

KING'S BENCH GENERAL PRACTICE NOTE 2

APPLICATIONS JUDGES

Effective January 1, 2023

Where possible, any application involving a matter that is within the jurisdiction of an Applications Judge should be returnable before the Applications Judges, not a Justice of the Court of King's Bench. In any Judicial Centre where Applications Judges regularly sit, applications that are within their jurisdiction, but are nevertheless brought in Justice Chambers, will be removed from the Justice Chambers list and placed on the Applications Judge list.

Section 9(1)(a) of the *Court of Queen's Bench Act* provides that an Applications Judge has the same jurisdiction as a King's Bench Justice sitting in Chambers, with some exceptions. This means Applications Judges may hear:

A. The following Alberta Rules of Court based applications:

1. Procedural orders (Rule 1.4)
2. Curing non-compliance, or setting aside non-compliant actions (Rule 1.5)
3. Appointment of and set conditions relating to litigation representatives (Rules 2.15 – 2.17, 2.21)
4. Approval of payments, settlements, discontinuances involving litigation representatives (Rules 2.18-2.20)
5. Applications not to disclose last known address of client after lawyer withdraws (Rule 2.29)
6. Directions for service of notice of automatic termination of lawyer (Rules 2.32(3), (4))
7. Procedural order to correct and continue proceedings under an enactment (Rule 3.2(6))
8. Transfer of judicial centre (Rules 3.5-3.7)
9. Directing application of rules to proceedings brought by Originating Application (Rule 3.10)
10. Conversion of Originating Application to Statement of Claim (Rule 3.12)
11. Extending time for service of Statement of Claim (Rule 3.26, 3.27)
12. Judgment against defendant who has filed and served a Demand of Notice (Rule 3.34(6))
13. Leave to enter default judgment against person represented by litigation representative (Rule 3.36(2))
14. Costs against defendant that filed but did not serve defence or demand of notice (Rule 3.36(3))
15. Judgment against defendant noted in default, including unopposed assessment of damages (Rule 3.37)
16. Judgment against third party, including before judgment against a defendant is satisfied (Rule 3.53)

17. Judgment on a counterclaim against a defendant who does not file a Defence or Demand of Notice (Rule 3.60(2))
18. Particulars (Rule 3.61(2))
19. Amending pleadings, including extension of time to add third parties and related costs (Rules 3.62-3.66)
20. Addressing significant deficiencies in claims (eg. striking pleadings, affidavits, failure to comply with document production requirements) (Rule 3.68)
21. Refining claims and changing parties, including severing and consolidating actions (Part 3, Division 6)
22. Litigation plans, including the classification of matters as standard or complex, associated procedural orders and Court assistance (Rules 4.4 – 4.11)
23. Security for costs (Rules 4.22, 4.23)
24. Permission to withdraw formal offer to settle, judgment in accordance with accepted offer, costs if not addressed (Rules 4.24(4), 4.25, 4.26)
25. Delay and long delay applications (Rules 4.31, 4.33)
26. Request for continuation of an action stayed on transfer of interest of a party (Rule 4.34(2))
27. Modification of disclosure rules (Rule 5.3)
28. Appointment of corporate representative (Rule 5.4)
29. Production of documents and penalty for failure, and production from non-parties (Rules 5.11 – 5.13)
30. Non-application of deemed admissions relating to produced records (Rule 5.15(5))
31. Use of undisclosed records (except at trial) (Rule 5.16)
32. Questioning and undertakings, including costs of questioning, conduct money, setting aside appointments, compelling attendance, use of transcripts and lifting the implied undertaking (Rules 5.17 – 5.20, 5.24, 5.25, 5.28, 5.31 – 5.33, 6.16 – 6.18, 6.38 – 6.39)
33. Timing and sequence for expert reports, questioning experts before trial (Rules 5.35, 5.37)
34. Defence initiated medical examinations (Rules 5.41-5.44)
35. Directions on filing applications (Rule 6.3)
36. Applications for electronic hearings (Rule 6.10)
37. Preservation of evidence for future use, obtaining evidence outside Alberta and assistance to judicial authorities outside Alberta (Rules 6.21 – 6.22, 6.24)
38. Preservation/inspection/payment out/release of personal property/replevin/interpleader (Rules 6.25 – 6.27, 6.49, 6.51 – 6.53, 6.56, 6.59, 6.64 – 6.65))
39. Withdrawal of admission or denial, set aside Notice to Admit (Rules 6.37(6),(8))
40. Determination of an issue in advance of trial (Rule 7.1)
41. Judgment on admissions of fact or on records (Rule 7.2)
42. Summary Judgment (Rule 7.3)
43. Re-visiting entered and un-entered orders/ set aside default judgment (Rule 9.15)
44. Renewal of judgment (Rule 9.21)
45. Satisfaction of judgment (Rule 9.22)
46. Enforcement of judgment against partner (Rule 9.23(3))
47. Sale of property to collect fraud judgment (Rule 9.24)
48. Removal, storage and sale of personal property and abandoned goods (Rules 9.27-9.28)
49. Questioning in aid of enforcement (Rule 9.29)

- 50. Foreclosure, including references from a Justice on appeal from assessment of costs in foreclosure actions (Part 9, Division 5)
- 51. Sale of Land under the *Civil Enforcement Act* (Part 9, Division 6)
- 52. Reciprocal enforcement of judgments (Part 9, Division 8)
- 53. Extension of time to review lawyers' accounts, location of review, enforcement of Review Officers' decisions, reference (but not appeals) from Review and Assessment Officers, return of records to client (Rules 10.10, 10.12, 10.18, 10.20, 10.25, 10.39)
- 55. Costs/reference to assessment/ penalty costs for non-compliance with rules, practice notes or court directions (Rules 10.31, 10.34, 10.49)
- 56. Service (substitutional, ex juris, validation, dispensing, setting aside, foreign process) (Part 11)
- 57. Stays, extensions/reductions of time periods set by rules, order/ judgment or agreement (Rule 13.5(2))
- 58. Fiats to authorize court officers to do an act (Rule 13.28)
- 59. Directions for preparation and use of certified copies of original records, filing and authenticating photographs, video recordings in place of transcript (Rules 13.29(1), 13.30(1), 13.31)

B. Applications under the *Builders' Lien Act*, the *Civil Enforcement Act*, *Condominium Property Act*, *Law of Property Act*, *Maintenance Enforcement Act*, *Land Titles Act*, *Residential Tenancies Act* (excluding appeals from the Residential Tenancy Dispute Resolution Service).

However, Section 9 of the *Court of Queen's Bench Act* mandates that Applications Judges' jurisdiction does not extend to:

1. Appeals, and applications concerning the hearing of appeals;
2. Applications to vary or rescind the order of a judge;
3. Stays following judgment after trial or hearing before a judge (unless all parties consent);
4. Trials;
5. A matter for which the Chief Justice has given a direction that a master is not to exercise that jurisdiction;
6. Determinations of disputed questions of fact (unless all parties agree to determination on affidavit evidence without viva voce evidence);
7. Any matters relating to criminal proceedings or the liberty of the subject (except under the *Maintenance Enforcement Act*);
8. Applications for contempt;
9. Applications for injunctive relief (except for attachment orders under the *Civil Enforcement Act*);
10. Applications for prerogative writs;
11. Anything by law that is required to be done by a judge.

In addition, Applications Judges may not hear applications in any matter in case management without the prior approval of the Case Management Justice.