All references in this Index are to the Rules of Civil Procedure and Forms, unless preceded by "s." which indicates sections of the Courts of Justice Act, or "p." which indicates pages of the text. Annual Survey and Forms are located in Volume 2.

A

Abandonment, see Appeals; Applications; Motions

Abridgment of Time

- appeals, 3.02(3)
- consent in writing, 3.02(4)
- generally, 3.02
- two proceedings in court, placing on trial list, 6.01(2)

Absentees

- personal service, 16.02(1)(i)
- persons under disability, 1.03
- representation in court proceedings, 7.02(1.1), 7.03(2.1)

Abuse of Process

- determination of issue before trial, 21.01(3)
- documents, 25.11
- motions, 37.16
- pleadings, 25.11

Acceptance of Offer, see offers to Settle

Accountant

- definition, payment into or out of court, 72.01
- discharge of mortgage, 72.04
- payment into court
- • bank's duties, 72.02(6)
- • direction, 72.02(3)
- • documents to be filed, 72.02(2)
- • payment, 72.02(5), (7)
- • receipt, 72.02(8)
- payment out of court
- •• consent by insurer on behalf of party, 72.03(6)
- • maintenance of a minor, 72.03(14)
- • minor attaining age of majority, 72.03(7)
- • payment directly to lawyer, 72.03(8)
- • payment out on consent, 72.03(4)
- • payment out under order or report, 72.03(2), (3)
- • payment to personal representative, 72.03(9)

- • stop order, 72.05
- references, 55.05(1), (3)

Accounting

• summary judgments, 20.04(5)

Accounts

- · change of account
- • after day fixed for payment, 64.06(25)
- • before day fixed for payment, 64.06(24)
- • final order fixing new day for payment, 64.06(22)
- • mortgage references, 64.06(21)
- • motions, by dissatisfied party, 64.06(23)
- • notice of change, 64.06(21)
- estates, see Estate Accounts
- interest, administration proceedings, 65.02(2)
- · mortgage references
- • change of account, 64.06(21)
- • time for taking of new account, 64.06(18)
- · notice of change
- • defendant noted in default, 19.02(3)
- passing, costs, 58.08
- proceedings for administration, 65.01(3)
- proof, where mortgage assigned, 64.06(15)
- references, 55.04
- • books of account, 55.04(4)
- • failure to pass accounts when required, 55.07(2)
- • powers of referee, 55.04(1)
- • preparation, 55.04(2), (3)
- • production and inspection of vouchers, 55.04(5)
- • questioning accounts, 55.04(6)
- taking of accounts
- • action, s. 122
- directing reference, 54.02(2)
- • foreclosure actions, 64.03(8), (10), (11)
- • mortgage reference, duties and powers of referee, 64.06(3)

Accounts (cont'd)
• • sale action, notice to defendant, 64.04(7)

Actions, see also Proceedings

- accounting, s. 122
- addition, deletion, substitution of parties,
- amendment of pleadings, see Pleadings
- amount of damages deemed in issue, 25.07(6)
- brought in wrong court, costs, 57.05
- crossclaim, see Crossclaims
- defendants named in title of proceeding,
- · defended
- listing for trial
- placing on trial list, 48.05
- service of trial record, 48.02(1)
- simplified procedure, 76.08
- third party claims, 48.02(3)
- trial records, 48.02(1)
- definition, s. 1; 1.03
- determination of issue before trial
- action frivolous, vexatious, abuse of process, 21.01(3)
- admissibility of evidence, 21.01(2)
- another proceeding pending, 21.01(3)
- court lacking jurisdiction, 21.01(3)
- factums, 21.03
- failure to make motion promptly, 21.02
- no cause of action or defence, 21.01(1)
- party lacking capacity, 21.01(3)
- questions of law, 21.01(1)
- discontinuance, 23.01
- costs, 23.05
- effect on counterclaim, 23.02
- effect on crossclaim, third party claim, 23.03
- effect on subsequent action, 23.03(2), 23.04(1)
- stay of subsequent action, 23.04(2)
- dismissal
- defendant paying claim, 14.10(1)
- discovery, conduct
- failure to answer written questions, 35.04(4)
- failure to produce document for inspection, 30.08(2)
- failure to serve affidavit of documents, 30.08(2)
- failure to comply with order for payment into court, 20.05(6)

- failure to provide security for costs, 20.05(6), 56.06
- insufficient evidence at jury trial, 52.08(1)
- dismissal for delay, see Dismissal for
- evidence at trial generally, 53
- failure to attend at trial, 52.01(1)
- foreclosure, see Foreclosure, Sale and Redemption
- forms
- general heading of documents, 4A
- notice of action, 14C
- statement of claim, 14A, 14B, 14D
- statement of defence, 18A
- fourth and subsequent party claims, 29.11, 29.12, see also Third Parties
- frivolous and vexatious, security for costs, 56.01
- generally, 14
- jury notice, see Juries
- mortgage, see Foreclosure, Sale and Redemption
- notice of action
- originating process, 14.03(2)
- service, 14.03(4)
- . . simplified procedure, 76.02(3)
- statement of claim, 14.03(3)
- striking out or amending, 14.09
- time for service, 14.08(2)
- originating process, 14.03(1)
- partition of land, 66.01
- place of trial, see Place of Trial; Trials
- plaintiffs named in title of proceeding, 14.06(2)
- pleadings, see Pleadings
- procedural summary, p. PC-2
- redemption, see Foreclosure, Sale and Redemption
- remaining on list at end of sitting, 48.10
- · restoring action to trial list
- failure to make motion, 24.01(1)(d)
- sale, see Foreclosure, Sale and Redemption
- same subject matter, stay of subsequent action, 23.04(2), 24.05(2)
- security for costs, 56
- setting down, see Setting Down
- settlement, informing registrar, 48.12
- simplified procedure, see also Simplified Procedure
- • where used, 14.03.1
- speedy trial list, 20.05(1), 37.13(1)(a), 48.09

- Actions (cont'd)
 statement of claim, time for service,
- status hearings, 1.02(3), 48.14(5)-(7)
- struck off trial list, 48.11
- subsequent
- effect of discontinuance, 23.04
- evidence from examination for discovery, 31.11(8)
- summary judgment, see Summary Judgment
- third party claim, see Third Parties
- title of proceeding, 14.06
- transfer of proceedings from wrong forum, s. 110
- transferred to Superior Court of Justice, costs, 57.05(2)
- traversed to next sitting, 48.10
- trial of issue or application, 38.10(2),
- undefended
- affidavit evidence at trial, 53.02(3)
- listing for trial, 48.02(2), (4), 48.05
- view of property or location, 52.05
- · withdrawal
- admission, 23.06(1), 51.05
- counterclaims, crossclaims, third party claims, 23.07
- deemed default, 23.06(2)
- • statement of defence, 23.06(1), 51.05

Adding Parties

- amendment of pleadings, 26.02
- estate or trust proceedings, 9.01(4)
- interpleader, 43.04(2)
- intervention by non-party, 13.01
- order adding, 5.04(2)
- references, 55.02(5)

Addresses

- court office, in documents, 4.02(2)
- creditor's writ of seizure and sale, 60.07(1)
- for service
- • backsheet, 4.02(3)
- documents, 4.02(2)
- persons claiming property seized, 60.13
- jury, see Juries
- partner's, disclosure, 8.05
- reference to in orders affecting minors, 59.03(5)

Adjournments

- amendment of pleadings, 26.01
- applications, 38.10(1), (3)

- failure to cross-examine diligently,
- notice ought to have been served, 38.06(2)
- garnishment hearing, 60.08(11)
- · associate judge, to judge
- interpleader, 43.04(3)
- summary judgment, for, 20.04(4)
- document not reaching person served, 16.07
- · examinations out of court, 34.14
- motions, 37.13(1)
- failure to cross-examine on affidavit, 39.02(3)
- order for trial of an issue, 37.13(2),
- summary judgment, 20.04(4)
- where notice ought to have been served, 37.07(5)
- sale of land seized under writ, 60.07(21)
- trials, 52.02
- adverse party failing to testify, 53.07(4)
- where leave required to admit evidence, 53.08

Administration of Justice Act

- assessment of costs, 58.05(1)
- attendance of witness in custody, 53.06
- costs, notice of garnishment, 60.19
- costs, writs of execution, 60.19
- mandatory mediation, 24.1

Administration Proceedings

- forms
- • judgment for administration, 65A
- generally, 65
- interest on accounts, 65.02(2)
- judgment for administration, 65.01(2)
- notice of application, 65.01(1)
- order for proper accounts, 65.01(3)
- payment into court, 65.02(3)
- references, 65.02(1)

Administrator Ad Litem, see Litigation

Administrators, see Executors and Administrators

Admissibility, see Evidence

Admissions

- deemed after noting default, 19.02(1)(a)
- defences, 25.07(1), (2)
- amount of damages, 25.07(6)
- disclosure or production of document,
- discovery

- Admissions (cont'd)
 • disclosure of document, 30.05
- documents
- denial of authenticity, costs consequences, 51.04
- request to admit authenticity, 51.02(1)
- service of copy, 51.02(2)
- examination, possession or control of documents, 34.10(4)
- facts, request to admit truth, 51.02(1)
- forms
- • request to admit, 51A
- • response to request to admit, 51B
- garnishee's, 60.08(9)
- generally, 51
- interpretation, 51.01
- motions for judgment, 51.06
- deemed undertaking, 30.1
- persons admitting to be partners, 8.06(2)
- pre-trial, conference, obtaining admissions, 50.06
- · refusal to admit truth of facts, 51.04
- reply, 25.09(1)
- · request to admit, 51.02, 51A
- • deemed admissions, 51.03(2), (3)
- document's authenticity, 51.02(1)
- time period for response, 51.03(1)
- truth of facts, 51.02(1)
- withdrawal, 51.05
- statement of defence, 23.06(1)

Adverse Parties

- calling adverse party as witness
- cross-examination, 53.07(5)
- failure to testify, 53.07(7)
- re-examination, 53.07(6)
- securing attendance at trial, 53.07(1)–(3)
- when adverse party may be called, 53.07(4)
- examination for discovery, 31.03(1)
- securing attendance at trial, 53.07(1), (2)

Advertisements

- · references
- • conduct of sale, 55.06(2), (4)
- contents, 55.03(2)
- publication, 55.03(1)
- sale of property seized under writ, 60.07(16)

Affidavits

- alterations, 4.06(9)
- application record, 38.09(1)
- applications concerning estates of minors, 67.02

- allowance sought for maintenance,
- appointment of guardian, 67.02(3)
- · applications for judicial review
- applicant's application record, 68.04(2)
- · assessment of costs
- abandoned motions, applications, appeals, 58.07
- blind persons, 4.06(7)
- changing debtor's name in writ, 60.07(10)
- contempt motions, 60.11(3)
- contents, generally, 4.06(2)
- contents of appeal books, 61.10(1)
- corporations, 4.06(5)
- costs, proof of entitlement where no order, 60.02(2)
- cross-examination, 39.02
- • affidavit of documents, 31.06(1)(c)
- failure to deliver notice of appearance, 38.07(2)
- procedure, 34
- · documents, affidavit of
- contents, 30.03(2), (3)
- correcting errors and omissions, 30.07
- failure to disclose, 30.08(1)
- failure to serve, 30.08(2)
- forms, 30
- improperly claimed privilege, 30.06
- lawyer's certificate, 30.03(4)
- omissions, 30.06
- service, 30.03(1)
- simplified procedure, see Simplified Procedure
- evidence on applications, see Applications
- evidence on motions, see Motions
- examination by registrar before signing orders, 59.04
- · examination for discovery
- correcting answers, 31.09(2)
- written questions, answers, 35.02, 35B
- exhibits, 4.06(3)
- · execution of will or codicil
- deposit with registrar, 74.04(1)
- format, 4.06(1)
- forms
- affidavit, 4D
- affidavit (motion for payment out of court), 72.03(11)
- affidavit of documents (corporation or partnership), 30B

- Affidavits (cont'd)
 • affidavit of documents (individual), 30A
- affidavit of service, 16B
- answers on written examination for discovery, 35B
- garnishment matters, 60.08(2), (3)
- illiterate persons, 4.06(7)
- · information and belief
- applications, 39.01(5)
- generally, 4.06(2)
- motions, 39.01(4)
- summary judgment, 20.02
- inspection of documents, 30.04(2)
- interpleader, 43.03(3)
- lawyer's
- proceeding concerning estate of minor, 67.03(1), (2)
- settlements involving party under disability, 7.08(4)
- · litigation guardian
- contents, 7.02(2)
- settlements, approvals, 7.08(4)
- · motion, particular requirements
- interim preservation of property, 45.03(2)
- interim recovery of personal property, 44.01
- record, 37.10(2)
- summary judgment, 20.01(1), (3), 15.01(2)
- information and belief, 20.02
- use of, at trial, 20.05(2)
- order to continue, minor reaching majority, 7.06(1)
- partnerships, 4.06(6)
- · payment out of court
- consent by insurer on behalf of party, 72.03(6)
- minor attaining age of majority, 72.03(7)
- party under disability, 72.03(11)
- payment directly to lawyer, 72.03(8)
- payment out on consent, 72.03(4)
- payment out under order or report, 72.03(2), (3)
- persons not understanding language, 4.06(8)
- place of filing, 4.05(3)
- proceedings concerning estates of minors, 67.03(1), (2)
- production, on, see documents, affidavit
- proof of account where mortgage assigned, 64.06(15)

- · references
- auctioneer reporting on sale, 55.06(10)
- consent for payment out of money, 55.05(3)
- taking of accounts, 55.04(2), (3), (5)
- verifying list of claims, 55.03(3)
- service, affidavit of, 16.09(1)
- subsequent encumbrancer in foreclosure, 64.03(7), (18), (19)
- transfer or transmission of interest or liability, 11.02
- trial, use at, 53.02
- two or more deponents, 4.06(4)
- undefended actions, 48.03(2), 53.02(3)

Affirmations

- · examination out of court
- • interpreter, 34.09
- sanctions for refusal to affirm, 34.15
- witness, 34.08(1), (2)
- interpreter at trial, 53.01(5)
- interpreter for affidavit, 4.06(8)

Age of Majority, see Minors

Agents, see also Parties; Lawyers

- bidding on sale of property, 55.06(5), (6)
- corporation acting without lawyer, 15.01(2)

Agreements

- denial, effect of, 25.07(5)
- evidence on appeals, 61.05(4)
- • contents of appeal book, 61.10(1)
- order for transcript, 61.05(6)
- parties under disability, 7.08
- purchase and sale, sale reference, 55.06(8)

Alternative Dispute Resolution, 49

Amendments

- attendance at out-of-court mediations and R. 34 examinations, SURVEY-43
- "case management master" renamed "associate judge", SURVEY-43
- deadlines for motion confirmations and uploading material to CaseLines, SURVEY-45
- expert reports, SURVEY-44
- pre-trial conference, SURVEY-43
- pre-trial conference and trial scheduling, SURVEY-45
- trial record and trial list, SURVEY-45

Answers

- · examinations for discovery
- correcting answers, 31.09(1)

