See also: *Court of Queen’s Bench Act*, R.S.A. 2000, c. C-31, *Supreme Court Act*, R.S. 1985, c. S-26, Court of Queen’s Bench and Court of Appeal Practice Notes and Directions (CPH)⁷
- C. Provincial Court (skim)
- (i) *Provincial Court Act*, R.S.A. 2000, c. P-31, s. 9(1), 9(6), 15, 18, 44 (and relevant civil regulations) (skim)
- D. Specialized Tribunals and Judicial Review (skim)
- (i) Simply notice basic difference between court system and administrative system
- E. Rules (skim)
- (i) *Court of Queen’s Bench Act*, R.S.A. 2000, c. C-31, ss. 9, 20, 21, 25
 - (ii) *Judicature Act*, R.S.A. 2000, c. J-2, s. 63
 - (iii) Rules of Court Schedules: forms, schedules, etc. (CPH)

B. COMMENCING PROCEEDINGS AND PARTIES

3. Commencement of Proceedings

Issues to Consider

- A. What differentiates the various originating procedures in Alberta (e.g., claims, petitions, etc.)?
- B. What Rules are involved?
- C. What factors suggest and/or require the use of different proceedings?
- D. What forms and documents are required?
- E. What limitation periods apply? Governing principles? Exceptions?

Materials

- A. Statements of Claim⁸
 - (i) Rules 6-8, 261, 560
 - (ii) *Limitations Act*, R.S.A. 2000, c. L-12
- B. Petitions
 - (i) Rules 6(3), 261(3), 560
- C. Originating Notices

⁷ Recent practice notes, directions and other materials for the Court of Queen’s Bench can be found at: <<http://www.albertacourts.ab.ca/CourtofQueensBench/PracticeNotes/tabid/93/Default.aspx>>; and for the Court of Appeal at: <<http://www.albertacourts.ab.ca/CourtofAppeal/PracticeNotesDirections/tabid/86/Default.aspx>>. For a summary of masters’ jurisdiction, see e.g. Queen’s Bench Practice Note (Dec. 15, 1993) (CPH).

⁸ See also Rules and materials in Part II.C (“Pleadings”), *infra*.

- (i) Rules 6(2), 261(3), 404-410, 560
- D. Special Applications
 - (i) Rules 394, 395

4. Parties

Issues to Consider

- A. Who is a proper/necessary party to a proceeding?
- B. What special types/categories of people can be parties to a proceeding?
- C. What rules apply to these people?
- D. What special documents are required?
- E. Are current rules adequate to protect the needs of special litigants?
- F. Who is a “next friend” in the context of civil litigation? What obligations do they have?
- G. Who can make representations before the Courts?

Materials

- A. General
 - (i) All necessary and proper parties
- B. Deceased Persons
 - (i) Rules 43, 50
 - (ii) *Survival of Actions Act*, R.S.A. 2000, c. S-27
 - (iii) *Fatal Accidents Act*, R.S.A. 2000, c. F-8
- C. Trust and Estate Proceedings
 - (i) Rules 43, 51
- D. Infants
 - (i) Rules 38(4), 58-59, 62-65, 581-583
- E. Persons of Unsound Mind
 - (i) Rules 60, 61
- F. Corporations
 - (i) *Business Corporations Act*, R.S.A. 2000, c. B-9, ss. 208-210, 227, 295
- G. Firms
 - (i) Rules 80, 82, 83
- H. Representative Actions / Class Proceedings
 - (i) Rule 42 (now see *Class Proceedings Act*, *infra*)
 - (ii) *Western Canadian Shopping Centres Inc. v. Dutton*, [2000] S.C.J. No. 63, 2001 SCC 46, [2001] 2 S.C.R. 534 (skim for background, now see *Class Proceedings Act*, *infra*)
 - (iii) *Class Proceedings Act*, S.A. 2003, c. C-16.5
- I. The Crown

- (i) *Interpretation Act*, R.S.A. 2000, c. I-8, s. 14
 - (ii) *Proceedings Against the Crown Act*, R.S.A. 2000, c. P-25
- J. Representation Before the Court
- (i) Rules 5.2-5.4
 - (iii) *Legal Profession Act*, R.S.A. 2000, c. L-8, ss. 105-106

C. PLEADINGS

5. General Principles/Rules

Issues to Consider

- A. What is a pleading?
- B. What are the various forms/functions of a pleading?
- C. What determines what goes into a pleading?
- D. Why are brief and efficient pleadings so important?

