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### **MANITOBA KING'S BENCH RULES ANNOTATED**

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**Release No. 4, October 2025**

This work provides easy access to the Rules and case annotations and includes the King's Bench and Court of Appeal Rules of Practice and Procedure for both civil and criminal matters. The work provides commentary explaining the rules and annotations of all the decisions that interpret the civil rules. Commentary and other secondary resources include Tariffs, forms, practice directions, and Table of Rules Concordance.

### **What's New in this Update**

In this release, the author has updated practice directions, case law, and commentary. The CD has also been updated.

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## Highlights

### § 3:446 Rule 3:201.50 Rule 24.02(1) Dismissal for Delay – Long Delay Rule

*Hradowy v. Magellan Aerospace Limited*, 2024 MBCA 9, 2025 CarswellMan 25 (Man. C.A.), *per* Simonsen, J.A. (for the Court)

On appeal from an order of the motion judge dismissing an action for delay, which decision came on appeal from a decision of the associate judge who had refused to dismiss the action. At issue was whether the provision of answers to undertakings constituted a significant advance in the claim.

The Court allowed the appeal holding that, while the motion judge correctly identified the proper functional test, there were reversible errors in the application of that test to the facts. The Court held that the motion judge erred by: (a) not taking the conduct of the defendant into account; and (b) the motion judge failed to consider whether the production of the defendant's undertakings constituted a significant advance.

### § 3:281 Rule 29.00 Third Party Claims – Prejudice or Delay to Plaintiff

*Eert v. Petkau et al.*, 2025 MBKB 2, 2025 CarswellMan 4 (Man. K.B.), *per* Perlmutter, A.C.J.

The two-part test to consider whether leave should be granted to file a third party claim requires the Court to consider: (a) whether the defendants have established a *prima facie* cause of action against the proposed third party; and (b) whether granting leave to add a third party will cause the plaintiff to suffer prejudice or undue delay in the prosecution of its action against the defendant.

## ProView Developments

Your ProView edition of this product now has a new, modified layout:

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