- Answers (cont'd)
 • failure to answer, 31.07, 34.15, 35.04
- filing written answers, 35.06
- lawyer responding, 31.08
- written questions, 35.02
- jury, judgment based on, 52.08(2)
- transcripts of evidence, standards,

Appeal Route Charts, p. PC-28 **Appeals**

- abandonment
- appeals from interlocutory orders, 62.01(10)
- assessment of costs, 58.07
- cross-appeals, 61.15
- deemed, 61.14(2)
- • effect, 61.14(3)
- no costs, 61.14(4)
- notice of abandonment, 61.14(1)
- abridgment of time, 3.02(3)
- administrative tribunals, assessment of costs, 58.02(3)
- agreement respecting evidence, 61.05(4)
- amending notice of appeal, 61.08
- · appeal books and compendia
- agreement respecting evidence, 61.05(4)
- binding covers, 4.07(2)
- contents, 61.10(1)
- . . endorsement of order, 59.02(1)
- failing to perfect appeal, 61.13(1)
- refusal of Registrar to accept, 61.10(2)
- relief from compliance with Rules, 61.09(4)
- appellants
- certificate respecting evidence, 61.05(1), 62.02(8)
- definition, 1.03
- dismissal where default not cured, 61.13(3)
- dismissal where time prescribed by court, 61.13(3.1)
- factums, 61.11
- factums, cross-appeals, 61.12(4)
- failure to file proof transcript ordered, 61.13(1)
- failure to file transcript, 61.13(2), (3)
- failure to perfect, 61.13(1), (2), (2.1),
- interlocutory appeals, record and factum, 62.01(7), (9)
- motion to dismiss cross-appeal for delay, 61.13(4)

- ordering transcripts, 61.05(5)
- . . perfecting appeals, 61.09(1)-(4)
- respondent to cross-appeal, 61.12(4)
- security for order under appeal, 63.03(6)
- appellate court judge
- review of Registrar's order, 61.16(5)
- review of single judge's order, 61.16(6)
- argument limited to grounds stated, 61.08(2)
- · assessment of costs, 58.11
- certificate respecting evidence
- appellant's, 61.05(1), 62.02(8)
- respondent's, 61.05(2), (3)
- · combining appeals
- to Court of Appeal, s. 6(2)
- to Divisional Court, s. 19(2)
- consent order, s. 133(a)
- costs, appealing award, s. 133(b); 61.03(7), 61.03.1(17)
- costs sanctions for unnecessary evidence, 61.05(8)
- costs, security for costs, 61.06
- · cross-appeals, 61.07
- • abandonment, 61.14(1), (3)
- amendment of notice, 61.08
- appeal dismissed for delay or abandoned, 61.15
- costs, 61.03(8), 61.03.1(18)
- • directions, 61.15(1)
- dismissal for delay, 61.13(4), (5)
- dismissal for delay or abandonment, 61.15
- factums, 61.12(4)
- failure to file notice after service, 61.14(2)
- when leave required, 61.03(8), 61.03.1(18)
- crossclaims, 28.06(3)(a)
- defaults, dismissal where not cured, 61.13(3), (5)
- determination of facts, s. 134(4)
- directions for appeal books, transcripts, 61.09(4)
- dismissal, approval of form of order, 59.03(2)
- · dismissal for delay
- cross-appeals, 61.13(4), (5)
- motion by respondent, 61.13(1)
- notice by Registrar, 61.13(2)
- order, 61.13(3)
- exhibit book, contents, 61.10.1
- exhibits at trial held by registrar, 52.04(3)

- Appeals (cont'd)
 extension of time, 3.02(3)
- failure to obtain order to continue appeal, 61.13.1
- forms
- appellant's certificate respecting evidence, 61C
- certificate of completeness of appeal books, 61H
- certificate of stay, 63A, 63B
- general heading in appellate courts, 61B
- notice of abandonment of appeal, 61K
- notice of appeal to appellate court, 61A, 61A.1
- notice of appeal to judge, 62A
- . . notice of cross-appeal, 61E
- notice of election to proceed with cross-appeal, 61L
- notice of listing for hearing, 61G
- order dismissing appeal for delay, 61I
- order dismissing motion for leave to appeal for delay, 61J . .
- order on appeal, 59C
- respondent's certificate respecting evidence, 61D
- supplementary notice of appeal or cross-appeal, 61F
- generally, ss. 2–9 (Court of Appeal), 17 (Superior Court of Justice), 18–21 (Divisional Court), 132–134; 61, 62, 63
- interim orders, s. 134(2)
- · interlocutory orders
- abandonment, 62.01(10)
- appeal to Superior Court of Justice, 62.01(1)
- appellant's record and factum, 62.01(7), (9)
- generally, 62
- grounds stated in notice, 62.01(4)
- • hearing date, 62.01(3)
- motion for leave
- factums, 62.02(5)
- grounds for granting leave, 62.02(4)
- leave to appeal to Divisional Court, 62.02(1)
- motion in writing, 62.02(2)
- notice of motion, 62.02(3)
- telephone and video conferences, 1.08(1)
- notice of appeal, 62.01(4), (5)
- place of hearing, 62.01(6)
- procedural summary, p. PC-23

- procedure where leave granted, 62.02(8)
- respondent's material and factum, 62.01(8), (9)
- time for appeal, 62.01(2)
- jurisdiction
- Court of Appeal, s. 6
- Divisional Court, s. 19
- · leave motion
- Court of Appeal, 61.03.1
- costs appeal joined with appeal as of right, 61.03.1(17), (19)
- costs cross-appeal joined with appeal or cross-appeal as of right, 61.03.1(18), (19)
- date for oral hearing, 61.03.1(15)
- determination of motion, 61.03.1(14) . . .
- dismissal for delay, 61.13(6), (7),
- . . . in writing, 61.03.1(1)
- moving party's motion record, factum and transcripts, 61.03.1(4), (5), (6)
- moving party's reply factum, 61.03.1(11), (12), (13)
- notice of motion, 61.03.1(2), (3)
- responding party's motion record and factum, 61.03.1(7)–(10)
- time for delivery of notice of appeal, 61.03.1(16)
- Divisional Court
- costs appeal joined with appeal as of right, 61.03(7), (9)
- costs cross-appeal joined with appeal or cross-appeal as of right, 61.03(8), (9)
- date for hearing, 61.03(5)
- . . . dismissal for delay, 61.13(6), (7),
- notice of motion, 61.03(1)
- record and factums, 61.03(2), (3), (4)
- · mootness, s. 134
- motions
- associate judge not to hear, 37.02(2)
- certificate of estimated time for argument with factum, 61.16(4.1)
- heard by more than one judge, 61.16(3)
- hearing in absence of public, 37.11(1)
- motion record and factums, 61.16(4)
- • motion to receive evidence, 61.16(2)
- procedure, 61.16(1)
- required to be heard by one judge, 61.16(2.1)

- Appeals (cont'd)
 required to be heard by panel, 61.16(2.2)
- review of Registrar's order, 61.16(5)
- review of single judge's order, 61.16(6)
- · notice of appeal
- amendment, 61.08
- contents, 61.04(3)
- failure to file after service, 61.14(2)
- filing, 61.04(4)
- form, 61A, 61A.1
- jurisdictional statement required, 61.04(3)
- time for delivery
- Court of Appeal, 61.03.1(16)
- Divisional Court, 61.03(6)
- notice of listing for hearing, 61.09(5),
- notice of motion for leave
- Court of Appeal, 61.03.1(2), (3)
- Divisional Court, 61.03(1), (2)
- · Ontario Court of Justice, from
- general, s. 40
- · perfecting
- certificate of perfection, 61.09(3), (5)
- failure to perfect, 61.13(1)–(3)
- material to be served and filed,
- record and original exhibits, 61.09(2)
- relief from compliance with Rules, 61.09(4)
- time, 61.09(1)
- power to quash, s. 134(3)
- powers on appeal, s. 134
- procedural summary, p. PC-20
- records
- backsheets, 4.07(1)
- front covers, 4.07(1.1)
- interlocutory orders, 62.01(7)
- references, 61.01
- registrar
- definition, 61.02
- dismissal by, 61.13(3)
- automatic, 61.13.0.1(1)
- review of orders, 61.16(5)
- respondents
- certificate respecting evidence, 61.05(2), (3)
- cross-appeals, 61.07
- • factum, 61.12
- failure to deliver factum in cross-appeal, 61.13(4), (5)
- failure to file factum, 61.13(4), (5)

- interlocutory appeal, record and factum, 62.01(8), (9)
- motion to dismiss for delay, 61.13(1)
- time for delivery of factums, 61.12(2)
- service of notice, 61.04(1)
- special case, procedure, 22.03(2), 61.01
- stated case, procedure, 61.01
- stay pending appeal, see Stay Pending Appeal
- telephone, 1.08(1)
- third party defending main action, 29.05(2)(a)
- time for appeal, 61.04(1)
- title of proceeding, 61.04(2), 61B
- · transcripts
- binding, 4.07(4)
- complying with certificates or agreement, 61.05(6)
- failure to file, 61.13(2), (3)
- failure to file proof of order, 61.13(1)
- filing proof of order, 61.05(5)
- notice from court reporter when transcribed, 61.05(7)
- who may appeal, 61
- who may hear, s. 132
- writ of execution, setting aside, 63.03(6)

Appearances, see Applications; Notice

Appellate Court, see also Appeals

- definition, 1.03
- entry of orders, 59.05
- motions, hearing in absence of public, 37.11(1)
- special case heard at first instance, 22.03

Applicants, see also Applications

- adding parties as applicants, 5.04(3)
- application record and factum, 38.09(1), (4), (5)
- application without notice, full and fair disclosure, 39.01(6)
- certificate of perfection, judicial review,
- definition, 1.03
- different capacities, 5.01(2)
- failure to appear at hearing, 38.08(2)
- joinder of claims, 5.01
- joinder of parties, 5.02(1)
- · judicial review proceedings
- dismissal for delay, 68.06, 68.07
- record and factums, 68.04(1), (2), (3),
- motion for directions regarding service, 38.06(1)
- named in title of proceeding, 14.06(3)

- Applicants (cont'd)
 naming place and date of hearing, 38.04
- notice of abandonment, 38.08(1), (3)
- statement of account, administration proceedings, 65.01(3)
- undertakings concerning damages, stop orders, 72.05(2)

Applications, see also Originating Process

- · abandonment
- • costs, 38.08(3), 58.07
- • failure to appear at hearing, 38.08(2)
- notice of abandonment, 38.08(1)
- parties under disability, 38.08(4)
- administration of estate or trust, 14.05(3)(a), 65.01
- ancillary relief, 14.05(3)(g)
- · application record and factum
- applicant's, 38.09(1), (2)
- dispensing with record and factums, 38.09(4)
- exceptions, estate matters, 38.09(7),
- material filed as part of record, 38.09(5)
- respondent's, 38.09(3)
- approval of disposition of minor's property
- affidavits in support, 67.02
- consent of minor, 67.03
- lawyer's affidavit, 67.03(1), (2)
- notice of application, 67.01
- approval of sale, arrangement, etc., 14.05(3)(f)
- approval of settlement, party under disability, 7.08(3), (4)
- authorized by Rules, 14.05(3)
- confirmation, 38.09.1, 38B
- counter-applications, 38.03(4)
- cross-examination on affidavit, 34.01
- deed, will, contract, or instrument, 14.05(3)(d)
- definition, 1.03
- disposition, 38.10
- Divisional Court, 38.01(2)
- Divisional Court, judicial review, 68
- estate account, to pass, 74.18
- estate or trust, 14.05(3)
- estate trustee, certificate of appointment, 14.05(1), 74.4, 74.4.1, 74.5, 74.5.1
- evidence
- affidavits
- . . . contents, 39.01(5)
- expert witness evidence, 39.01(7)
- generally, 39.01(1)

- service and filing, 39.01(2), (3)
- application without notice, full and fair disclosure, 39.01(6)
- cross-examination on affidavits
- generally, 39.02(1)
- reasonable diligence, 39.02(3)
- subsequent delivery of affidavit, 39.02(2)
- examination of witnesses
- at hearing, 39.03(4)
- before hearing, 39.03(1)–(3)
- • summons to witness, 39.03(5)
- transcripts, filing, 34.18(2), (3)
- executor, administrator, or trustee, 14.05(3)
- facts not in dispute, 14.05(3)(h)
- factums, 38.09
- forms
- confirmation of application, 38B
- . . general heading of documents, 4B
- notice of appearance, 38A
- notice of application, 14E
- notice of application for directions, 75.5
- notice of application to Divisional Court for judicial review, 68A
- notice of application to pass accounts,
- Superior Court of Justice, 14.05(2)
- generally, 14, 38
- date, 38.03(2), (3), (3.1)
- disposition of motion, 37.13(1)
- judge hearing motions not to hear, 37.15(2)
- place, 38.03(1)
- injunction ancillary to other relief, 14.05(3)(g)
- interpleader, 43.03(1)
- affidavits in support, 43.03(3)
- disposition of applications, 43.04(1),
- dispute over property seized by sheriff, 60.13(4)
- interpretation of instrument, etc., 14.05(3)(d)
- judicial review, see Judicial Review
- land, interest, charge or boundaries, 14.05(3)(e)
- mandatory order ancillary to other relief, 14.05(3)(g)
- naming place of hearing, 38.03(1)
- notice of appearance
- delivery, 38.07(1)
- failure to deliver, 38.07(2), (3)

Applications (cont'd)
• notice of application

• • commencement of proceeding, 38.01(1)

• • contents, 38.03(1), 38.04

• • endorsement of order, 59.02(1)

• • issuance, 38.05

• • naming place of hearing, 38.03(1)

• • originating process, 14.05(1)

• • registration of foreign judgment, 73.02(1)

service

• • • filing proof of service, 38.06(4)

• • • generally, 38.06(1)

• • • minimum notice period, 38.06(3)

••• motions for directions, 38.06(1)

••• where notice ought to have been served, 38.06(2)

• • service and filing of affidavits, 39.01(2)

• • striking out or amending, 14.09

• • title of proceeding, 14.06(3)

• originating process, 14.05(1)

• partition of land, 66.01

• place of hearing, 13.1.01, 38.03(1)

• procedural summary, p. PC-8

• receiver ancillary to other relief, 14.05(3)(g)

record, 38.09

• • backsheet, 4.07(1)

• • front covers, 4.07(1.1)

• • pre-trial conferences, 50.07(3), 50.08(2)

• respondents

 application record and factums, 38.09(3)

• • costs where abandoned, 38.08(3)

• • named in title of proceeding, 14.06(3)

• • notice of appearance, 38.07

• • transfer to a judge, 38.02

• setting aside or varying judgment, 38.11

• stop order, 72.05

 telephone and video conferences, 1.08(1)

• to whom made, 38.02

• transcript of evidence, 34.18(2), 38.09(6)

• trial of issue, 38.10(3)

• trial of whole application, 38.10(2)

• trust, 14.05(3)

• without notice

• • full and fair disclosure, 39.01(6)

• • setting aside or varying judgment, 38.11

Appointments

· assessment of costs

• • notice, 58.03, 58A

• • sheriff's, 58.12

• estate trustee, see Estate Trustees

• litigation guardian, see Litigation Guardians

· settling orders

• • before judge who presided at hearing, 59.04(9)–(13)

