

**Civil Procedure**  
**Winter Term 2025**

**Review Notes**

**Topics**

**I. INTRODUCTION**

**1. What options exist to resolve private disputes?**

“Dispute Resolution Reference Guide” in *Canada's System of Justice*  
(Department of Justice, 2006)

**2. What are the Rules of Civil Procedure?**

Rules 1.04(1), 1.04(1.1)

**3. What are “proceedings” under the Rules of Civil Procedure?**

Rules 14.02, 14.05

Flowcharts summarizing the processes under the Rules of Civil Procedure

**4. What role do lawyers play in litigation?**

Law Society of Upper Canada, *Rules of Professional Conduct*

**II. WHO PAYS FOR THE LITIGATION?**

**1. Fees and Assessments**

Assessments

LSO, “Complaints about legal fees”

**2. "The Costs Rules"**

Courts of Justice Act, Section 131

Rules 49, 57.01

Law Society of Ontario Sample Long Form Litigation Cost Estimate

Sample Costs Submissions & Bill of Costs

*Barlow v Citadel General Assurance Co.*, 2008 CanLII 3215 (Ont. S.C.J.)

*Davies v. Clarington (Municipality)*, 2009 ONCA 722 (Ont. C.A.)

**3. Champerty, Maintenance, and Some Associated Issues**

*McIntyre Estate v. Ontario (Attorney General)*, 2002 CanLII 45046 (Ont. S.C.J.)

*Petty v. Avis Car Inc.*, 1993 CanLII 939 (Ont. Gen. Div.)

### III. PARTICIPATION IN THE LITIGATION: PARTIES, STANDING, AND INTERVENORS

#### 1. Participation as of Right: Standing

*Carroll v. Toronto-Dominion Bank*, 2021 ONCA 38 at paras. 30-43 (Ont. C.A.)

#### 2. Participation by a Party under a “Disability”

Rules of Professional Conduct, Rule 3.2-9

Rules 1.03(1) (“disability”) and 7

*Gronnerud (Litigation Guardians of) v. Gronnerud Estate*, 2002 SCC 38 (S.C.C.)

*Lochner v Callanan*, 2016 ONSC 1705 (Ont. S.C.J.)

#### 3. Participation with Leave of the Court: Intervenors

Rule 13

*Halpern v. Toronto (City) Clerk*, 2000 CanLII 29029 (Ont. Div. Ct.)

*Gligorevic v. McMaster*, 2010 ONSC 3842 (Ont. S.C.J.)

### IV. LIMITATIONS: TIME LIMITS ON COMMENCING PROCEEDINGS

Limitations Act, 2002, S.O. 2002, c. 24

*M.(K.) v. M.(H.)*, [1992] 3 SCR 6 (S.C.C.)

*McConnell v. Huxtable*, 2014 ONCA 86 (Ont. C.A.)

*Collins v. Cortez*, 2014 ONCA 685 (Ont. C.A.)

*Brown v. Baum*, 2016 ONCA 325 (Ont. C.A.)

*Independence Plaza 1 Associates, L.L.C. v. Figliolini*, 2017 ONCA 44 (Ont. C.A.)

### V. JURISDICTION

CJA, Section 11(2)

*Club Resorts Ltd. v. Van Breda*, 2012 SCC 17 (S.C.C.)

*Lapointe Rosenstein Marchand Melançon LLP v. Cassels Brock & Blackwell LLP*, 2016 SCC 30 (S.C.C.)

*Vale Canada Limited v. Royal & Sun Alliance*, 2022 ONCA 862 (Ont. C.A.)

*Kalra v. Bhatia*, 2024 ONSC 3565 (S.C.J.)

### VI. PREVENTING RELITIGATION OF ISSUES AND CAUSES: RES JUDICATA

*Danyluk v. Ainsworth Technologies Inc.*, 2001 SCC 44 (S.C.C.)

*Toronto (City) v. C.U.P.E., Local 79*, 2003 SCC 63 (S.C.C.)

*Penner v. Niagara (Regional Police Services Board)*, 2013 SCC 19 (S.C.C.)

### VII. PLEADINGS

#### 1. Terminology

See Rules 25-29

#### 2. Rule 25 Concepts: Material Facts and Particulars

Copland v. Commodore Business Machines Ltd., 1985 CanLII 2190 (Ont. S.C.J.)

### 3. Substantive Inadequacy

Rule 21, 25.11

Hunt v. Carey Canada Inc., [1990] 2 SCR 959 (S.C.C.)

Holland v. Saskatchewan, 2008 SCC 42 (S.C.C.)

### 4. Amending the Pleadings

Rule 26

Miguna v. Ontario (Attorney General), 2005 CanLII 46385 (Ont. C.A.)

