

What's in a Name? The Alberta Court of King's Bench Replaces Summary Trial Procedures with a new Streamlined Trial Process

The new Streamlined Trial Process is an alternative method litigants may use to advance their claims in a more timely, efficient, and potentially more cost-effective way than a traditional trial.

Following review of the little used summary trial procedures, the Alberta Court of King's Bench issued a Notice to the Profession and Public of a change to the Alberta Rules of Court in December of 2023.¹ This notice states that effective January 1, 2024, the Summary Trial Process will be replaced with the "Streamlined Trial Process".²

The Summary Trial Process had been scarcely used as it allowed for either party to unilaterally end the process at any time before the summary trial, resulting in uncertainty and inefficiency.³ Further, a Judge could decline to resolve a matter after a Summary Trial, undermining the utility of the process.⁴

Application for the Streamlined Trial Process

To apply for the Streamlined Trial Process, litigants are to file an application requesting a Streamlined Trial Process, and obtain an order permitting the parties to use the process.⁵ The Streamlined Trial Process is available to litigants where "an Action can be fairly and justly resolved by the streamlined process, and that process is proportionate to the importance and complexity of the issues, the amounts involved, and the resources that can reasonably be allocated to resolving the dispute."⁶

An application for the Streamlined Trial Process can be completed by submitting a written request to the Court with or without consent from all the parties.⁷ The Streamlined Trial Process may also be initiated through a case management process or by the Court, at its own discretion and on its own motion.⁸

The Court has suggested that the following types of actions may be suitable for summary trials:

1. Actions for the recovery of a liquidated sum;
2. Actions for the recovery of real or personal property;

¹ *Notice to the Profession and Public: Streamlined Trial Process – Civil (Non-Family) Actions*, Alberta Court of King's Bench, December 22, 2023 [*Notice to the Profession, December 22, 2023*].

² *Ibid.*

³ *Ibid.*

⁴ *Ibid.*

⁵ Alberta Rules of Court, AR 124/2010, rule 8.26 [*Rules*].

⁶ *Ibid.* at r 8.25.

⁷ *Ibid.* at r 8.26.

⁸ *Ibid.* at r 8.26.

3. Actions that depend primarily on the interpretation of documents;
4. Actions for damages for personal injury where the damage award would likely be under \$100,000; and
5. Wrongful dismissal actions.⁹

Streamlined Trial vs a Traditional Trial

A Streamlined Trial is considered a full trial on the merits of the action and the decision the Judge renders is final, but still subject to normal rights of appeal.¹⁰

The primary difference between a traditional trial process and the Streamlined Trial Process is the form of evidence given to the Court. In a Streamlined Trial Process, evidence is proffered primarily by written affidavits, and affidavit evidence is tested by way of questioning on that affidavit.¹¹ While the Court in a streamlined trial can direct or permit oral (*viva voce*) evidence, the presumption is that the vast majority of the evidence will be submitted by affidavit.¹² By relying on written evidence, streamlined trials reduce trial hearing time required for hearing direct oral evidence and cross examination, leading to lower costs for litigants, and greater access to justice.¹³

The Streamlined Trial Process also places an obligation on both parties to meet specific deadlines in preparing the evidentiary record to minimize oral evidence and prevent delay.¹⁴

Implications

The Court's implementation of the Streamlined Trial Process increases a litigant's options to have their claims fairly and justly resolved in a timely and cost-effective way.¹⁵ While this process is new and how Courts will apply these rules in practice is still uncertain, the amendments are a welcome replacement to the little used summary trial procedures.

Walsh LLP would be pleased to provide further information on how Alberta's new Streamlined Trial Process may impact your current or future disputes, please reach out to our Litigation Group for more further information.

⁹ *Notice to the Profession, December 22, 2023, supra note 1.*

¹⁰ *Rules, supra note 6 at r 8.31.*

¹¹ *Notice to the Profession, December 22, 2023, supra note 1.*

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ *Rules, supra note 5 at r 1.2(1).*

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