



COURT OF APPEAL

## **Guide to Court of Appeal Registrar's Hearings**

### **Do You Need a Registrar's Hearing, also known as an "Appointment"?**

There are three instances where you might need to book a registrar's hearing?

1. **When the Parties Cannot Agree on the Contents of Books:** If a party objects to the contents of another parties' appeal book, appeal record or the parties cannot agree on whether a full transcript should be ordered, the registrar may decide what these books ought to contain: see *Court of Appeal Rule* [27\(3\)](#) and [26.1\(1\)](#);
2. **When the Parties Cannot Agree on what an Order Should Say:** If the parties are unable to agree on the terms of the any Court of Appeal order, the Registrar may decide what the order should say: see *Court of Appeal Rule* [49\(1\)](#);
3. **When the Parties Cannot Agree on an Amount of Costs:** After an appeal is concluded, an award of costs is made. Unless the Court has ordered otherwise, all costs are awarded to the person who was successful in the appeal (see *Court of Appeal Rule* [63\(1\)](#) and [Costs \(Civil Practice Directive, 30 May 2013\)](#)).

### **How do I Prepare and Conduct a Registrar's Hearing/Appointment?**

1. **Call the Registrar's Scheduler.** Call the Registrar's scheduler at 604.660.2445 to obtain a list of available dates. Typically, the Registrar sits on Tuesdays and Thursdays every month and can usually accommodate hearings on those days. Please inform the Registrar's Scheduler if you are setting down an appointment for special or increased costs, as a pre-hearing conference or additional directions are usually required.
2. **Agree on a Date.** After you have obtained the Registrar's availability from the Registrar's scheduler, inform the other party that you intend to set down an appointment, provide them with the available dates, and agree on a date. An appointment should not be set unless the other party refuses to reasonably agree on a date for the appointment. If the appointment is scheduled and the opposing party does not appear, the Registrar will want to see an affidavit detailing what steps you took to schedule the appointment and that the documents have been properly served. There should be no debate on the amount of time required as all appointments are set for one hour. Only the party who has scheduled the appointment may adjourn or reschedule that appointment.

3. **If Seeking to Assess Costs, Ensure the Necessary Orders are Filed.** Unless you are scheduling an appointment to have the order settled and to assess the bill of costs at the same time, the Registrar's Scheduler will not set down an appointment to assess costs unless the order authorizing those costs has been signed by the parties, submitted to the Court registry, and entered by the Court. This is because, without the order, the Registrar does not have the power to do the assessment.
4. **File and Serve an Appointment.** To formally set down a registrar's hearing, you must first file and then serve an appointment in [Form 29](#). Appointments may be filed in Vancouver, Victoria or Kamloops. You should prepare one copy for filing and as many additional copies as you will need to serve the other parties. There is a non-taxable fee of \$80.00, due on filing.
  - a. For Appointments Assessing Costs or Settling Books: Appointments must be filed and served five clear days before the date of the hearing: *Court of Appeal Rule 26.1(2), 68(1)(f)*.
  - b. For Appointments Settling Orders: Appointments must be filed and served one day before the date of the hearing: *Court of Appeal Rule 49(2)(d)*.

For both of these deadlines, the hearing and the date the appointment is filed are not counted: *Interpretation Act*, s. [25\(4\)](#). If these date for filing and service falls on a Sunday or holiday, those days are excluded from calculation of time. An appointment must be delivered to the address for service of the opposing party. It need not be personally served.

5. **Prepare Your Materials.** The Registrar will have the Court file with him in the Courtroom and prefers the parties not incur the expense of preparing a hearing record. Hearing records will not be accepted for filing. As well, if you wish to rely on any authorities available on [CanLII](#), the Registrar does not require paper copies of any authorities (though the opposing party might).
  - a. For Appointments Assessing Costs: An "affidavit of justification" is usually prepared attesting to the costs you wish to claim. If the parties can agree on disbursements, they can simply hand receipts to the Registrar at the hearing or staple them to the appointment. Parties often bring a blank Certificate of Costs in [Form 14](#) for the Registrar to fill out and certify at the end of the hearing.
  - b. For Appointments Settling Orders: For appointments involving the settlement of the order, the party bringing the appointment usually attaches to the appointment both parties' drafts of the order, which allows the Registrar to see where there are disagreements in wording.

- c. For Appointments Settling Books: The Registrar will usually settle books by examining what has been filed. If no books have yet been filed, it is useful to file proposed tables of contents or a brief submission summarizing the dispute.

There are many useful texts and cases on Registrar's hearings. One frequently consulted text is *Practice Before the Registrar*, updated yearly by the Continuing Legal Education Society of British Columbia and available in the Courthouse Library. Chapter nine contains a discussion of practice before the Court of Appeal Registrar.

6. **After the hearing.** Unlike most chambers applications in the Court of Appeal, the Registrar will not require an order be entered unless he specifically directs it. Instead, he may prepare a short memorandum summarizing the decision and send it along to the parties.