Stekel v. Toyota Canada Inc., 2011 ONSC 6507 (Ont. S.C.J.)

### 5. Service and Computation of Time

Rules 3, 16-18

## VIII. DISCOVERY AND PRE-TRIAL EVIDENCE

Rules 29.1-35

### 1. Privilege

Airst v. Airst, 1998 CanLII 14647 (Ont. Sup. Ct.)

General Accident Assurance v. Chrusz, 1999 CanLII 7320 (Ont. C.A.)

Pritchard v. Ontario (Human Rights Commission), 2004 SCC 31 (S.C.C.)

Blank v. Canada (Minister of Justice), 2006 SCC 39 (S.C.C.)

White v. 123627 Canada Inc., 2014 ONSC 2682 (Ont. S.C.J.)

### 2. Documentary Discovery

Warman v. Wilkins-Fournier, 2011 ONSC 3023 (Ont. S.C.J.)

Frangione v. Vandongen, 2010 ONSC 2823 (Ont. S.C.J.)

### 3. Examination for Discovery

Ontario v. Rothmans Inc., 2011 ONSC 2504 (Ont. S.C.J.)

Noble v. York University Foundation, 2010 ONSC 399

Ornstein (Litigation Guardian of) v. Starr, 2011 ONSC 4220

### 4. Discovery of Non-Parties

Ontario (Attorney General) v. Ballard Estate, 1995 CanLII 3509 (Ont. C.A.)

Hopkins v. Robert Green Equipment Sales Ltd., 2018 ONSC 998 (Ont. S.C.J.)

### 5. “Deemed Undertaking” Rule

Kitchenham v. AXA Ins. Canada, 2008 ONCA 877 (Ont. C.A.)

Martin v Toronto Police Services Board, 2023 ONSC 6191 (S.C.J.)

### 6. Medical Examination

Courts of Justice Act, Section 105(2)

Lovegrove v Rosenthal (1997), 16 C.P.C. (4th) 160; [1997] O.J. No. 5408 (Ont. Gen. Div.)

## **IX. MOTIONS AND INJUNCTIONS**

### **1. Simple Motions**

#### **Rules 37 and 39**

#### **(a) Joinder and Consolidation**

1014864 Ontario Ltd. v. 1721789 Ontario Inc., 2010 ONSC 3306 (Ont. S.C.J.)  
Tanner v. McIlveen Estate, 2012 ONSC 2983 (Ont. S.C.J.)  
Buhlman v. Peoples Ministries Inc., 2009 CanLII 26918 (Ont. S.C.J.)  
Soilmec North America Inc. v. D'Elia, 2011 ONSC 5214 (Ont. S.C.J.)

#### **(b) Determining a Point of Law**

Gowling Lafleur Henderson v. Springer, 2013 ONSC 923 (Ont. S.C.J.)

### **2. Interlocutory Injunctive Relief**

#### **Rule 40**

RJR MacDonald Inc. v. Canada (Attorney General), 1994 CanLII 117 (S.C.C.)

#### **(a) Anton Piller Orders**

Celanese Canada Inc. v. Murray Demolition Corp., 2006 SCC 36 (S.C.C.)

#### **(b) Norwich Pharmacal Orders**

GEA Group AG v. Flex-N-Gate Corporation, 2009 ONCA 619 (Ont. C.A.)

#### **(c) Mareva Injunctions**

Chitel v. Rothbart, 1982 CanLII 1956 (Ont. C.A.)

## **X. DISPOSITION WITHOUT TRIAL**

### **1. Vexatious Litigants**

**Rule 2.1.01**

### **2. Default Judgment**

**Rule 19**

### **3. Anti-SLAPP**

**CJA, s. 137.1**

40 Days for Life v. Dietrich, 2024 ONCA 599 (Ont. C.A.)

### **4. Summary Judgment**

Rule 20

Hryniak v. Mauldin, 2014 SCC 7 (S.C.C.)

Maurice v. Alles, 2016 ONCA 287 (Ont. C.A.)

Butera v. Chown, Cairns LLP, 2017 ONCA 783 (Ont. C.A.)

Moffitt v. TD Canada Trust, 2023 ONCA 349 (Ont. C.A.)

## **XI. APPEAL**

CJA, Sections 132-134

Housen v. Nikolaisen, 2002 SCC 33 (S.C.C.)

Capital Gains Income Streams Corporation v. Merrill Lynch Canada Inc., 2007  
ONCA 497 (Ont. C.A.)

Lazare v. Harvey, 2008 ONCA 171 (Ont. C.A.)

Gligorevic v. McMaster, 2012 ONCA 115 (Ont. C.A.)