Materials

- A. Contents of Pleadings
 - (i) Rules 5(1)(m), 104-116
- B. Formal Requirements
 - (i) Rules 5.12, 8, 87-91, 120, 606
- C. Function
 - (i) *Judicature Act*, R.S.A. 2000, c. J-2, s. 8

6. Interest and Venue

Issues to Consider

- A. What role does interest play in claims and how is it calculated?
- B. How do pleadings deal with interest?
- C. Where should actions be commenced, conducted and tried? Why? Under what authority?

Materials

- A. Interest
 - (i) *Judgment Interest Act*, R.S.A. 2000, c. J-1 (skim)
 - (ii) *Judgment Interest Regulation*, AR 364/84 (skim)
- B. Venue
 - (i) Rules 6.1, 12, 237

7. Service

Issues to Consider

- A. What is service?
- B. What Rules govern different forms of service, and service on different parties?

Materials

- A. Individuals
 - (i) Rules 13, 14, 15(1), 16-19, 22
- B. Corporations
 - (i) Rules 15(2) and 24
 - (ii) *Business Corporations Act*, R.S.A. 2000, c. B-9, s. 256
 - (iii) *Interpretation Act*, R.S.A. 2000, c. I-8, s. 23
- C. Firms and Partnerships
 - (i) Rules 15(3) and 80-82
- D. Substitute
 - (i) Rule 23
- E. Solicitors and Agents
 - (i) Rules 16, 20
- F. Contracts
 - (i) Rule 21
- G. Defects and Curative Powers
 - (i) Rules 558, 559
- H. Service Ex Juris and Forum Non Conveniens
 - (i) Rules 30, 31
 - (ii) Skim also (e.g.) *Tolofson v. Jensen*, [1994] 3 S.C.R. 1022 (skim); *Amchem Products Inc. v. British Columbia (W.C.B.)* (1993), 102 D.L.R. (4th) 96 (SCC)
- I. International Treaties
 - (i) Rule 31.1 (skim)
- J. Service of Other Documents
 - (i) Rules 24-29, 91, 550

8. Joinder of Parties and Causes of Action

Issues to Consider

- A. What does joinder mean?
- B. What does it mean in connection with people/parties?
- C. What does it mean in connection with issues and causes of action?
- D. What is res judicata and estoppel and how are they relevant to these issues?
- E. How do limitation periods affect this discussion?
- F. What are the differences between adding, substituting and re-naming parties?
- G. What are the Rules for and mechanics of amending pleadings?

Materials

- A. *Res Judicata and Estoppel*
 - (i) See e.g. CPH (note on res judicata under Rule 129) (skim)
- B. Joinder of Parties and Claims: Addition, Substitution, Amendment, Severance and Consolidation
 - (i) Rules 32-36, 37, 38, 46-49, 75(2), 95, 130-140, 229
- C. Intervenors
 - (i) See e.g. CPH (note on intervention under Rule 38) (skim)

9. Renewal and Particulars**Issues to Consider**

- A. When and how can you renew?
- B. Under what Rules?
- C. What are particulars and what Rules govern demands for particulars?

Materials

- A. Renewal and Particulars
 - (i) Rules 5(1)(m), 11 and 115-118

10. Default**Issues to Consider**

- A. What is default?
- B. What are the procedures/Rules governing default?
- C. What is the difference between liquidated and unliquidated claims in the context of default?
- D. What are some practical ways of dealing with/avoiding default?
- E. How do professional conduct and civility influence issues of default?

Materials

- A. Time for Defending
 - (i) Rules 84-86
 - (ii) Law Society of Alberta, Code of Professional Conduct, C. 4, R. 4
- B. Noting in Default and Default Judgment
 - (i) Rules 5(1)(i), 142-158
- C. Setting Aside Default Judgment
 - (i) Rules 158, 558

11. Pleadings Subsequent to Originating Documents

Issues to Consider

- A. What procedures and documents are available to responding parties?
- B. What Rules govern these procedures?
- C. What are the differences between various responding documents?
- D. When are the various procedures/documents used? Why?
- E. What is set-off (at law and in equity)?
- F. How do limitation periods influence these issues?