• • disputed order before judge or officer, 59.04(9)–(13)

• • draft order not approved, 59.04(7)

• objections to form of order, 59.04

• • order returned by registrar, 59.04

Approval

· disposition of minor's property

• • affidavit in support, 67.02

• • consent of minor, 67.03

• lawyer's affidavit, 67.03(1), (2)

• • notice of application, 67.01

• offer to settle, party under disability, 49.08

• orders, form

• • filing, 59.04

• • not received in reasonable time, 59.04(12)

• • sending draft for approval, 59.03(1)

• purchase, representation order, 10.01(1)

• reference, form of security, 55.07(1)

representation of person who cannot be found, 10.01

• representation order obtained by fraud, 10.03

• sale, representation order, 10.01(1)

• settlement

• party under disability, 7.08

• • representation order, 10.01(1)

• • represented persons, 10.01(3), (4)

• variation of trust, representation order, 10.01(1)

Arrangements

• application for approval, 14.05(3)

 variation of trusts representation order, 10.01(1)

Arrest

• contempt motions, 60.11(4), 60K

• forms

• warrant for arrest (contempt), 60K

• warrant for arrest (defaulting witness), 53B

• witness, failure to attend, 53.04(7)

Articled Students

• rights of appearance, p. PC-31

Assessment of Costs, see Costs

Assessment Officers, see Costs

Assignments

- examination for discovery of assignor, 31.03(6)
- insurance policies, discharge of mortgage, 72.04(3)
- joinder of parties, 5.03(3)
- mortgages, proof of account, 64.06(15)
- transfer or transmission of interest or liability, 11.01

Associate Judges, *see also* Civil Case Management

- application of, ss. 46 to 48, 86.1(7)
- appointment, s. 86.1(1)
- · complaint
- • compensation, s. 86.2(10)–(14)
- • dismissal, s. 86.2(2), (3)
- • disposition, s. s. 86.2(8), (9)
- • general, s. 86.2(1)
- • investigation, s. 86.2(4)–(7)
- • liability, s. 86.2(19)
- • records, s. 86.2(15)–(17)
- • SPPA, s. 86.2(18)
- court personnel, s. 78(2)
- jurisdiction, s. 86.1(6)
- qualification, s. 86.1(2)
- liability, s. 82
- reappointment, s. 86.1(4), (5)
- standards of conduct, s. 86.1(9)
- term of office, s. 86.1(3)

Attendance

- assessment of costs, fund or estate, 58.08(2)
- attendance money, see Attendance Money
- contempt motion, arrest, 60.11(4), 60K
- court officers, filing and issuing documents, 4.05(1), (4)
- examination out of court, 34.04
- examination, witness in custody, 53.06, 53D
- foreclosure reference
- •• failure of encumbrancer to attend, 64.03(14), (15)
- • redemption by encumbrancer added on reference, 64.03(13)
- • request for sale, 64.03(19)
- interpleader, failure to attend, 43.04(2)

- medical examination, 33.05
- mortgage reference, referee's report, 64.06(16)
- motion or application, summons to witness, 39.03(4), 34B
- · references
- • directions, who is to attend, 55.02(3)
- • persons to be examined, 55.02(14)
- trial
- • adverse party as witness, 53.07(1), (2)
- directors of adverse party, 53.07(1), (2)
- • failure to attend
- • striking action off list, 52.01
- • warrant for arrest, 53.04(7), 53B
- • officers of adverse party, 53.07(1), (2)
- • partners, partnership adverse party, 53.07(1), (2)
- • remuneration of experts, 52.03(4)
- • sole proprietor of adverse party, 53.07(1), (2)
- • summons to witness, 53.04, 53A
- • witness in custody, 53.06, 53D
- • witness outside Ontario, 53.05, 53C

Attendance Money

- examinations out of court, 34.04(5)
- examinations, persons out of Ontario, 34.07(4)
- summons to witness, proof of service, 53.04(5)
- trial
- • adverse party as witness, 53.07(1), (2)
- • officer, director or sole proprietor of adverse party, 53.07(1), (2)
- • partners, partnership adverse party, 53.07(1), (2)
- • summons to witness, 53.04(4)

Attorney General

- interpreters, providing, 53.01(6)
- personal service, 16.02(1)(h)

Authority, see also Lawyers

- acceptance of service, warranty of client's authority, 16.03(3)
- · commencement of proceeding
- • client's authority, 15.02(1), (3)
- • lawyer's authority, 15.02(1), (2)
- • stay where unauthorized, 15.02(1)
- personal representative, payment out of court, 72.03(9)

Awards, see Costs; Damages

Capacity

В

Bankruptcy

- discovery of bankrupt and trustee, 31.03(7)
- order to continue proceeding, 11.01

Beneficiaries, see also Estates; Trusts; Wills and Codicils

- commencing proceeding for administration, 65.01(1)
- joining as parties, 9.01(1), (2), (4)
- references, advertisement, 55.03(1)

Bilingual Proceedings

- appeals, s. 126(7)
- corporation or partnership, s. 126(8)
- documents filed, s. 126(1)
- pleading or document under, s. 126, 4.02.1
- process, s. 126
- prosecutions, s. 126(6)
- regulations, s. 126(9)
- right to require, s. 126(4)
- rules applicable, s. 126(4)

Bill of Costs, see also Costs

- failure to file or serve, 58.04(1), (4)
- filing, 58.03(1)
- notice to deliver, 58.04(2), (3), 58B
- service, 58.03(2)
- sheriff's, 58.12

Blind Persons

• deponent of affidavit, 4.06(7)

Bonds

- approved guarantee companies, see note following 44.04
- estate proceedings, 74.11
- form, interim recovery of personal property, 44A
- interim recovery of personal property, 44.03, 44.04, 44.06

Books

- accounts, proof on reference, 55.04(4)
- assessment of costs, production, 58.05(4)
- disclosure and production, see Discovery
- referee's procedure book, 55.02(11)

By-Laws

- application for interpretation, 14.05(3)(d)
- proceeding for interpretation, representation orders, 10.01(1)

parties under disability, see Parties Under Disability

 \mathbf{C}

- plaintiff or defendant lacking, 21.01(3)(b)
- suing or being sued, 5.01(2)

Carriage of Reference, see References

Case Law Developments

- adding parties, SURVEY-8
- adjournments, SURVEY-30
- case conferences, SURVEY-28
- contempt of court, sanctions, SURVEY-40
- costs
- "blended" costs, estate litigation, SURVEY-34
- lawyer personally liable, SURVEY-35
- non-parties, against, SURVEY-32
- unpaid costs of appeal, SURVEY-35
- withholding costs to successful party, SURVEY-30
- court-ordered medical examination, SURVEY-4
- Crown, examination of representative, SURVEY-23
- discontinuance as abuse of process, SURVEY-21
- enforcement of foreign judgments, SURVEY-11
- extension of time for delivery of defence, SURVEY-14
- forfeiture, relief from, SURVEY-3
- interlocutory injunctions, SURVEY-24
- limitation period, irregularities in commencing proceeding, SURVEY-7
- litigation guardian, SURVEY-10
- motion to strike, SURVEY-20
- non-prejudicial request for extension, accommodation, SURVEY-15
- pre-certification motions, SURVEY-10
- production of documents, privilege, SURVEY-22
- sealing orders, SURVEY-5
- settlement, enforcement, SURVEY-26
- "SLAPP" suits, SURVEY-6
- · stay of proceedings, SURVEY-4
- summary judgment, SURVEY-17
- · writ of seizure and sale
- leave to issue, SURVEY-37
- reference and judicial sale in lieu of sheriff's sale, SURVEY-39

CaseLines, 4.05.3

Case Management Masters

- liability, s. 82
- · motions
- • dispositions, 37.13
- · references
- hearing of motions, 54.05(1)
- retirement, s. 47

Certificates

- appeal from interlocutory order
- contents of appellant's record, 62.01(7), (9)
- appellant's, respecting evidence, 61.04(1), 61.05(1), 62.02(8)
- contents of appeal book, 61.10(1)
- modifying order for transcript,
- appointment of estate trustee, see Estate Trustees
- assessment of costs, 58.09, 58C
- appeals, 58.11, 62.01(1)
- enforcement of costs where no order awarding, 60.02(3)
- withholding, objections, 58.10(1)
- completeness of appeal book, 61.10(1), 61H
- forms
- appellant's certificate respecting evidence, 61C
- certificate of completeness of appeal books and compendium, 61H
- certificate of stay, 63A
- respondent's certificate respecting evidence, 61D
- · lawyer's
- affidavit of documents, 30.03(4)
- setting down action, 48.03(1)
- pending litigation
- claim must be in originating process, 42.01(2)
- discharge, s. 103(6); 42.02
- effect, s. 103(1)
- form, 42A
- leave to issue required, 42.01
- liability for registering, s. 103(4)
- motion without notice, 42.01(3)
- registration, s. 103(2)
- service of order, 42.01(4)
- perfection, 61.09(3), (5)
- judicial review proceeding, 68.05, 68.06
- respondent's, respecting evidence, 61.05(2), (3)
- • contents of appeal book, 61.10(1)
- modifying order for transcript, 61.05(6)

- stay pending appeal, 63.03(4), 63A
- · Supreme Court of Canada
- • entry, 59.05(6)

Certified Copies

- court documents, 4.03
- discovery, 30.10(4)

Chambers, see Motions

Change of Venue, see Place of Trial;

Charges, see Encumbrances

Children's Lawver

- appointment, s. 89(1)
- appointment as litigation guardian, 7.03, 7.04
- assessment of costs, s. 89(8)
- audit of transactions, s. 89(9)
- costs payable, s. 89(4)
- divorce actions
- • attendance in court, s. 112(7)
- investigation and report, s. 112(1), (2)
- report as evidence, s. 112(6)
- duties, s. 89(3), (3.1)
- filing report before trial, 48.03(2)
- mortgages held by accountant, s. 89(6)
- notice of application concerning estates of minors, 67.01
- notice of application regarding approval of sale, mortgage, lease of minor's property, 67.01
- notice of discontinuance of action, 23.01(2)
- notice of motion to dismiss for delay,
- partition or sale proceedings, 66.01(2)
- payment into court, s. 89(7)
- payment out of court
- party under disability, 72.03(10)–(14)
- under order or report, 72.03(3)
- qualifications, s. 89(2)
- representing minors, proceedings against minors, 7.03(2)
- security for costs, s. 89(5)
- · service
- motion for removal of minor's lawyer, 15.04(3)
- on children's lawyer, 16.03(8)
- on a minor, 16.02(1)
- order affecting minor, 59.03(5)
- order removing minor's lawyer of record, 15.04(3)

Citation of Rules, see Rules

Civil Case Management

application

Civil Case Management (cont'd)
• • conflict with other Rules, 77.02(4)

exceptions, 77.02(2), (3)

scope, 77.02(1)

· assignment for case management

criteria, 77.05(4)

multiple proceedings, 77.05(3)

no consent, 77.05(2)

on consent of parties, 77.05(1)

assignment to individual management by

assignment to particular judge, 77.06(1)

limitation, 77.06(2)

· case conference

attendance, 50.13(2), (3)

how convened, 50.13(1)

lawyers, 50.13(4)

matters to be dealt with, 50.13(5)

powers, 50.13(6)

• general principles, 77.01(2)

motions

costs, 77.07(5)

formal order not required, 77.07(6)

procedure, 77.07(4)

referral by particular judge, 77.07(3)

to whom made, 77.07(1)

to particular judge, 77.07(2)

powers, 77.04

purpose, 77.01(1)

transition, 77.09

Civil Submissions Online Portal, 4.05.2

adverse regarding property, see Interpleader

arising from same transaction or occurrence, joinder, 5.02

contested, references, 55.03(4)

counterclaims, see Counterclaims

crossclaims, see Crossclaims

estates, against, 75.08

fourth and subsequent parties, see also Third Party Claims

generally, 29.11, 29.12

joinder, 5.01

foreclosure actions, 64.03(5)

persons jointly entitled to relief, 5.03(2)

redemption actions, 64.05(3)

relief against, 5.05

sale actions, 64.04(4)

joint and several liability, offers to contribute, 49.12, 49D

jury trials, answers sufficient for judgment, 52.08(2)

mortgage actions, proof by encumbrancer, 64.03(8), (12)–(14), (18), (19), 64.05(9)

• offers to settle, see Offers to Settle

pleadings

affirmative defence, 25.07(4)

condition precedent, 25.06(3)

damages and other relief, 25.06(9)

. . different version of facts, 25.08(1)

• • material facts, 25.06(1)

raising new ground, 25.06(5), (10)

property seized by sheriff in execution, 60.13

· references

contested, 55.03(4)

examination of claims, 55.03(3)

filing, 55.03(2)

· third party, see Third Party Claims

Class Actions, see Class Proceedings

Class Proceedings, see also Volume 2

costs, 12.04

definitions, 12.01

discovery of class members, 12.03

judgments, contents, 12.05(1)

• leave to appeal, 12.06

• notice to Foundation, 12.04(2), (3)

orders, contents, 12.05(1), (2)

representative defendant, 12.07

simplified procedure does not apply, 76.01(1)

• title of proceeding, 12.02

unincorporated association or trade union, 12.08

Commencement of Proceedings, see also Originating Process

• administration proceedings, 65.01(1)

appeals

persons to be served, 61.04(1)

time for appeal, 61.04(1)

application for certificate of appointment of estate trustee, 74.04

applications for judicial review, 68.01

approval of sale, mortgage, lease concerning minor, 67.01

civil submissions online portal, 4.05.2

demand for declaration of authority, 15.02(1)

generally, 14

information for court use, 4.05.1(1)

minor's estates, proceedings concerning,

motions before, 37.17

Commencement of Proceedings (cont'd)
• notice of, 14.01.1

- partition or sale of land, 66.01
- proceedings for judicial review, 68.01
- request for notice of, estates, 74.03
- stay of proceeding commenced without authority, 15.02(4)
- without client's authority, 15.02(3)
- without lawyer's authority, 15.02(2)

Commissioners

- examination out of Ontario, 36.03
- taking evidence before trial, persons out of Ontario, 34.07, 34C

Committal

contempt motions, imprisonment, 60.11(7), 60L

Committees, see Litigation Guardians

Communications by Registrar, 4.12

Communications out of court, 1.09

Compromise, see Offers to Settle; Settlements

Computation of Time, see Time

Conduct Money, see Attendance Money

Confirmation

- appellant's certificate respecting evidence, 61.05(3)
- reports on references, 54.07–54.09
- defendants noted in default, 19.02(3)

Consent

- adding party as plaintiff or applicant, 5.04(3)
- amendment of pleadings, 26.02
- applications, delivery of affidavit after cross-examining, 39.02(2)
- defendant noted in default, 19.02(2)
- consent of plaintiff to step by defendant, 19.02(1)(b), 19.03(2)
- determination of question before trial, admission of evidence, 21.01(2)(a)
- directing reference, 54.02
- discontinuance, 23.01(1)(c)
- effect on subsequent action, 23.04(1)
- examinations out of court, 34.06
- taking evidence before trial, 36.01
- extending or abridging time, 3.02(4)
- joinder of necessary parties, 5.03(5)
- judgment in main action
- notice to third party, 29.06(b)
- parties under disability, 7.08(2)
- litigation guardian agreeing to act, 7.02(2)
- medical examinations, 33.08

