



Province of Alberta
Order in Council

O.C. 185/2023

NOV 08 2023

ORDER IN COUNCIL

Approved and ordered:

Lieutenant Governor
or
Administrator

The Lieutenant Governor in Council makes the Alberta Rules of Court Amendment Regulation set out in the attached Appendix.

CHAIR

FILED UNDER
THE REGULATIONS ACT
as ALBERTA REGULATION 126/2023
ON November 08 2023

REGISTRAR OF REGULATIONS

For Information only

Recommended by: Minister of Justice

Authority: Judicature Act
(section 28.1)

APPENDIX

Judicature Act

ALBERTA RULES OF COURT AMENDMENT REGULATION

1 The *Alberta Rules of Court* (AR 124/2010) are amended by this Regulation.

2 Rule 4.15 is repealed and the following is substituted:

**Case management judge presiding
at streamlined trial and trial**

4.15 Unless every party and the judge agree, a case management judge must not preside at the streamlined trial or trial of the action for which the case management judge is appointed.

3 Rule 4.24 is amended

(a) in subrule (1) by repealing clause (a) and substituting the following:

(a) a streamlined trial is scheduled to be heard,

(b) in subrule (3) by repealing clause (b) and substituting the following:

(b) the start of a streamlined trial, the start of a trial or the start of a hearing of an application, as the case may be,

4 Rule 4.29(4)(b) is repealed and the following is substituted:

(b) in the case of a formal offer to settle made with respect to a streamlined trial, if the offer is made less than 10 days before the date scheduled to hear the streamlined trial,

5 The heading to Part 7 is repealed and the following is substituted:

Part 7 Resolving Claims Without Trial

6 The heading to Division 1 of Part 7 is repealed and the following is substituted:

**Division 1
Resolving Particular Questions or Issues**

7 Rule 7.3 is amended by adding the following after subrule (3):

- (4)** If the application is unsuccessful, the Court may
 - (a) direct that all or part of the claim proceeds by a streamlined trial, and
 - (b) make a procedural order respecting the streamlined trial.

8 Division 3 of Part 7 is repealed.

9 Rule 8.1 is repealed and the following is substituted:

Mode of trial

- 8.1(1)** A court action may be tried by
- (a) a jury trial under Division 1.1,
 - (b) a judge alone, or
 - (c) a judge alone at a streamlined trial under Division 5.
- (2)** Subject to Division 5, unless the Chief Justice directs that the mode of trial shall be by jury, or in part by jury and in part by judge alone, the trial must be by judge alone.

10 The following is added before rule 8.2:

**Division 1.1
Jury Trial**

11 The following is added after rule 8.24:

Division 5 Streamlined Trial

Use of streamlined trial

8.25(1) The Court, on application by a party or on the Court's own motion, may order or direct that a court action be resolved by a streamlined trial if the Court is satisfied that

- (a) it is necessary for the purpose of the action to be fairly and justly resolved, and
- (b) it 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.

(2) An order or direction under subrule (1) may be made at any time, including in chambers, at a case conference meeting or case management meeting, at an application for judgment or at any other appearance.

(3) A streamlined trial shall not be considered as a disproportionate process solely because

- (a) issues of credibility may arise,
- (b) some oral evidence may be required at the trial,
- (c) cross-examination of some witnesses may be required, or
- (d) expert evidence may be introduced.

Application for streamlined trial

8.26(1) An application for a streamlined trial must be made

- (a) by filing the application in Form 36 and serving the application on the other parties,
- (b) by submitting a written request to the Court, accompanied with a proposed consent order directing a streamlined trial, agreed to by all parties,
- (c) by making a request through the case management process, or
- (d) as directed by the Court.

(2) At any case conference or on an application under this Division, the judge may

- (a) direct that the trial proceed, in whole or part, as a streamlined trial or a trial,
- (b) make a procedural order, including an order that the evidence of any potential witness be taken before trial, or an order for security for costs, and
- (c) give any other direction to further the purpose and intention of the rules set out in this Division and rule 1.2.

Dispute over mode of trial

8.27(1) Any dispute about the mode of trial shall be resolved in a summary manner, relying on

- (a) the pleadings,
- (b) statements by the parties of the issues to be resolved at the streamlined trial,
- (c) outlines of the evidence that would be called at the streamlined trial, and
- (d) other relevant information, if any.

(2) If the case conference judge or trial judge concludes that an objection to the use of the streamlined trial was unjustified, the case conference judge or trial judge, as the case may be, may do one or more of the following:

- (a) make a procedural order;
- (b) make a costs award for costs incurred as a result of the objection;
- (c) impose a penalty under rule 10.49.

Preparing record

8.28 The parties have a joint responsibility to prepare the record for a streamlined trial to ensure an efficient adjudication, including by

- (a) identifying the real issues in dispute,
- (b) agreeing on relevant and material facts and records that are not in dispute,
- (c) ensuring that only the relevant and material evidence necessary to resolve the dispute is contained in the trial record, and

- (d) organizing the record and the evidence to expedite the streamlined trial and assist the trial judge.