Materials

- A. Demand of Notice
 - (i) Rules 85, 146
- B. Statements of Defence
 - (i) Rules 85, 108-116, 119-128
 - (ii) Law Society of Alberta, *Code of Professional Conduct*, C. 10, R. 1
- C. Counterclaims (and set-off)
 - (i) Rules 5(1)(f), 93-98
 - (ii) See also *Limitations Act*, R.S.A. 2000, c. L-12
- D. Third Party Notice
 - (i) Rules 66-76, 79
 - (ii) See also *Limitations Act*, R.S.A. 2000, c. L-12
- E. Notice to Co-Defendant
 - (i) Rule 77
 - (ii) *Contributory Negligence Act*, R.S.A. 2000, c. C-27
 - (iii) *Tort-feasors Act*, R.S.A. 2000, c. T-5
- F. Reply and Joinder of Issues
 - (i) Rules 5(1)(h), 5(1)(o), 99-103

D. COUNSEL AND CONFLICTS**12. Lawyers and Undertakings****Issues to Consider**

- A. What does it mean to have a right to counsel and counsel of your choice?
- B. How do professional obligations influence these rights?
- C. What are conflicts, and when do they occur?
- D. What Rules govern these issues?

Materials

- A. Change of Solicitors and Withdrawal
 - (i) Rules 554, 555

- B. Undertakings
 - (i) Law Society of Alberta, *Code of Professional Conduct*, C. 4, R. 10

E. CHAMBERS PRACTICE

13. Motions and Applications

Issues to Consider

- A. What is a motion? What is an application? What is the difference?
- B. When, why, where and how are these various procedures used?
- C. Who has jurisdiction to hear motions?
- D. What is the difference between the jurisdiction of Judges and Masters?
- E. When do you proceed before a Master? A Judge?
- F. What materials do you need for the various proceedings?
- G. What evidence is used? In what form? What is an affidavit?
- H. Do the rules of hearsay apply? Are there exceptions? When?
- I. What does *ex parte* mean?
- J. Do the court's Practice Directions provide any information with respect to the procedures, conduct and protocol in motions before Masters and/or Judges?
- K. What is a Special Chambers Application?
- L. How has technology influenced any/all of these issues and procedures?

Materials

- A. Procedure
 - (i) Rules 5(1)(e), 384-386, 387, 387.1-389
 - (ii) Law Society of Alberta, *Code of Professional Conduct*, C. 10, R. 6-8
- B. Masters' Chambers: Jurisdiction and Appeals
 - (i) Rule 500
 - (ii) *Court of Queen's Bench Act*, R.S.A. 2000, c. C-31, ss. 8-10, 12
 - (iii) Court of Queen's Bench, Notices to the Profession
- C. Witnesses, Examinations, Evidence and Affidavits
 - (i) Rules 261, 266, 298-313, 314, 314.1
 - (ii) Law Society of Alberta, *Code of Professional Conduct*, C. 10, R. 10, 17-18
 - (iii) *Alberta Evidence Act*, R.S.A., 2000, c. A-18 (skim)
- D. Orders
 - (i) Rules 5(1)(j), 315-318, 321-323, 390 (skim)

F. Resolving/Determining Cases Prior to Trial, Special Remedies and Reform

14. Resolving/Determining Cases Prior to Trial

Issues to Consider

- A. What are the traditional court-based methods for determining or resolving cases prior to trial?
- B. What Rules and procedures govern these various methods?
- C. What other remedies – interlocutory or otherwise – are available?
- D. What Rules govern settlement?
- E. What alternative methods are being used/considered by the courts for resolving disputes in Alberta? What reforms are being considered?

Materials

- A. Striking Out Pleadings
 - (i) Rule 129
 - (ii) See e.g. *Hunt v. Carey Canada Inc.*, [1990] 2 S.C.R. 959 (skim)
- B. Summary Judgment
 - (i) Rules 159-164
- C. Summary Trial
 - (i) Rule 158.1
 - (ii) Civil Practice Note
- D. Determination of Points of Law
 - (i) Rules 220-224, 232
- E. Streamlined Procedures
 - (i) Rules 659-673
 - (ii) Canadian Bar Association, Task Force on Systems of Civil Justice Report (1997) (recommended, skim)
- F. Discontinuance of Action
 - (i) Rules 225-227

15. Special Remedies

Issues to Consider

- A. What special remedies are available through the traditional court process?
- B. What Rules govern these procedures?

Materials

- A. Interlocutory Injunctions
 - (i) Rules 440-441
 - (ii) *Judicature Act*, R.S.A. 2000, c. J-2, s.13(2)
 - (iii) See e.g. *Harper v. Canada (Attorney General)*, [2000] 2 S.C.R. 764 (skim)
- B. Replevin, Interim Custody of Property, and Interpleader
 - (i) Rules 427-436, 442, 467 (skim)

16. Delay, Leave to Take the Next Step, Dismissal for Want of Prosecution

Issues to Consider:

- A. What is delay, and in what circumstances is it acceptable/not acceptable?
- B. Do the Rules provide any guidance?
- C. When is leave to take further steps required?
- D. Under what circumstances, and procedures, can matters be dismissed?