- minor over sixteen, approval of settlement, 7.08(4)
- minor's estates, consent of minor, 67.03
- absence of the public, 37.11(1)
- delivering affidavit after crossexamining, 39.02(2)
- reference, consent of referee for motion to judge or case management master, 54.05(1)
- payment out of court, 72.03(1), (4)
- insurer on behalf of party, 72.03(6)
- payment directly to lawyer, 72.03(8)
- pleading subsequent to reply, 25.01(5)
- references, payment out of court, 55.05(3), 55.06(14)
- trials
- appointment of experts, 52.03(1)
- from December 24–January 6, 3.03(1)
- return of exhibits, 52.04(2)
- · withdrawal of admissions, 51.05
- withdrawal of statement of defence, 23.06(1)(a), 51.05

Consolidation of Proceedings

- generally, 6
- proceedings in different courts, s. 107

Constitutional Question

• notice, s. 109; 4.11, 4F

Contempt Orders

- affidavit in support of order, 60.11(3)
- contents of order, 60.11(5)
- corporations in contempt, 60.11(6)
- debtor defeating or defrauding creditors, 60.18(5)
- directions, 60.11(8)
- discharge, 60.11(8)
- enforcement of fines, s. 143(2)
- examination out of court, failure to comply with order, 34.15(2)
- fines, 60.11(5)
- generally, 60.09
- how obtained, 60.11(1)
- imprisonment, 60.11(5)
- injunction or mandatory order, enforcement, 60.05, 60.11
- ordering act to be done by another, 60.11(9), (10)
- service of notice of motion, 60.11(2)
- setting aside, 60.11(8)
- small claims, s. 30
- variation, 60.11(8)
- warrant for arrest, 60.11(4), 60K
- warrant of committal, 60.11(7), 60L
- where available, 60.11(1)

Contempt Orders (cont'd)
• writ of sequestration, 60.11(5), 60B

Contracts

- claims concerning, service outside Ontario, 17.02
- interpretation
- application to determine rights, 14.05(3)(d)
- representation order, 10.01(1)

Contribution

- crossclaim against co-defendant, 28.01(2)
- offers to contribute to settlement, 49.12

Copies

- certified copies of court documents, 4.03
- discovery of documents, 30.10(4)
- documents produced for inspection, 30.04(7)
- minutes of settlement, filing with assessment officer, 57.04
- notice of garnishment, sending to sheriff, 60.08(3)
- entry, 59.05(1), (2)
- filing, 59.05(3)
- filing for writ of seizure and sale, 60.07(1)
- filing in garnishment matters, 60.08(2)
- reasons for decision, filing, 59.02(2)
- report on reference, filing, 54.09(1)

Corporations

- affidavits, 4.06(5)
- contempt, 60.11(6)
- controlled by party, discovery of documents, 30.02(4)
- discovery of documents, subsidiary or affiliate, 30.01(2), 30.02(4)
- examination in aid of execution,
- examination for discovery, 31.03(2), (3)
- lawyer removed from record, 15.04(6), (7)
- personal service, 16.02(1)(c)
- representation, lawyer required, 15.01(2)
- security for costs, 56.01
- service by mail, 16.03(6)

Corrections, see Errors and Omissions

- abandoned appeals, 61.14(3)
- abandoned applications, 38.08
- abandoned motions, 37.09(3)
- abuse of process, motions, 37.16

- actions brought in wrong court, 57.05
- administrative tribunals, proceedings, 68.02(3)
- · admissions
- denial of authenticity, 51.04
- refusal to admit, 51.04
- amendment of pleadings, compensation for prejudice, 26.01
- · appeals
- abandonment, 61.14(3)
- dismissal for delay, 61.13(3)
- dismissal of cross-appeal for delay, 62.13(5)
- failure to proceed with cross-appeal, 61.15(2)
- joined with appeal as of right, 61.03(7), 61.03.1(17)
- sanctions for unnecessary evidence, 61.05(8)
- apportionment of liability, 57.01(1)
- · assessment
- abandoned appeal, application or motion, 58.07
- absence of opposite party, 3.03(2)
- administrative tribunals, proceedings, 68.02(3)
- allowable costs, 58.05(1)
- appeal from administrative tribunal, s. 90(4)
- appeal from assessment, 58.11, 62.01(1)(b)
- application of Rules, transitional provisions, 1.02(4)
- articling student, 58.05(2)
- bill of costs
- failure to respond to notice to deliver, 58.04(4)
- failure to serve, consequences, 58.04(1)
- filing, 58.03(1)
- filing and serving in response to notice to deliver, 58.04(3)
- service, 58.03(2)
- certificate of assessment, 58.09, 58C
- Children's Lawyer, s. 89(4)
- costs not fixed to be assessed, 57.01(3)
- costs of assessment, 58.05(6)
- default judgment, 19.04(6)
- default judgment within monetary jurisdiction of Small Claims Court, 57.05(3)
- directions concerning conduct, 58.05(4)
- directions to assessment officer, 57.02(1), (2), 58.06(2)

- Costs (cont'd)
 • disbursements to be allowed, 58.05(3)
- factors to be considered, 58.06(1), (2)
- fixing costs instead of assessment,
- law clerks' costs, 58.05(2)
- location, 58.02(1)
- notice of appointment, 58.03(1), (2),
- notice to deliver bill of costs, 58.04,
- objections to decision, 58.10(1)
- reasons for decision in writing, 58.10(4)
- reconsideration and review, 58.10(3)
- reply, 58.10(2)
- passing of accounts, 58.08(1), (2)
- payment out of fund or estate, 58.08(2)
- production of books and documents, 58.05(4)
- reconsideration and review, 58.10(3)
- references, 58.02(2)
- • registrar, fixed by, 58.13
- set-off of costs, 58.05(5)
- sheriff's, 58.12
- . . stay pending appeal, effect, 63.03(2)
- student-at-law's costs, 58.05(2)
- trustees, 58.08(1), (2)
- who may assess, 58.02(1), (2)
- withholding certificate, 58.10(1) • •
- · assessment officers
- appointment, s. 90(1)
- jurisdiction to assess, s. 90(3); 58.02
- · certificate of assessment
- appeals from, procedure, 62.01(1)
- enforcement of payment of costs,
- withholding, objections, 58.10
- · class proceedings
- generally, 12.04
- committees, 58.08(1)
- · compensation by costs
- amendment of pleadings, 26.01
- joinder, 5.05
- costs outline, 57.01(6)
- • form, 57B
- counterclaims, 27.09(3)
- effect of dismissal of action for delay, 24.03
- cross-appeal joined with cross-appeal as of right, 61.03(8), 61.03.1(18)

- crossclaims, effect of dismissal of action for delay, 24.04
- cross-examination on affidavit, motion, 39.02(4)
- Crown costs, s. 131(2)
- default judgments, 19.04(6)
- monetary jurisdiction of Small Claims Court, 57.05(3)
- defendant paying claim, 14.10(1)
- where amount claimed excessive, 14.10(2)
- directions to assessment officers, 57.02(1), (2), 58.06(2)
- discontinuance, 23.05
- stay of subsequent action pending payment, 23.04(2)
- discretion of court, factors, 57.01(1)
- dismissal of action for delay, 24.04
- stay of subsequent action pending payment, 24.05(2)
- · enforcement of orders
- costs allowed, 60.19(1)
- costs recoverable under notice of garnishment, 60.19(2)
- costs recoverable under writ of execution, 60.19(2)
- enforcement of payment of costs, 60.02(2)
- examination for discovery of non-party, 31.10(4)
- examinations out of court, improper conduct or adjournment, 34.14(2)
- factors in exercise of court's discretion, 57.01(1)
- fixing, process for, 57.01(7)
- fixing without assessment, 57.01(3)
- · foreclosure actions
- adding subsequent encumbrancers as defendants, 64.03(3)
- redemption by named defendant, 64.03(12)
- forms
- certificate of assessment of costs, 58C
- notice of appointment for assessment of costs, 58A
- notice to deliver a bill of costs for assessment, 58B
- order for security for costs, 56A
- fund or estate, assessment, 58.08(2)
- generally, 56-58
- interest, s. 129(4)
- interim recovery of personal property, condition of security, 44.04
- interpleader, paid out of property or proceeds, 43.04(1)(c)

- Costs (cont'd)
 judicial review proceedings, dismissal for delay, 68.06(3)
- lawyer's liability for costs, 57.07
- declaration of authority to commence proceeding, 15.02(1)
- grounds for making order, 57.07(1)
- notice to client, 57.07(3)
- procedure, 57.07(2), (3)
- proceeding commenced without client's authority, 15.02(3)
- representation by lawyer on issue, 57.07(2)
- litigation guardian
- liability for costs, 7.02(2)(f)
- recovery by, 57.06
- mortgage references, assessed by referee, 64.06(3)
- motions
- abandoned motions, 37.09(3)
- contested motions, 57.03(1)
- cross-examination on affidavit, 39.02(4)
- determining issues before trial, 21.02
- examinations out of court, improper conduct or adjournments, 34.14(2)
- order that person do an act, 60.11(9)
- proposal for settling motion, 49.02(2)
- without notice, 57.03(3)
- offer to contribute, multiple defendants, 49.12(2)
- offer to settle, 49.07(5)
- defendant's, 49.10(2)
- general discretion of court, 49.13
- multiple defendants, 49.11
- plaintiff's, 49.10(1)
- partial indemnity, 1.03
- cross-examination on affidavit or motion, 39.02(4)
- parts of proceeding or particular issues, 57.01(4)
- passing of accounts, 58.08(1), (2)
- estates, Tariff C
- payment of costs incurred by successful defendant, 57
- payment out of court, 72.03(8)
- party under disability, 72.03(13)
- payment out of fund or estate, 58.08(2)
- payment to be to person entitled, 59.03(6)
- payment to lawyer directly, 72.03(8)
- power of court, s. 131(1)
- pre-trial conferences, 50.12
- recovery within monetary jurisdiction of Small Claims Court, 57.05(1)

- recovery without order awarding costs, 60.02(2)
- · redemption action
- • liability of defendant, 64.05(10)
- order for dismissal, 64.05(6)
- references
- assessment, 58.02(2)
- parties represented by separate lawyers, 55.02(9)
- requisition for default judgment, 19.04(2)(e)
- sale action
- application of purchase money, 64.04(13)
- redemption by named defendant, 64.04(9)
- · security for costs
- amount and form, 56.04
- appeals, 61.06
- declaration of plaintiff's place of residence, 56.02
- default by plaintiff in giving security, 56.06
- effect of order, 56.05
- form of order, 56.05, 56A
- . . general discretion of court, 56.09
- generally, 56
- grounds for making order, 56.01, 56.09
- motion for security, 56.03
- notice of compliance with order,
- Official Guardian, s. 89(5)
- payment out of court, 72.03(4)
- request for sale by encumbrancer, 64.03(18)–(21)
- sureties, sufficiency, s. 115
- time for furnishing security, 56.04
- variation of amount, 56.07
- set-off, 58.05(5)
- settlements, 57.04
- simplified procedure, see Simplified Procedure
- substantial indemnity, 1.03, 57.01(4)
- offers to settle, 49.10
- Solicitors Act assessment, p. 1405
- summary judgment
- party acting in bad faith, 20.06(b)
- where motion fails, 20.06(a)
- successful party ordered to pay, 57.01(2)
- · summary judgment
- party acting in bad faith, 20.06(b)
- where motion fails, 20.06(a)
- third parties

- Costs (cont'd)

 effect of dismissal of action for delay, 24.04
- trustees, 58.08(1), (2)
- witness who fails to attend, 53.04(8)

Counterclaims, see also Pleadings

- · amending defence to add
- against person not already party, 27.07(2)
- against persons already parties only, 27.07(1)
- response, 27.07
- amendment of pleadings, service, 26.04(1), (2)
- by defendant to counterclaim, 27.10
- by defendant to crossclaim, 27.10
- by third party, 27.10
- commencement
- against non-party, 27.03
- against persons already parties, 14.01(2)
- costs on disposition, 27.09(3)
- crossclaims between defendants, 28.11
- default proceedings, 19.09
- defendant not party to main action,
- discontinuance of main action, 23.02
- · dismissal
- failure to attend, 52.01(2)
- for delay, 24.03, 24.06
- disposition
- claim in main action not disputed, 27.09(1)
- counterclaim not disputed, 27.09(2)
- successful claim and counterclaim, 27.09(3)
- estate proceedings, 75.07
- counterclaim (against parties to main action only), 27A
- counterclaim (against person not already party to main action), 27B
- defence to counterclaim, 27C
- reply to defence to counterclaim, 27D
- generally, 27
- joining defendants to counterclaim,
- litigation guardian, 7.03(3)
- · non-party to main action, against
- defined as originating process, 1.03
- issuing, 27.03
- title of proceeding, 27.03(b)
- · order to assert claim by way of counterclaim, 6.01(1)

- pleadings, 25.01(2)
- service, 25.03(1)
- service on added parties, 25.03(2)
- time for delivery, 25.04(3), (4)
- reply and defence to counterclaim, 27.05(2)
- service, 27.04(2)
- defendant noted in default, 19.02(3)(b)
- outside Ontario, 17.02(q)
- personal service, 27.04(3)
- third party claims, 29.02(2)
- setting down for trial, 48.01
- simplified proceeding, see Simplified Procedure
- statement of defence and counterclaim, $27.02,\ 27A,\ 27B$
- summary judgments, 20.09
- • stay of execution, 20.08
- third party claim by defendant, 29.13
- time for delivery
- all parties parties to main action, 27.04(1)
- new party brought in, 27.04(2)
- time for delivery of defence
- defendant not party to main action, 27.05(3)
- party to main action, 25.05(1)
- time for delivery of reply to defence, 27.06
- time for delivery of statement of defence, 18.02(3)(a)
- title, 27.02, 27.03(6)
- trial
- • main action, 27.08(1)
- separate trial or separate action, 27.08(2)
- · where available
- • against plaintiff, 27.01(1)
- against plaintiff and others, 27.01(2)
- withdrawal by defendant, 23.07

County

- definition, 1.03
- place of hearing motions, 37.03

Court Files

- motions, file not to be before judge or case management master, 37.10(1)
- number on documents, 4.02(1), (3)
- orders, filing copy, 59.05
- place of filing documents, 4.05(2)
- reasons to be filed, 59.02(2)

Court of Appeal, see also Appeals

- application of rules of court, 1.02(1)
- Associate Chief Justice of Ontario

Court of Appeal (cont'd)
• • absence, s. 5(3)

member of Court of Appeal, s. 3(1)

· combining appeals from other courts, s.