Scheduling of streamlined trials

8.29(1) Unless otherwise provided for in the streamlined trial order or a procedural order, a streamlined trial shall be scheduled in accordance with Division 2 using Form 37, with all necessary modifications.

(2) Where required by the streamlined trial order, a procedural order or a practice note, the parties to a streamlined trial must participate in an alternative dispute resolution process in accordance with rule 4.16.

(3) When estimating the trial time needed for a streamlined trial, the parties shall include sufficient preparation time prior to the commencement of the trial for the trial judge to review the streamlined trial record.

(4) No later than three months prior to the streamlined trial, the parties must schedule a pretrial conference or a conference under rule 4.10 to confirm readiness for trial and the amount of trial time required and to resolve any other issue related to the management of the streamlined trial.

(5) The parties shall confirm the scheduled streamlined trial date in accordance with rule 8.7.

Procedure at streamlined trial

8.30(1) The rules in Divisions 3 and 4 apply to streamlined trials, with all necessary modifications and subject to the streamlined trial order, any procedural order made by the streamlined trial judge or any practice note.

(2) Subject to rule 13.18(3), the rules of evidence and any contrary direction, evidence at a streamlined trial shall be entered by affidavit.

(3) Unless the Chief Justice otherwise directs, if a streamlined trial is adjourned after the scheduled commencement of the trial, the assigned trial judge shall remain seized of the action.

Decision after streamlined trial

8.31(1) A streamlined trial is a full trial on the merits.

(2) The trial judge shall grant judgment after the conclusion of the streamlined trial.

12 Rule 12.49 is repealed and the following is substituted:

Streamlined trial

12.49 Subject to this Part and any enactment, proceedings under this Part may be tried by a streamlined trial in accordance with Part 8, Division 5.

13 Rule 14.5(1) is amended

(a) by repealing clause (e) and substituting the following:

(e) a decision as to a costs award only, but an appeal or cross appeal is not “as to a costs award only” if a related substantive decision is also being appealed;

(b) in clause (i) by striking out “rule 12.71” and substituting “rule 10.26, 10.44 or 12.71”.

14 Rule 14.36(3) is repealed and the following is substituted:

(3) Any person affected by an administrative direction of a case management officer may apply to a single appeal judge within one month of the date of the administrative direction to have the administrative direction rescinded, confirmed, amended or enforced.

15 The following provisions are amended by striking out “summary trial” and substituting “streamlined trial”:

rule 6.10(1) and (3)(b);
rule 6.37(1);
rule 10.31(2)(d);
rule 10.41(2)(e).

16 Schedule A, Division 1 is amended

(a) by striking out

Application for a Summary Trial	7.5(2)	36
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and substituting

Application for a Streamlined Trial	8.26(1)(a)	36
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(b) in Form 33 by striking out

You are called on to admit for purposes of an application/originating application/summary trial or trial,

and substituting

You are called on to admit for purposes of an application/originating application/streamlined trial or trial,

(c) by repealing Form 36 and substituting the following:

Form 36
[Rule 8.26(1)(a)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S) (APPLICANT(S))

DEFENDANT(S) (RESPONDENT(S))

DOCUMENT **APPLICATION FOR STREAMLINED TRIAL**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

NOTICE TO RESPONDENT(S)

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the judge.

To do so, you must be in Court when the application is heard as shown below:

Date	_____
Time	_____
Where	_____
Before Whom	_____

Go to the end of this document to see what else you can do and when you must do it.

Basis on which this case is appropriate for streamlined trial:

1 Some or all of the disputed issues can be fairly and justly resolved in a proportionate manner through the streamlined trial process, and

- (a) The parties have participated in an alternative dispute resolution process as required by the streamlined trial order, a procedural order or the practice note;
- (b) The action is ready to be scheduled for trial.

Issue or issues to be determined by streamlined trial:

- 2 All issues (or list issues to be determined at the streamlined trial)

Briefly outline the nature of the cause of action and the main issues in dispute:

3

Briefly outline material or evidence to be relied on at the streamlined trial, listing any witnesses or expert witnesses who are likely to give oral evidence in court, and summarize proposed mode of proceeding:

- 4 Draft streamlined trial order is attached.

5

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order the Court makes. If you want to take part in this application, either you or your lawyer must

- (a) within a reasonable time before the date scheduled for the hearing of the application, file and serve on the applicant(s)
 - (i) any material that you intend to rely on in response to the application to hold a streamlined trial,
 - (ii) a brief outline of any objection you have to a streamlined trial and your position on the other issues raised in this application, and
 - (iii) a brief summary of the evidence you would rely on at a streamlined trial, including any witnesses or expert witnesses who are likely to give oral evidence, and
- (b) attend in Court on the date and at the time shown at the beginning of this form.

17 Schedule C, Division 2, items 10 and 11 are amended by striking out “summary trial” wherever it occurs and substituting “streamlined trial”.

18 The Appendix is amended

- (a) in the definition of “electronic hearing” by striking out “summary trial” and substituting “streamlined trial”;
- (b) by adding the following after the definition of “secured property”:



“streamlined trial” means a streamlined trial under Part 8, Division 5;

19 This Regulation comes into force on January 1, 2024.