Materials

- A. Delay, Leave, Dismissal
 - (i) Rules 243-244.5
 - (ii) Law Society of Alberta, *Code of Professional Conduct*, C. 10, R. 2

17. Reform, Alternatives and Case Management**Issues to Consider**

- A. What reforms are being proposed/experimented with in Alberta?
- B. What Rules, Practice Directions and court initiatives apply?
- C. What is judicial dispute resolution (“J.D.R.”)?
- D. What is court-annexed mediation?
- E. What case management procedures are available?

Materials

- A. Court reform and initiatives (skim)
 - (i) Canadian Forum on Civil Justice (<http://cfcj-fcjc.org/>)
 - (ii) Canadian Bar Association (<http://www.cba.org>)
 - (iii) Law Society of Alberta (<http://www.lawsocietyalberta.com/>)
 - (iv) ALRI, Rules of Court Project (<http://www.law.ualberta.ca/alri/Rules-of-Court.php>)
 - (v) Alberta Courts (<http://www.albertacourts.ab.ca>)
- B. Pre-Trial Conferences, Case Management, J.D.R., Court-Annexed Mediation, etc.
 - (i) Rules 219-219.1
 - (ii) Queen’s Bench Civil Practice Notes

18. Settlement**Issues to Consider**

- A. What formal court Rules/processes are available to help, encourage and govern settlement?
- B. What benefits are derived from settlement for the parties and/or the justice system in general?

Materials

- A. Generally
 - (i) Rules 165-174. See also Schedules
 - (ii) See further Rules 175-185

G. DISCOVERY AND EVIDENCE

19. Discovery of Records

Issues to Consider

- A. What is documentary discovery?
- B. What needs to be produced? Why? Under what authority?
- C. Are there exceptions to production obligations? If so, what are they?
- D. What are the ethical obligations that bind lawyers in this area?
- E. What if people (parties or third parties) do not have ready (or any) access to various documents? Is there an obligation to find and retrieve documents?
- F. Does it matter if documents are part of the “public record”?

Materials

- A. Documentary Discovery in General and Affidavits of Records
 - (i) Rules 186-199
- B. Confidentiality and Privilege
 - (i) See e.g. *Blank v. Canada (Minister of Justice)*, [2006] 2 S.C.R. 319, 2006 SCC 39
- C. Documents in Possession of Someone Not a Party to the Action
 - (i) Rule 209, 468
- D. Streamlined Procedures
 - (i) Rule 661

20. Examination for Discovery

Issues to Consider

- A. What is examination for discovery?
- B. Who can examine and be examined?
- C. What is the scope of examination questions?
- D. For what purpose can an examination transcript be used?
- E. How is it different from other out-of-court examinations?
- F. What forms of examination are available under the stream-lined procedures?

Materials

- A. Who Can Examine/Be Examined? What Scope and What Purpose? What Parties (Adverse, Employees/Officers, Infants, Persons of Unsound Mind), Etc.?
 - (i) Rules 200-216.1, 662
 - (ii) *Proceedings Against the Crown Act*, R.S.A. 2000, c. P-25, s. 11 (skim)
- B. Attendance and Conduct
 - (i) Rules 203-208, 211-212
 - (ii) Law Society of Alberta, *Code of Professional Conduct*, C. 10, R. 25
- C. Objections and Abuse

- (i) Rules 210, 213, 216.1
- D. Use of Discovery: Reading In, Binding Effect, After Death, and Other Purposes
 - (i) Rule 214

21. Admissions

Issues to Consider

- A. What are admissions, and for what purpose(s) can they be used? When?
- B. What Rules govern these issues?

Materials

- A. Admissions Procedures
 - (i) Rules 230-231, 128

22. Experts

Issues to Consider

- A. Who can be an expert?
- B. How do they differ from lay witnesses?
- C. How are they appointed?
- D. What are the notice requirements?
- E. Who and what are “referees”?

Materials

- A. Experts: General Rules and Appointment
 - (i) Rules 217-218, 235
 - (ii) QB Practice Notes (skim)
- B. Notice of Expert Evidence
 - (i) Rule 218.1
- C. Experts in Long Trials
 - (i) Rules 5(1)(u), 218.2 - 218.91 (skim)
- D. Preservation and Inspection of Property
 - (i) Rules 467-469 (skim)
- E. Referees
 - (i) Rules 403, 418-426 (skim)

23. Other Evidence

Issues to Consider

- A. What other evidence is available for use at civil proceedings?

- B. What Rules govern these situations?