· Chief Justice of Ontario

absence, s. 5(2)

• • member of Court of Appeal, s. 3(1)

powers and duties, s. 5(1)

composition

hearings, s. 7(1)

• • motions, s. 7(2)–(4)

• entry of orders, 59.05(4)

intervention of person in proceeding, 13.03(2)

judges

• • additional judges, s. 3(3)

assignment of judges from Superior Court of Justice, s. 4

number, s. 3(1)(c), 3(2)

supernumerary judges, s. 3(4)

• jurisdiction, ss. 2, 6(1)

motion to set aside, vary or amend order, 37.14(6)

motions for leave to appeal, 61.03.1

practice directions, 1.07, see also Index to Practice Directions, Guides, and Notices

references

appointment of counsel, s. 8(6)

Attorney General submissions, s. 8(3), (4)

generally, s. 8(1), (2), (7)

• • notice to persons interested, s. 8(5)

Registrar

dismissal for delay, 61.13

automatic, 61.13.0.1

• • signing orders, 59.04

• special case, 22.03(1), (2), 22.05

transfer of appeals, s. 6(3)

Court Reporters

fees, assessment of costs, 58.05(1)

notice when evidence on appeal transcribed, 61.05(7)

Courts

· administration

chief or regional senior judge's powers, s. 76

disposition of court fees, s. 94

generally, s. 71

· bilingual proceedings

appeals, s. 126(7)

corporations, partnerships, s. 126(8)

documents, s. 126(1), 4.02.1

evidence and submissions, s. 126(4)

process, s. 126

prosecutions, s. 126(6)

regulations, s. 126(9)

right to require, s. 126(4)

rules applicable to, s. 126(4)

translation, s. 126(2)

· common law, administration, s. 96

consolidation of proceedings, s. 107

Court of Appeal, see Court of Appeal

• declaratory relief, s. 97

• definition, 1.03

destruction of documents, s. 79

· Divisional Court, see Divisional Court

• equity, administration, s. 96

• federal court jurisdiction, s. 148

judicial regions, s. 74

jurisdiction

associate judge, 37.02(2)

judges, motions, 37.02(1)

Superior Court of Justice, application, 14.05(2)

references, 54.03

• money paid into court, s. 88

· offices

transaction of business in office, 4.05(1), (4)

• official languages, s. 125

Ontario Court of Justice, see Ontario Court of Justice

· Ontario Courts Advisory Council

• • composition, s. 72(1), (2)

mandate, s. 72(3)

· Ontario Courts Management Advisory

• • composition, s. 73(1), (2)

presiding officers, s. 73(3)

payment into and out of court, see Payment Into Court; Payment Out of

public access, s. 135

references to former names of courts, s. 1.1

Regional Courts Management Advisory Committee, s. 75

relief against penalties, s. 98

seals, s. 147

Small Claims Court, see Small Claims Court

special case, hearing of, 22.05

Superior Court of Justice, see Superior Court of Justice

vesting orders, s. 100

Creditors

- adding as parties to estate or trust proceeding, 9.01(4)
- advertising, directions on references, 55.03(1)
- commencing proceedings for administration, 65.01(1)
- definition, enforcement of orders, 60.01
- definition, examination in aid of execution, 60.18(1)
- forms
- • notice to creditor, 55E
- name and address on writ of seizure and sale, 60.07(12), (12.1)
- notice admitting or disputing claims, property seized by sheriff, 60.13
- references, order for payment out of money, 55.05(5)
- sale of property seized under writ, 60.07(23), (24)

Crossclaims

- agreement preventing claim invalid, s. 113
- amending defence to add, 28.03
- · amendment of pleadings
- • parties to be served, 26.04(1)
- • proof of service, 26.04(2)
- between defendants to counterclaim, 28.11
- between third parties, 28.11
- commencement, 14.01(2)
- contribution from co-defendant, 28.01(2)
- costs, discontinuance of main action, 23.05
- counterclaim by defendant, 27.10
- default of defence, 28.07
- default proceedings, 19.09
- defence, 28.05(1), (2), 28.06(1), 28B
- • effect of default, 28.07
- • plaintiff's claim against co-defendant, 28.06(1)(b), (3)
- • requirement for, 28.05(2)
- • time for delivery, 28.05(1)
- · discontinuance of main action, 23.03
- • costs, 23.05
- dismissal for delay, 24.04, 24.06
- failure to defend against plaintiff, 28.06(5)
- forms
- • crossclaim, 28A
- • defence to crossclaim, 28B
- reply to defence to crossclaim, 28C
- generally, 28
- pleadings, 25.01(3)

- • service, 25.03(1)
- • service on added parties, 25.03(2)
- • time for delivery, 25.04(5)
- prejudice or delay to plaintiff, 28.10
- reply to defence to crossclaim, 28.08, 28C
- reply to defence to plaintiff's claim, 28.06(4)
- service
- defendant noted in default, 19.02(3)(c)
- • third party claims, 29.02(2)
- service outside Ontario, 17.01, 17.02(q)
- setting down for trial, 48.01
- simplified procedure, *see* Simplified Procedure
- statement of defence and crossclaim, 28.02, 28A
- • personal service, 28.04(2)
- • time for delivery, 28.04(1)
- summary judgment, 20.09
- • stay of execution, pending, 20.08
- third party claim by defendant, 29.13
- third party defence, 29.06
- title, 28.02
- trial, 28.09
- where available, 28.01
- withdrawal by defendant, 23.07
- withdrawal of statement of defence, 23.06(1)

Cross-Examinations

- affidavits, on
- • applications and motions, 39.02
- • simplified procedure, 76.05
- • failure to deliver notice of appearance, 38.09(2)
- • procedure, 34, 39.02
- • taking of accounts, references, 55.04(5)
- discovery, affidavit of documents, 30.06
- trials
- • adverse party as witness, 53.07(3)
- • experts, 52.03(10)
- • officers, directors or sole proprietors of adverse party, 53.07(3)
- • partners of partnership, adverse party, 53.07(3)
- • summary judgments, 20.05(2)
- • witnesses, 53.01(1)
- witness on pending application or motion, 39.03(2)
- witness, taking evidence before trial, 36.02

Crown

- claims for debts, service outside Ontario, 17.02(r)
- federal, personal service, 16.02(1)(f)
- provincial, personal service, 16.02(1)(g)
- service on, 16.03(7)

D

Damages

- advance payments, s. 120
- amount deemed in issue, 25.07(6)
- appeal, power of court on, s. 119
- · assessment
- • jury notice, 47.01
- • time for assessment, s. 117
- claims for, service outside Ontario, 17.02
- crossclaims, 28.01(1)
- foreign currency conversion, s. 121
- · future pecuniary
- • discount rate, 53.09(1)
- • gross-up, 53.09(2)
- future review of award, s. 116(4)
- in substitution for other relief, s. 99
- income tax liability, offsetting, s. 116(5)
- interim recovery of personal property, condition of security, 44.04
- interlocutory injunctions, undertaking concerning damages, 40.03
- jury, guidance to, s. 118
- mandatory orders, undertaking concerning damages, 40.03
- medical malpractice actions, s. 116.1
- periodic payment, ss. 116, 116.1
- pleadings, 25.06(9), 25.07(6)
- prejudgment interest rate for nonpecuniary damages, 53.10
- pre-trial conference, estimating, 50.06
- release from plaintiff, s. 120(2)
- review of award, s. 116
- set-off of debts, s. 111
- third party claims, 29.01
- undertaking
- • interlocutory injunction, 40.03
- • stop orders, 72.05(2)
- unliquidated, defendant noted in default, 19.05

Deaf Persons

- interpreters
- • examinations out of court, 34.09(1)
- • trials, 53.01(5)

Death, see also Estates; Wills and Codicils

- order to continue where party dies, 11.01–11.03
- proceeding by or against estate, 9.01, 9.02
- proceeding improperly constituted, remedial provisions, 9.03

De Bene Esse, *see* Evidence; Examinations Out of Court

Debtors

- amendment of writ to change name, 60.07(10)
- costs, motion to reduce sheriff's fees, 58.12(4), (5)
- defeating or defrauding creditors, 60.18(5)
- enforcement of orders, 60.01
- examinations in aid of execution, 60.18

Debts

- default judgment, 19.04(1)
- form, default judgment, 19A
- garnishee paying debt attached by notice, 60.08(13), (14)
- interest, administration proceedings, 65.02(2)
- joinder of assignor, 5.03(3)
- mortgages
- •• joinder of claim in foreclosure action, 64.03(5)
- • joinder of claim in sale action, 64.04(4)
- mutual debts, s. 111(2)
- recovery by garnishment, 60.08
- set-off, s. 111

Declarations

- ancillary to relief claimed, 14.05(3)(g)
- authority to commence proceeding, 15.02
- claim of invalid marriage, defendant noted in default, 19.05
- interest in or charge on land, 14.05(3)(e)
- interpleader, 43.04(1)
- plaintiff's place of residence, 56.02

Deeds, Wills, Instruments, see also Wills and Codicils

- application to determine rights, 14.05(3)(d)
- claims concerning, service outside Ontario, 17.02
- commencing proceeding for administration, 65.01(1)
- contesting will, joining beneficiaries, 9.01(2)

- Deeds, Wills, Instruments (cont'd)

 delivery up where property redeemed, 64.06(19)
- failure to execute or deliver, references, 55.02(17)
- interest, administration proceedings, 65.02(2)
- interpretation, application to determine rights, 14.05(3)
- representation orders, 10.01(1)

Deemed Undertaking

- application of Rule, 30.1, 30.1.01(1), (2)
- defined, 30.1.01(3)
- exceptions
- • consent to use, 30.1.01(4)
- • filing or use in court, 30.1.01(5)
- • impeachment, 30.1.01(6)
- • subsequent action, 30.1.01(7)
- order that undertaking does not apply, 30.1.01(8)

Default Proceedings

- claim partially satisfied, 19.04(4)
- costs, 19.04(6)
- counterclaims, crossclaims, third party claims, 19.09
- deemed service under, 16.01(2), 19.01(1)
- failure to note defendant in default, 24.01(1)(b)
- forms
- • default judgment
- • debt or liquidated demand, 19A
- • foreclosure with a reference, 64B
- • foreclosure without a reference, 64D
- • immediate foreclosure, 64C
- • immediate sale, 64J
- ••• immediate sale (action converted from foreclosure to sale), 64H
- ••• recovery of possession of land, 19B
- ••• recovery of possession of personal property, 19C
- • redemption, 64M
- ••• requisition for default judgment, 19D
- • sale conditional on proof of claim (action converted from foreclosure to sale), 64I
- ••• sale with a redemption period, 64K
- • sale with a redemption period (action converted from foreclosure to sale), 64G
- generally, 19
- judgments

- • conversion from foreclosure to sale, 64.03(17), (18)
- • costs consequences, within jurisdiction of Small Claims Court, 57.05(3)
- effect, 19.07
- • foreclosure actions, 64.03(9)–(11)
- • redemption actions, 64.05(4), (5)
- • reference directed, mortgage action, 64.02
- sale actions, 64.04(8)
- • third party defence, effect, 29.06(b)
- motion for judgment, 19.05
- • at trial, 19.05(4)
- • deemed admissions, 19.06
- · noting default
- • by co-defendant, 19.01(3)
- • close of pleadings, 25.05
- • consequences, 19.01(1), 19.02(2), 19.06
- • defence struck out, 19.01(2)
- • defendant to crossclaim, 28.07
- delivery of statement of defence and crossclaim, 28.04
- • dismissal of action for delay, 24.01(1)(b)
- • electronically, 19.01(1.1)
- • examination for discovery, initiating, 31.04(2)
- • fourth and subsequent party claims, 29.11(2)
- • issuance of counterclaim, 27.03(a)
- •• issuance of third party claim, 29.02(1)
- • late delivery of defence, 19.01(5)
- • no defence delivered, 19.01(1)
- • party under disability, 7.07, 19.01(4)
- request for sale, 64.03(17), (18)
- • request to redeem, foreclosure action, 64.03(6)
- • request to redeem, sale action, 64.04(5)
- • service of amended pleading on party, 26.04(3)(b)
- service of subsequent documents, 19.02(3)
- • service or delivery of counterclaim, 27.04
- • statement of defence struck out, 20.05(5)
- • third party, 29.07
- postjudgment interest, 19.04(5)
- registrar declining to sign, 19.04(3)
- requisition for default judgment, 19.04(2), 19D

Default Proceedings (cont'd)
• setting aside consequences of default, document not reaching person served,

• setting aside judgment, 19.08(1)

notice of default, 19.08(3)

obtained after trial, 19.08(2)

obtained at trial, 19.08(2)

obtained on motion, 19.08(2)

setting aside noting of default, 19.03, 19.08(3)

• signing judgment, 19.04(1)

• varying judgment, 19.08(1)

• where trial required, 19.05(3)

• withdrawal of defence, 23.06(2)

Defences

• affirmative, pleading, 25.07(4)

• counterclaims, 25.01(2)

delivery with reply in main action, 27.05(2)

reply, 25.01(2)

time for delivery, 25.04(3), 27.05(1)

time for delivery of reply, 27.06

• crossclaims, 25.03(1), 28.06(1)

default, 28.07

failure to defend against plaintiff, 28.06(5)

plaintiff's claim against co-defendant, 28.06(1)

reply, 25.01(3), 28.08

requirement for, 28.05(2)

time for delivery, 25.04(5), 28.05

· forms

defence to counterclaim, 27C

defence to crossclaim, 28B

reply to defence to counterclaim, 27D

. . reply to defence to crossclaim, 28C

reply to third party defence, 29C

statement of defence, 18A

third party defence, 29B

• none disclosed, 21.01(1)

notice of intent to defend

failure to deliver, 27.04(3), 28.04(2), 29.11(2)

partnerships, in firm name, 8.02

pleadings

admissions, 25.07(1), (2)

affirmative defences, 25.07(4)

amount of damages, 25.07(6)

• • conditions precedent, 25.06(3)

. . denials, 25.07(2)

different version of facts, 27.05(3)

material facts, 25.06(1)

raising new ground, 25.06(10)

• • reply, 25.08, 25.09

• striking out, 25.11

examinations, default or misconduct, 35.04(4)

failure to comply with interlocutory orders, 60.12

failure to pay costs of motion, 57.03(2)

failure to provide names and addresses of partners, 8.05(2)

· third party claims

defence of main action by third party, 29.05

• third party defences, 29.03

• • effect, 29.06

reply, 29.04

• • time for delivery, 25.04(6)

Defendants, see also Parties

• adding on references, 55.02(5)

claims for contribution from co-defendant, 28.01(2)

• close of pleadings, 25.05

· counterclaims

amending defence to add, 27.07

application to counterclaims, crossclaims, third party claims, 27.10

crossclaims between defendants, 28.11

defendant not party to main action,

disposition, 27.09

joinder of defendants to counterclaim, 27.01(2)

reply and defence to counterclaim, 27.05(3)

service, 27.04(2), (3)

third party claim, 29.13

time for delivery of defence, 27.05(1), (3)

time for delivery or service, 27.04

• • where available, 27.01(1)

· crossclaims

amending defence to add, 28.03

application to counterclaims, third party claims, 28.11

counterclaims, 27.10

default of defence, 28.07

. . defence, 28.06

time for delivery, 28.05

failure to defend against plaintiff, 28.06(5)

prejudice or delay to plaintiff, 28.10

reply to defence, 28.08

- Defendants (cont'd)

 statement of defence and crossclaim, 28.02, 28.04, 28A
- third party claim, 29.13
- third party defence, effect, 29.06(c)
- trial, 28.09
- where available, 28.01
- deemed noted in default, 20.05(7)
- definition, s. 1; 1.03
- different capacities in same proceeding, 5.01(2), (3)
- · discontinuance
- counterclaim, effect, 23.02
- crossclaim or third party claim, effect, 23.03
- entitlement to costs, 23.05
- notice, 23.01
- · dismissal of action for delay
- counterclaim, crossclaim, third party claim, 24.06
- counterclaim, effect, 24.03
- crossclaim or third party claim, effect, 24.04
- subsequent action, effect, 24.05
- where available, 24.01
- examinations for discovery, 31.04(2)
- failure to attend at trial, 52.01
- failure to note defendant in default,
- foreclosure actions, 64.03(1)–(3)
- default judgment, 64.03(9)–(11)
- final order of foreclosure, 64.03(15),
- redemption by named defendant, 64.03(12)
- request to redeem, 64.03(6)-(8)
- subsequent encumbrancers, 64.03(2),
- transfer of carriage of sale, 64.03(25)
- notice of reference to original defendants, 64Q
- joinder, 5.02(2)
- mortgage references
- adding parties other than encumbrancers, 64.06(11)
- adding subsequent encumbrancers, 64.06(4), (6)
- duties and powers of referee to add, 64.06(3)
- notice of reference to original defendants, 64.06(8)–(10), 64P
- notice to subsequent encumbrancer named as original party, 64.06(7),

- redemption payments by more than one defendant, 64.06(13), (14)
- motions to stay or dismiss before trial, 21.01(3)
- multiple
- offer to contribute, 49.12, 49D
- offer to settle, 49.11
- noting default, consequences, 19.02
- offers to settle
- cost consequences, 49.10
- where right of contribution or indemnity may exist, 49.11
- · redemption actions
- final order of foreclosure, 64.05(6)
- judgment, 64.05(4), (5)
- liability for costs, 64.05(10)
- persons to be joined, 64.05(1), (2)
- request for sale, conversion from foreclosure to sale, 64.03(17), 64F
- representative, 12.07
- sale actions, 64.04(1)
- default judgment, 64.04(8)
- order for payment of deficiency on sale, 64.04(14)
- redemption by named defendant, 64.04(9)
- request to redeem, 64.04(5)-(7), 64A
- · third party claims
- application to counterclaim, crossclaim, 29.13
- counterclaim, 27.10
- crossclaim, 28.11
- default of third party, effect, 29.07
- defence, 29.03, 29.06
- defence of main action by third party,
- directions, 29.10
- fourth or subsequent party claims, 29.11, 29.12
- prejudice or delay to plaintiff, 29.09
- where available, 29.01
- · withdrawal
- deemed default, 23.06(2)
- statement of defence, 23.06(1), 51.05

Definitions

- accountant, 72.01
- Act. 12.01
- action, s. 1; 1.03
- affiliated corporation, 30.01(2)
- appellant, 1.03
- appellate court, 1.03
- applicant, 1.03
- application, s. 1; 1.03
- authenticity, 51.01

Definitions (cont'd)
• bank rate, s. 127(1)

certificate of appointment of estate trustee, 1.03

Chief Judge, s. 123(1)

county, 1.03

court, 1.03

creditor, 60.01, 60.18(1)

date of order, s. 127(1)

debtor, 60.01, 60.18(1)

defence, 24.1.03

defendant, s. 1; 1.03, 49.01

deliver, 1.03

designated party, 75.1.03, 75.2.02

disability, 1.03

discovery, 1.03

document, 1.03, 30.01(1), 31.01, 33.04(1), 34.10(1)

electronic, 1.03

estate trustee, 74.01

expression, s. 137.1(2)

Foundation, 12.01

Fund, 12.01

future care costs, s. 116.1(13)

generally, 1.03

health practitioner, s. 105(1)

hearing, s. 1; 1.03

holiday, 1.03

judge, 1.03

judgment, 1.03

labour dispute, s. 102(1)

lawyer's office, 1.03

list, 75.1.03

mediation co-ordinator, 24.1.03, 75.1.03

medical malpractice action, s. 116.1(13)

motion, s. 1; 1.03

moving party, 1.03

objection to issuing of certificate of appointment, 74.01

order, s. 1; 1.03

originating process, 1.03, 17.01

partial indemnity costs, 1.03

party, 36.01(1)

person, 1.03

plaintiff, s. 1; 1.03, 49.01

postjudgment interest rate, s. 127(1)

power, over document, 30.01(1), 33.04(1), 34.10(1)

prejudgment interest rate, s. 127(1)

proceeding, 1.03

property, 43.01

quarter, s. 127(1)

receiver, 41.01

• referee, 1.03

registrar, 1.03, 61.02

respondent, 1.03

• responding party, 1.03

• spouse, 53(5)

statute, 1.03

subsequent encumbrancer, 64.01

• subsidiary corporation, 30.01(2)

• substantial indemnity costs, 1.03

will, 1.03

Delivery

• definition, 1.03

documents, extending or abridging time, 3.02(1), (4)

· enforcement of orders for delivery

• • personal property, 60.04, 60B, 60D

possession of land, 60.03, 60.10, 60C

Demand for Particulars, see Particulars

Deponents

• blind persons, 4.06(7)

• contents of affidavits, 4.06(2)

applications, 39.01(5)

motions, 39.01(4)

• cross-examination on affidavit, 39.02

illiterate persons, 4.06(7)

members or employees of partnerships, 4.06(6)

officers, directors, employees of corporations, 4.06(5)

persons not understanding language, 4.06(8)

service of notice of examination, examinations out of court, 34.04(3)

• two or more, 4.06(4)

unavailability at trial, 31.11(6)

using evidence from discovery to impeach, 31.11(2)

Determination of an Issue Before Trial

admissibility of evidence, 21.01(2)

availability, 21.01(3)

• factums, 21.03

• failure to make motion promptly, 21.02

generally, 21

Directions

· applications

assessment of costs, 57.02

. . conduct of assessment, 58.05(4)

estate proceedings, 75.06

officer to give effect to directions, 58.06(2)

proceeding to trial, 38.10

• assessment officer, 57.02(1), (2)

- Directions (cont'd)
 contempt orders, 60.11(8)
- enforcement of writ of seizure and sale, 60.07(12), 60F
- examinations out of court (oral), 34.14(1)
- final order of foreclosure, redemption action, 64.05(7)
- mortgage references
- powers of referee, 64.06(3)
- redemption payments by more than one defendant, 64.06(14)
- request by registrar, 64.06(20)
- motions
- complicated issues or series of proceedings, 37.15
- enforcement of orders by sheriff, 60.17
- estate proceedings, 75.06
- request by sheriff, interim recovery of personal property, 44.07(3)
- payment into court, 72.02(2)-(5)
- payment of money, 55.05
- power of court to give directions, 1.05
- receivers, 41.05
- references
- admission proceedings, 65.02(1)
- conduct of sales, 55.06(4)
- failure to execute or deliver instrument, 55.02(17)
- formal form of order not required,
- inspection of documents, 55.02(15)
- motion where referee unable to continue, 54.10
- notice of hearing for directions, 19.02(3)(e), 55.02(2), 55A
- order directing, 54.04(1)
- procedure on conduct of reference, 55.01(1), 55.02(3)
- referee to note in procedure book, 55.02(11)
- variation or supplementation permitted, 55.02(4)
- removal of special case into Court of Appeal, 22.03(2)
- rules governing appeal books and transcripts, 61.09(4)
- third party claims, 29.10
- two or more proceedings pending in court, 6.01(2)

Directors

- adverse parties, securing attendance at trial, 53.07(1), (2)
- corporations
- affidavits, 4.06(5)

- examinations in aid of execution,
- examinations for discovery, 31.03(2)

Discharge

- certificate of pending litigation, 42.02
- contempt orders, 60.11(8)
- debts, garnishee paying debt attached by notice, 60.08(13), (14)
- mortgages held by the accountant, 72.04
- receivers, 41.06
- writ of sequestration, 60.09(4)

Disclosure

- documents, see also Discovery, documents
- generally, 30
- identity of persons having knowledge on discovery, 31.06(2)
- motions or applications without notice,
- names and addresses of partners, 8.05
- offers to settle, in pleadings, 49.06(1)

Discontinuance

- after close of pleadings, 23.01(1)(b)
- before close of pleadings, 23.01(1)(a)
- costs, 23.05
- counterclaims, main action dismissed for delay, 24.03
- effect on counterclaim, 23.02
- effect on crossclaim, third party claim, 23.03(1)
- effect on subsequent action, 23.03(2), 23.04(1)
- stay pending payment of costs, 23.04(2)
- · forms
- notice of discontinuance, 23A
- notice of election to proceed with counterclaim, 23B
- generally, 23
- where party under disability, 7.07.1, 23.01(2)
- with consent of all parties, 23.01(1)(c)

Discovery

- class proceedings, 12.03
- crossclaims
- defending plaintiff's claim against co-defendant, 28.06(3)
- third party defence, effect, 29.06
- deemed undertaking, see Deemed Undertaking
- defence of main action by third party, 29.05(2)
- definition, 1.03
- documents

date, time and place, 30.04(3) Discovery (cont'd)
• affidavit of documents, 30.03
• • contents, 30.03(2), (3) . . . in affidavits, 30.04(2) in originating process, 30.04(2) contents, 30.03(2), (3) correcting errors and omissions, 30.07 in pleadings, 30.04(2) right to inspect non-privileged documents, 30.04(1) failure to disclose, 30.08(1) failure to serve, 30.08(2) scope of discovery, 30.02 supplementary affidavit of documents, 30.07 • • • omissions, 30.06 lawyer's certificate, 30.03(4) privilege improperly claimed, 30.06 failure to disclose, 30.08(1) examination, see Examination for Discovery service, 30.03(1) simplified procedure, 76.04 forms supplementary, 30.07 affidavit of documents (corporation or partnership), 30B copying, 30.04(7) affidavit of documents (individual), definitions, 30.01 affiliated corporation, 30.01(2) request to inspect documents, 30C document, 30.01(1) • inspection of property subsidiary corporation, 30.01(2) conducting tests or experiments, deposit for safe keeping, 30.11 32.01(2)(c)disclosure, 30.02(1) contents of order for inspection, . . . additional documents, 30.07 32.01(3) affidavit of documents, 30.03 entry authorized, 32.01(2)(a) extent of order for inspection, 32.01(2) documents held by corporation, failure to disclose, 30.08(1) generally, 32 insurance policies, 30.02(3) . . making observations, 32.01(2)(c) . . . leave to withhold, 30.04(8) measuring, 32.01(2)(b) not admission of admissibility or relevance, 30.05 . . notice of inspection, 32.01(4) photographing, 32.01(2) failure to comply with order, 30.08(2) . . surveying, 32.01(2) generally, 30 taking samples, 32.01(2) . . order for production, 30.04(5) • • taking temporary possession, 32.01(2) privilege, determining claim, 30.04(6) privileged documents, use at trial, 30.09 · medical examinations failure to comply with order, 33.07 produced at examination, 30.04(4) generally, 33 production for inspection, 30.02(2) motion for examination, 33.01 copying, 30.04(7) . . on consent, 33.08 examination for discovery, 30.04(4) order, 33.02 penalty for non-compliance with order, 33.07 examinations out of court, 34.10(2) examinations out of court, sanctions, 34.15 preparation of report, 33.06 providing information, 33.04 failure to produce, 30.08(1), (2) scope, 33.03 from non-parties, 30.10 . . service of, 33.06(2) insurance policies, 30.02(3)

• •

leave to withhold, 30.04(8)

• • production from non-parties, 30.10

request to inspect documents,

order, 30.04(5)

30.04(1), 300

not admission of admissibility or relevance, 30.05

who may attend, 33.05

court-imposed, 29.1.05(2)

failure to agree to plan, 29.1.05(1)

duty to update, 29.1.04

requirement, 29.1.03

• proportionality in, 29.2

• plan, 29.1

Discovery (cont'd)

- summary judgment, order to proceed to trial, 20.05(3)
- third party defence, effect, 29.06
- withholding disclosure or production, 30.04(8)

Dismissal

- actions, see also Actions; Dismissal for Delay
- defendant paying claim, 14.10
- examination, failure to answer, 34.15(1), 35.04(4)
- failure to declare plaintiff's place of residence, 56.02
- failure to provide security for costs,
- jury trials, 52.08(1)
- · appeals, for delay
- election to proceed with cross-appeal, 61.15
- motion by respondent, 61.13(1)
- notice by Registrar, 61.13(2)
- order by Registrar, 61.13(3)
- applications, 38.10(1)
- applications, notice not served, 38.06(2)
- approval of order not required, 59.03(2)
- claims, failure to provide names and addresses of partners, 8.05(2)
- costs, dismissal for want of jurisdiction, 57.05(4)
- costs of motion, failure to pay, 57.03(2)
- counterclaim, failure to attend at trial,
- cross-appeal, for delay, 61.13(4), (5)
- crossclaim or third party claim, main action discontinued, 23.03, 23.05
- delay, see Dismissal for Delay
- determination of issue before trial, 21.01(3)
- discovery, failure to provide medical information, 33.07
- estate, proceeding not properly constituted, 9.03(6)
- examinations out of court, default or misconduct, 34.15
- forms
- order dismissing appeal for delay, 61I
- order dismissing motion for delay,
- interlocutory order not complied with, 60.12
- leave to appeal, motion for, 61.13(6), (7), (8)
- motion for summary judgment, 20.01(3)
- motions, 37.13(1)

- approval of order not required, 59.03(2)
- notice not served, 37.07(5)
- proceeding commenced without client's authority, 15.02(3)
- proceeding commenced without lawyer's authority, 15.02(2)
- redemption actions, 64.05(6)
- successful claim and counterclaim, 27.09(3)
- want of prosecution, see Dismissal for Delay

Dismissal for Delay

- availability, 24.01
- class proceedings and commercial list actions, 48.14(1.1)
- cross-appeal, 61.13(4), (5)
- crossclaim or third party claim, effect on, 24.04(1)
- counterclaim, effect on, 24.03
- counterclaims, crossclaims, third party claims, 24.06
- generally, 24, 48.14
- judicial review, 68.06, 68.07
- leave to appeal, motion for, 61.13(6), (7), (8)
- order to continue not obtained, 11.03
- party under disability, 48.14(8), 61.13.0.1(2)
- plaintiff under disability, 24.02
- registrar's order, 48.14(1), (1.2), (2),
- setting aside, 48.14(10)
- status hearing, disposition, 48.14(7)
- subsequent action, effect on, 24.04(2), 24.05
- timetable, 24.04(2), 48.14(4)

Disposition Without Trial

- default proceedings, see Default Proceedings
- determination of issue before trial
- admissibility of evidence, 21.01(2)
- availability, 21.01
- factums, 21.03
- failure to make motion properly, 21.02
- generally, 21
- · discontinuance
- after close of pleadings, 23.01(1)
- before close of pleadings, 23.01(1)
- • consent of all parties, 23.01(1)
- . . costs, 23.05
- counterclaim, effect on, 23.02
- crossclaim or third party claim, effect