Materials

- A. Affidavit Evidence at Trial
(i) Rules 261(2), 270
- B. Examinations Out of Court
(i) Rules 270(1), 282(3)
- C. Commission Evidence
(i) Rules 270(2), 271-291, Forms (skim)
- D. Other
(i) See: *Alberta Evidence Act*, R.S.A. 2000, c. A-18

H. CONTEMPT

24. Contempt

Issues to Consider

- A. What is contempt?
B. When does it arise, and in what circumstances?
C. What remedies are available? Under what procedures?

Materials

- A. Contempt
(i) Rules 701-704
(ii) See also Law Society of Alberta, *Code of Professional Conduct (passim)* (skim)

I. TRIALS, JUDGMENTS, COSTS AND APPEALS

25. Trials and Judgments

Issues to Consider

- A. What Rules govern trials?
B. What are the procedures relevant to getting ready for trial?
C. What formalities are involved: entry, length, format, etc.?
D. What Rules govern witnesses and evidence?
E. What are the Rules and procedures for juries?
F. Are there any Practice Notes/Directions on these various topics?
G. What Rules/processes govern judgments, their form, renewal, enforcement?

Materials

- A. Entry

- (i) Rules 236-242 (skim)
 - (ii) QB Practice Notes (skim)
- B. Jury Trial
- (i) Rule 234
 - (ii) *Jury Act*, R.S.A. 2000, c. J-3, ss. 17-19 (skim)
- C. Attendance of Witnesses
- (i) Rules 292-296
 - (ii) *Interprovincial Subpoena Act*, R.S.A. 2000, c. I-9 (skim)
 - (iii) *Alberta Evidence Act*, R.S.A. 2000, c. A-18, s. 21 (skim)
- D. Judgments: Approval, Variation, Satisfaction and Renewal
- (i) Rules 315-339 (skim)
 - (ii) *Civil Enforcement Act*, R.S.A. 2000, c. C-15, s.27 (skim)

26. Costs and Fees

Issues to Consider

- A. What are costs? What are fees?
- B. Do parties recover their costs in various proceedings (motions, trials, etc.)?
- C. If yes, then how, on what scale, under what authority?
- D. What different types of costs orders are there?
- E. When are costs awarded against a lawyer personally?
- F. When is security for costs appropriate? What is the procedure?
- G. What issues of access to justice arise in this discussion?

Materials

- A. General
 - (i) Rules 599.1, 600-612
 - (ii) Schedules (skim)
 - (iii) *Court of Queen's Bench Act*, R.S.A. 2000, c. C-31, s. 21
- B. Interlocutory Applications
 - (i) Rule 607
- C. Costs Awarded Against Solicitors
 - (i) Rules 599.1, 602
 - (ii) See e.g. *Young v. Young*, [1993] 4 S.C.R. 3 (skim)
- D. Costs as a Result of Non-Compliance
 - (i) Rule 599.1
- E. Solicitor's Fees
 - (i) Rules 613-614, 615-620, 624-626
 - (ii) See also Law Society of Alberta, *Code of Professional Conduct*, C. 13
- F. Taxation

- (i) Rules 627-658 (skim)
- G. Security for Costs
 - (i) Rules 593-599
 - (ii) See also *Business Corporations Act*, R.S.A. 2000, c. B-9, s. 254

27. Appeals

Issues to Consider

- A. Is there a right of appeal in Alberta?
- B. What are the Rules/procedures/Practice Directions generally governing appeals?
- C. What are the specific time requirements?
- D. What materials are required to perfect and argue an appeal?

Materials

- A. Right to Appeal and Procedures
 - (i) Rules 505, 506, 510, 548
 - (ii) Court of Appeal Practice Directions (skim)
- B. Cross Appeals (Notice of Intention to Vary)
 - (i) Rule 509
- C. Power of the Court
 - (i) Rule 518
 - (ii) *Judicature Act*, R.S.A. 2000, c. J-2, ss. 2-5
- D. Security for Costs
 - (i) Rules 524, 527
- E. Appeal Book and Factum
 - (i) Rules 515, 530-537, 538-543 (skim)
 - (ii) Practice Directions (skim)
- F. The Appeal List
 - (i) Rule 515.1 (skim)
- G. Costs
 - (i) Rules 518(f), 608

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Internet Sites for Provincial Legislation

www.canlii.org

This is a listing for all the provinces and is highly recommended

Ontario:

<http://www.attorneygeneral.jus.gov.on.ca/english/legis/>

British Columbia (Queen's Printer):

<http://www.bclaws.ca/>

Alberta (Queen's Printer):

<http://www.qp.alberta.ca/>

Supreme Court Judgments:

<http://scc.lexum.umontreal.ca/en/index.html>