Disposition Without Trial (cont'd)
• • generally, 23

- party under disability, 23.01(2)
- subsequent action, effect on, 23.04
- · dismissal for delay
- availability, 24.01
- counterclaim, effect on, 24.03
- counterclaims, crossclaims, third party claims, 24.06
- crossclaim or third party claim, effect on, 24.04
- generally, 24
- plaintiff under disability, 24.02
- subsequent action, effect on, 24.05
- · dismissal of action where claim paid,
- forms
- default judgment
- debt or liquidated demand, 19A
- foreclosure with a reference, 64B
- foreclosure without a reference,
- immediate foreclosure, 64C
- immediate sale, 64J
- immediate sale (action converted from foreclosure to sale), 64H
- recovery of possession of land, 19B
- recovery of possession of personal property, 19C
- redemption, 64M
- sale conditional on proof of claim (action converted from foreclosure to sale), 64I
- sale with a redemption period, 64K
- sale with a redemption period (action converted from foreclosure to sale), 64G
- notice of discontinuance, 23A
- notice of election to proceed with counterclaim, 23B
- notice of withdrawal of defence, 23C
- requisition for default judgment, 19D
- • special case, 22A
- generally, 19-24
- special case
- determination by judge, 22.01(2)
- factums, 22.02
- • form, 22.04
- generally, 22-22
- hearing
- determination of question of law, 22.05(2)
- inferences, 22.05(1)

- question of law for opinion of court, 22.01(1)
- removal into Court of Appeal, 22.03
- · summary judgments
- affidavits, 20.02
- availability, 20.01
- costs sanctions for improper use, 20.06
- counterclaims, crossclaims, third party claims, 20.09
- disposition of motion, 20.04
- . . effect, 20.07
- factums, 20.03
- . . generally, 20
- order to proceed to trial, 20.05
- simplified procedure, see Simplified Procedure
- stay of execution, 20.08
- withdrawal of defence
- counterclaims, crossclaims, third party claims, 23.07
- deemed default, 23.06(2)
- generally, 23.06, 23.07
- statement of defence, 23.06(1)
- . . . admissions, 23.06(1), 51.05
- where crossclaim or third party claim, 23.06(1)

Divisional Court, see also Appeals

- · appeals to Divisional Court
- combining appeals, s. 19(2)
- • general, s. 19(1), (1.01)
- heard in regions, s. 20
- . . procedure, 61
- transfer of appeals, s. 19(3)
- · applications
- general, 38.01(2)
- judicial review, 68
- setting aside or varying judgment, 38.11
- branch of Superior Court of Justice, s. 18(1), (2)
- composition
- hearings, s. 21(1)
- motions, s. 21(3)–(5)
- proceedings heard by one judge, s. 21(2)
- filing of documents, 4.05(3)
- form, notice of application for judicial review, 68A
- intervention of persons in proceedings, 13.03(1)
- judges, s. 18(3)
- judicial review, see also Judicial

- Divisional Court (cont'd)
 •• applicable procedure, 68.02(1)
- application not commenced at regional centre, 68.01(2)
- dismissal for delay, 68.06
- hearing date, 68.03
- notice of application, 68.01(1)
- jurisdiction, s. 19(1), (1.0.1), (4)
- leave to appeal to, from interlocutory order, 62.02(1)
- motion to set aside, vary or amend order, 37.14(6)
- registrar signing orders, 59.04
- setting aside judgment made on application, 38.11

Divorce Actions

- · Children's Lawyer
- • report of, s. 112

Document Exchange

- proof of service, 16.09(4)
- service on lawyer of record, 16.05(1)
- service on lawyer of record, effective date, 16.05(2)

Documents

- abuse of process, 25.11
- admissions
- request to admit authenticity, 51.02,
- subsequently proved, costs consequences, 51.04
- agreement respecting evidence, appeals,
- authenticity, 51.01
- backsheets, 4.02(3)(f)
- binding, 4.07
- bilingual, 4.02.1
- court
- backsheet, 4.02(3)
- body of documents, 4.02(2)
- certified copies, 4.03
- format, 4.01
- general headings, 4.02(1), (1.1)
- court seal, application, s. 147
- date of filing where filed by mail, 4.05(5)
- disclosure, see Discovery, documents
- · discovery, see Discovery, documents
- double spacing texts, 4.01
- electronic documents
- binding requirements not applicable,
- confirmation of filing, 4.05(4.2)
- confirmation of issuance, 4.05(1.3)

- date of issuance, filing, 4.05(7)
- . . deemed issuing, 4.05(1.2)
- electronic filing, 4.05(4.1)
- noting default electronically, 19.01(1.1)
- standards for, 4.01, 4.05.1
- writ of seizure and sale, 60.07(1.1)–(1.2)
- electronic signatures, 4.01.1
- examination, directing a reference, 54.02
- extending or abridging time for delivery, 3.02(1), (4)
- failure to prove at trial, 52.10
- filing
- Civil Claims Online Portal, 4.05.1
- date of issuance, filing, 4.05(7)
- electronic documents, 4.05
- extending or abridging time, 3.02(1),
- French language, s. 126
- leaving document at court office, 4.05(4)
- mailing documents to court office, 4.05(4)–(6)
- outside business hours, 4.05(8)
- place of filing, 4.05(2)
- requirement to keep original, 4.05(10)
- forms
- affidavit, 4D
- backsheet, 4C
- general heading in proceedings in appellate courts, 61B
- general heading of documents actions, 4A
- general heading of documents applications, 4B
- notice of constitutional question, 4F
- requisition, 4E
- · generally, 4
- inspection, references, 55.02(15)
- issuing originating process, 4.05(1)
- non-compliance with Rules, 2.01
- notice of constitutional question, 4.11, 4F
- pleading effect, 25.06(7)
- prejudicial, 25.11(a)
- production
- examination by registrar before signing orders, 59.04
- examinations out of court (oral), 34.10, 34.15
- examinations out of court (written questions), sanctions, 35.04(4)
- references, 55.02(15)
- · production at trial

- Documents (cont'd)
 • summons to witness, 53.04(1), (3)
- production for inspection, see Discovery
- production on assessment of costs, 58.05(4)
- proof at trial, affidavit evidence, 53.02(1)
- pre-trial conferences, 50.11
- public access, s. 137
- records for proceedings
- binding, 4.07(1)
- front covers, 4.07(1.1)
- references
- directions concerning proof of documents, 55.02(3)
- filing with referee, 55.02(16)
- return on completion of reference, 55.02(16)
- requisitions, 4.08, 4E
- resulting in delay, 25.11
- return to court office where proceeding
- commenced, 4.10(2)
- scandalous, frivolous, or vexatious, 25.11
- service, see also Service
- added subsequent encumbrancers, mortgage references, 64.06(5)
- extending or abridging time, 3.02(1),
- third party defence, effect, 29.06(a)
- · service outside Ontario
- contracting state, definition, 17.05(1)
- manner, 17.05(2), (3)
- proof of service, 17.05(4)
- · special case
- form and contents, 22.04
- inferences on hearing, 22.05(1)
- striking out, 25.11
- translation into French, s. 126(2)
- transmission, 4.10(1)

 \mathbf{E}

Employees

- affidavits for corporations, 4.06(5)
- affidavits for partnerships, 4.06(6)
- examinations for discovery, 31.03(2)

Encumbrances

- mortgage references
- duties and powers of referee, 64.06(3)
- notice of reference to original defendants, 64.06(8), (9), (10)
- plaintiff to file material concerning, 64.06(2)

subsequent encumbrancers, see Subsequent Encumbrancers

Enforcement of Orders, see also Orders; Stay Pending Appeal; Writs

- against alleged partners not served, 8.06(3)
- against garnishees, 60.08(12)
- against partnership property, 8.06(1)
- against persons served with notice to alleged partner, 8.06(2)
- bonds and recognizances, s. 143(1)
- certificate of stay, effect, 63.03(4)
- change or variation of debtor's name, 60.07(10), (11)
- civil orders directed to sheriff, s. 141(1)
- costs, 60.19
- directing reference, 54.02(2)
- dispute of ownership of property seized by sheriff, 60.13
- eletronic filing, issuance, 60.20
- examination in aid of execution, 34.01, 60.18
- fines for contempt, enforcement, s. 143(2)
- generally, 60
- liability for acting under order, s. 142
- payment or recovery of money
- electronic filing of declaration,
- general, 60.02(1)
- recovery of costs without order awarding costs, 60.02(2)
- police to assist sheriff in execution, s. 141(2)
- sheriff's report on execution of writ, 60.14
- stay pending appeal, effect, 63.03
- summary judgments, stay of execution,
- warrants for committal and arrest, s. 144
- where no procedure provided, s. 146

Equity of Redemption, *see* Foreclosure, Sale and Redemption

Errors and Omissions

- affidavit of documents, correction, 30.07
- evidence on discovery, correction, 31.09
- name of party incorrect, 5.04(2)
- order containing error, 59.06(1)

Estate Accounts

- application to pass, 74.18
- general, 74.16
- lawyer's costs, Tariff C
- record requirements, 74.17

Estate Trustees, see also Estates; Wills and Codicils

- bond requirements, 74.11
- · certificate of appointment
- ancillary appointment with will, 74.09
- confirmation of out of jurisdiction appointment, 74.08
- definition, 1.03
- deposit payable, 74.13
- during litigation, 74.10
- foreign estate trustee's nominee, 74.05
- issuance of certificate, 74.14
- objections to, 75.03
- orders for assistance, 74.15
- procedures, 74.12
- return pending completion of objection proceedings, 75.05
- revocation, 75.04
- succeeding trustee with a will, 74.06
- succeeding trustee without a will, 74.07
- with a will, 74.04
- without a will, 74.05
- certificate of appointment, 74.14.1
- confirmation of, 74.14.2

Estates, *see also* Wills and Codicils; Estate Trustees

- administrators, see also Estate Trustees
- application for directions, 14.05(3)
- application for removal or replacement, 14.05(3)
- application to fix compensation, 14.05(3)
- advertisement on references for beneficiaries, 55.03(1)
- assessment of costs paid out of estate, 58.08(2)
- claims contestation, 75.08
- estates interested in proceedings, appointment of representative, 10.02
- executors, see also Estate Trustees
- application for directions, 14.05(3)
- application for removal or replacement, 14.05(3)
- application to fix compensation, 14.05(3)
- judgment for administration, 65A
- report on a reference (administration of estate), 55C
- interest on accounts, 65.02(2)
- judgment for administration, 65.01(2)
- mandatory mediation, 75.1
- minors

- affidavits in support of applications,
- commencement of proceedings, 67.01
- consent of minor over age of sixteen,
- lawyer's affidavit, 67.03(1), (2)
- notice of application, administration of estate, 65.01(1)
- order for rendering of proper statement of accounts, 65.01(3)
- payment into court, 65.02(3)
- proceedings
- adding persons as parties, 9.01(4)
- appointment of litigation administrator, 9.02(1), (2)
- commenced before probate or administration, 9.03(1)
- commenced by or against estate of deceased person, 9.03(2)
- commenced in name of deceased person, 9.03(3)
- contentious, 75
- estate having no executor or administrator, 9.02
- executor or administrator refusing to be joined, 9.01(3)
- generally, 9
- imposition of terms, 9.03(7)
- joinder of beneficiaries, 9.01(1), (2), (4)
- lawyer of record, 75.09
- litigation administrator appointed improperly, 9.03(4)
- motion for directions, 75.06
- non-contentious, 74
- not properly constituted, power of court, 9.03(5)
- not properly constituted within reasonable time, 9.03(6)
- procedures, 75.07
- request for notice of, 74.03
- submission of rights to court, 75.07.1
- references, 65.02(1)
- form of report, 55.02(22), 55C
- representation orders, 10.01(1), 10.02
- service outside Ontario of claim, 17.02(b)
- small estates, 74.1, 75.01
- · wills, see Wills and Codicils

Evidence, *see also* Affidavits; Hearings; Trials; Witnesses

- admissibility, determination of issue before trial, 21.01(2)
- · appeals
- agreements, 61.05(4)

- Evidence (cont'd)
 appellant's certificate, 61.05(1), 62.02(8)
- complying with certificates or agreement, 61.05(6)
- contents of appeal book, 61.10(1)
- costs sanctions for unnecessary evidence, 61.05(8)
- motion to receive evidence, 61.16(2)
- notice from court reporter when evidence transcribed, 61.05(7)
- ordering transcripts, 61.05(5)
- respondent's certificate, 61.05(2), (3)
- respondent's factum, 61.12(3)
- application records, 38.09(1)
- applications, see Affidavits; Applications; Hearings;
- commission for taking evidence, 34.07(2), (5), 36.03, 34C
- de bene esse, see taking evidence before
- deemed undertaking, see Deemed Undertaking
- discovery, see Discovery; Examination for Discovery
- documents, contents of notice of application, 38.04
- examination before trial, discretion of court, 36.01(2)
- examinations out of court, transcript for use in court, 34.18(2)
- exclusion of witnesses, 52.06
- experts, see Experts
- appellant's certificate respecting evidence, 61C
- commission, 34C
- letter of request, 34D
- notice of examination, 34A
- order for attendance of witness in custody, 53D
- order for commission and letter of request, 34E
- respondent's certificate respecting evidence, 61D
- summons to witness (at hearing), 53A
- summons to witness (examination out of court), 34B
- summons to witness outside Ontario,
- warrant for arrest (defaulting witness), 53B
- insufficient to support judgment,
- jury trials, order of presentation, 52.07
- leave required to admit at trial

- conditions for granting leave, 53.08
- failure to abandon claim of privilege, 30.09, 53.08
- failure to correct answers on discovery, 31.09(3), 53.08
- failure to disclose document, 30.08(1), 53.08
- failure to disclose information on discovery, 31.07, 53.08
- failure to serve expert's report, 53.03(2), 53.08
- letter of request, 34.07(2), 34D
- letters rogatory, see letter of request
- mortgage references, concerning subsequent encumbrancers, 64.06(2)
- motion for summary judgment
- by defendant, 20.01(3)
- by plaintiff, 20.01(1)
- personal knowledge, 20.02
- motions, see also Motions • • contents of notice, 37.06
- pleadings, 25.06(1)
- · references
- books of account, 55.04(4)
- directions concerning evidence, 55.02(3)
- payment out of money to minor, 55.05(4)
- ruling on admissibility, reasons set out in report, 55.02(18)
- striking out, examinations out of court, 34.15(1), 35.04(4)
- summons to witness, 34.04(4), 53.04,
- · taking evidence before trial
- admissibility, 36.01(2)
- calling witness at trial, 36.04(2)
- expert witnesses, 36.01(4)
- filing transcripts, videotapes, recordings, 36.04(4)
- generally, 34.01, 36
- interim costs, 36.01(5)
- . . party defined, 36.01(1)
- • persons outside Ontario, 36.03
- procedure, 36.02
- • use at trial, 36.04
- transcripts
- applications, 38.09(6)
- judicial review, applicant's application record, 68.04(2), (9)
- motions, 37.10(5)
- standards, 4.07(3), 4.09
- trial, see also Trials
- calling adverse party, 53.07
- examination for discovery, 31.11

- Evidence (cont'd)
 • deponent unavailable, leave granted to introduce, 31.11(7)
- deponent unavailable, leave required to introduce, 31.11(6)
- direction to read in additional evidence, 31.11(3)
- impeaching testimony of deponent as witness, 31.11(2)
- introduction at trial, 31.11(1)
- non-parties, 31.10(5)
- party under disability, leave required, 31.11(5)
- rebuttal, 31.11(4)
- use in subsequent actions, 31.11(8)
- • expert's report, 52.03(8)
- interprovincial summons, 53.05
- witness, compelling attendance, 53.04–53.06

Examinations, see also Examinations for Discovery

- absence of opposite party, 3.03(2)
- adjournments, 34.14
- limiting scope of examination, 34.14(1)
- sanctions for improper adjournment, 34.14(2)
- seeking directions, 34.14(1)
- seeking order terminating examination, 34.14(1)
- application of Rule 34, 34.01
- attendance, 34.04
- deponents of affidavits, 34.04(4)
- non-party, 34.04(4)
- attendance money, 34.04(5)
- summons to witness, 34.04(4)
- notice of examination, 34.04
- party, 34.04(1)
- person examined on behalf or in place of party, 34.04(2)
- person in custody, 34.04(8), 53.06
- person outside Ontario, 34.04(7)
- summons to witness
- attendance money, 34.04(4)-(6)
- before whom to be held, 34.02
- consent, 34.06
- cross-examination for application or motion, 39.02, 39.03
- discovery, see Examinations for Discovery
- · execution, in aid of
- • corporate debtors, 60.18(3)
- costs, 60.19
- debtor defeating or defrauding creditors, 60.18(5)

- definitions of creditor and debtor,
- limit on frequency or number, 60.18(4)
- partners and partnerships, 60.18(3)
- person on behalf or in place of party, 34.04(2)
- person other than debtor, 60.18(6)
- . . re-examination, 34.11(2), (3)
- scope, 60.18(2)
- . . service of notice, 60.18(7)
- sole proprietors and sole proprietorships, 60.18(3)
- failure to attend, 34.15
- forms
- commission, 34C
- letter of request, 34D
- notice of examination, 34A
- order for commission and letter of request, 34E
- summons to witness (examination out of court), 34B
- generally, 34
- improper conduct of examination, 34.14
- motions terminating or limiting scope, 34.14(1)
- sanctions, 34.14(2)
- interpreters, 34.09
- oath or affirmation, 34.09(1)
- who must provide, 34.09(2)
- medical examinations, see Medical Examinations
- motions, use of evidence on, 39.04
- notice of time and place, 34.05
- oath or affirmation, s. 92; 34.08(1)
- objections to questions, 34.12
- procedure, 34.12(1)
- ruling on propriety of question, 34.12(3)
- official examiners, see Official Examiners
- · person out of Ontario
- attendance money, 34.07(4)
- commission for taking evidence, 34.07
- duties of commissioner, 34.07(5), (6)
- form of examination, 34.07(5)
- preparation and issuance by registrar, 34.07(3)
- transcript of evidence, 34.07(6)
- court determining aspects of examination, 34.07(1)
- letter of request, 34.07(2), (3)
- oaths, affirmations, 34.08(2)

- Examinations (cont'd)
 • order for commission, letter of request, 34.07(2), 34E
- service of transcript, 34.07(7)
- summons to witness, 34.04(7)
- physical or mental, expert appointed by judge, 52.03(3)
- place of examination, 34.03
- production of documents, 34.04(4),
- admitted to be in possession, power, control, 34.10(4)
- at examination, 34.10(2)
- definition of document, 30.01(1),
- notice of examination, 34.10(3)
- summons to witness, 34.10(3)
- · recording
- examination, 34.16
- videotape or other means, 34.19
- re-examination of persons, 34.11
- before applications, 34.11(4), 39.03(2)
- before motions, 34.11(4), 39.03(2)
- in aid of execution, 34.11(2), (3)
- on application, 34.11(4), 39.03(2)
- on cross-examination on affidavit, 34.11(2), (3)
- on discovery, 34.11(1), (3)
- on motion, 34.11(4), 39.03(2)
- · references
- compelling attendance, 55.02(14)
- oral evidence, 55.02(13)
- · refusal to take oath or affirm, 34.15
- · rulings
- conduct of examination, 34.14
- propriety of questions, 34.12(3)
- · sanctions
- failure to attend, 34.15(1)
- failure to comply with order, 34.15(2)
- failure to produce document, 34.15(1)
- improper conduct or adjournment, 34.14(2)
- refusal to answer proper question, 34.15(1)
- refusal to take oath or make affirmation, 34.15(1)
- · taking evidence before trial
- admissibility, 36.01(2)
- calling witness at trial, 36.04(3), (4)
- considerations before permitted,
- expert witnesses, 36.01(4)
- filing transcripts and recordings or videotapes, 36.04(7)

- interim costs, 36.01(5)
- • party defined, 36.01(1)
- persons outside Ontario, 36.03
- . . procedure, 36.02
- • use at trial, 36.04
- transcripts, 34.17
- certification, 34.17(2)
- copy filed for use at trial, 34.18(4)
- copy filed for use on motion or application, 34.18(2), (3)
- . . form and content, 4.09, 34.17(1), (2)
- making copy available, 34.18(1)
- • to whom transcript is sent, 34.17(3)
- use at trial, 34.18(4)
- videotaping, 34.19(1), (2)
- witnesses
- applications
- at the hearing, 39.03(4)
- before the hearing, 39.03(1)–(3)
- summons, 39.03(5) . . .
- failure to deliver notice of appearance, 38.07(2)
- motions, 39.03

Examinations for Discovery, see also Examinations

- assignees, 31.03(6)
- assignors, 31.03(6)
- bankrupt persons, 31.03(7)
- Children's Lawyer, 31.03(5)
- corporations, 31.03(2), (3)
- correcting answers, 31.09
- deemed undertaking, see Deemed Undertaking
- defendant, 31.04(2)
- notice of examination, 31.04(2), 34.04
- written questions, 31.04(2), 35.01
- · disclosure
- expert opinions, 31.06(3)
- identity of persons having knowledge, 31.06(2)
- documents
- definition, 31.01
- . . examination, at, 30.04(4)
- evidence at trial
- impeaching testimony of deponent as witness, 31.11(2)
- non-parties, 31.10(5)
- party under disability, 31.11(5)
- qualifying answers, 31.11(3)
- reading in examination of party, 31.11(1)
- rebuttal, 31.11(4)

Examinations for Discovery (cont'd)
• • unavailability of deponent, 31.11(6),

• • use in subsequent actions, 31.11(8)

 examination by more than one party, 31.05

• • time limit, 31.05.1

• failure to answer proper question, 31.07(1), 34.15

• failure to attend on, 31.07

• failure to correct answers, 31.09(3)

• form, 31.02

· generally, 31

• information subsequently obtained, 31.09(1)

• insurance policies, 30.02(3), 31.06(4), (5)

• interested persons, 31.03(8)

• lawyer answering questions, 31.08

• limiting multiple examinations, 31.03(9)

• non-parties, 31.10

• notice of examination, 31.04, 34.04

• partnerships, 31.03(3)

• party to be examined only once, 31.03(1)

• persons under disability, 31.03(5)

plaintiff

• • notice of examination, 31.04(1), 34.04

• • written questions, 31.04(1), 35.01

• Public Guardian and Trustee, 31.03(5)

• reading in, 31.11

• refusal to answer question, 31.07(1)

• scope, 31.06(1)

• simplified procedure, 76.05

• sole proprietorships, 31.03(3)

• trustee in bankruptcy, 31.03(7)

• use on motions, 39.04

• who may examine first, 31.04(3)

• withholding information, 31.06(6)

written questions

• • answers, 35.02(1)

• • • court order upon refusal, 35.04(2)

• • • filing, 35.06

• • • service, 35.02(2)

• • forms

• • • answers on written examination for discovery, 35B

• • • questions on written examination for discovery, 35A

• • improper conduct, 35.05

• • objection to question, 35.03

• • orders

• • • further answers, 35.04(2)

• • • oral examination, 35.04(3)

• • • further list of questions, 35.04(1)

• • • service, 35.01

• • sanctions

••• failure to answer proper question, 35.04(2), (4)

• • • failure to produce document, 35.04(4)

• • • order for further answers, 35.04(2)

• • order for oral examination, 35.04(3)

Executions, *see* Enforcement of Orders; Writs

Executors and Administrators, *see also* Estate Trustees; Estates; Wills and Codicils

• commencing proceedings for administration, 65.01(1)

• examination of claims, references, 55.03(3)

• order to render proper accounts, 65.01(3)

• payment to foreign payee, s. 145

• proceeding commenced before administration, 9.03(1)

proceeding commenced before grant of probate, 9.03(1)

• references, examination of claims, 55.03(3)

• refusing to be joined in proceeding, 9.01(3)

Exhibits

• affidavits, 4.06(3)

• appeals

• • contents of appeal book, 61.10(1)

• • costs sanctions for unnecessary evidence, 61.05(8)

• • perfecting appeals, 61.09(2), (3)

· application record

• • general, 38.09

• • judicial review, 68.04

• interlocutory appeals, record, 62.01(7), (9)

• motion record, 37.10(2)

• • responding party's, 37.10(3)

• referred to in affidavits, 4.06(3)

• references, accounts, 55.04(3)

• return to court office where proceeding commenced, 4.10(2)

• service, documents, 4.06(3)

• transmission, 4.10(1)

trials

• • marking and numbering, 52.04(1)

• • registrar to hold, 52.04(3)

• • requisition for return, 52.04(2)

• • return by registrar, 52.04(2), (4)

Experts

- acknowledgment of expert's duty, 53
- duty of expert, 4.1.01
- evidence at trial, service of report,
- examinations for discovery, obtaining reports and identity, 31.06(3)
- pre-trial conference
- • decision to appoint, 50.06
- expert's report, 50.11
- references, 55.02(14.1), (14.2)
- taking evidence before trial, 36.01(3)
- · trials
- appointment, 52.03(1)
- contents of order of appointment, 52.03(3)
- cross-examination, 52.03(10)
- • named by judge, 52.03(2)
- remuneration, 52.03(4)–(6), (11)
- reports, 52.03(7), (8), (9)

Facts

- · admissions, see Admissions
- affidavits, see Affidavits
- applications without notice, disclosure, 39.01(6)
- failure to prove at trial, 52.10
- inferences, hearing of special case, 22.05(1)
- material facts, see Pleadings
- pleading, see Pleadings
- proof at trial, affidavit evidence, 53.02(1)
- · questions in common
- consolidation orders, 6.01
- intervention of persons in proceedings, 13.01
- joinder of parties, 5.02
- · subsequently discovered
- duty to correct answers on discovery, 31.09(1)
- grounds to vary or set aside order, 59.06(2)

Factums

- · appeals from interlocutory orders
- • appellant's, 62.01(7), (9)
- • respondent's, 62.01(8), (9)
- · appeals to appellate court
- appellant's, 61.11
- • respondent's, 61.12
- · applications
- applicant's, 38.09(1)
- dispensing with factum, 38.09(4)

- respondent's, 38.09(3)
- cross-appeal, 61.12(4)
- failure of respondent to deliver, 61.13(4), (5)
- determination of issue before trial, 21.03
- · judicial review proceedings
- applicant's, 68.04(1), (3), (7)
- failure of applicant to file, 68.06
- • respondent's, 68.04(4), (6), (7)
- · motions
- appellate court, in, 61.16(4)
- generally, 37.10(6)
- leave to appeal to Court of Appeal, 61.03.1(4)–(13)
- leave to appeal to Divisional Court, 61.03(2), (3)
- leave to appeal interlocutory order, 62.06(5)
- summary judgment, 20.03
- place of filing, 4.05(3)
- special case
- generally, 22.02
- removed to Court of Appeal, 22.03(2)

Family Court

- branch of Superior Court of Justice, s.
- community liaison committee, s. 21.13
- community resources committee, s. 21.14
- composition, s. 21.2(1)
- composition of court for hearings, s. 21.7
- dispute resolution service, s. 21.15
- enforcement of orders, s. 21.12
- · judges
- jurisdiction, s. 21.2(3)
- supernumerary, s. 21.2(2)
- jurisdiction, s. 21.1(3), (4), (5)
- • combining related matters, s. 21.9
- orders of predecessor court, s. 21.10
- proceedings, s. 21.8
- • motions, s. 21.8(2), (3)
- place commenced, s. 21.11(1), (2)
- transfer from another court, s. 21.11(4), (5)
- transfer to another court, s. 21.11(3),
- transitional, s. 21.3
- Unified Family Court amalgamated, s. 21.1(2)

Family Law Commissioners

• referees, 54.03(1)

Family Law Proceedings

- application of Rules of Civil Procedure, 1.02(1), (1.1.)
- jurisdiction, s. 38(2)

Firms, see Partnerships; Sole Proprietorships

Foreclosure, Sale And Redemption

- conversion from foreclosure to sale
- additional security for costs on reference, 64.03(20), (21)
- notice of hearing for directions on reference, 64.03(24)
- notice of reference, defendant noted in default, 19.02(3)
- power of referee, 64.03(21), (22)
- procedure on reference, 64.03(26)
- request for sale
- defendant not subsequent encumbrancer, 64.03(17)
- failure to file, 64.06(10)
- service of referee's report, 64.06(17)
- subsequent encumbrancer added on reference, 64.03(19)
- subsequent encumbrancer named as defendant, 64.03(18)
- subsequent encumbrancer not entitled to redeem, 64.04(6)
- transfer of carriage of sale, 64.03(25)
- foreclosure
- claims that may be joined, 64.03(5)
- default judgment, 19.04(1), 64.03(9)–(11)
- failure to file request to redeem or request for sale, 64.06(10)
- final order of foreclosure, 64.03(15),
- final order, redemption action, 64.05(6)–(9)
- foreclosure of subsequent encumbrancers, 64.03(14)
- notice of taking account, defendant noted in default, 19.02(3)
- persons to be joined, 64.03(1)–(3)
- power of referee to reconvert to foreclosure, 64.03(23)
- redemption, 64.03(12), (13)
- redemption actions, adding subsequent encumbrancers, 64.05(2)
- request to redeem, 64.03(6)-(8)
- statement of claim, 64.03(4)
- subsequent encumbrancers as defendants, 64.03(2), (3)
- default judgment for foreclosure with a reference, 64B

- default judgment for foreclosure without a reference, 64D
- default judgment for immediate foreclosure, 64C
- default judgment for immediate sale,
- default judgment for immediate sale (action converted from foreclosure to sale), 64H
- default judgment for redemption, 64M
- default judgment for sale conditional on proof of claim (action converted from foreclosure to sale), 64I
- default judgment for sale with a redemption period, 64K
- default judgment for sale with a redemption period (action converted from foreclosure to sale), 64G
- final order for sale, 64L
- final order of foreclosure, 64E
 - request for sale, 64F
- request to redeem, 64A
- statement of claim (mortgage action),
- generally, 64
- redemption
- after taking account in foreclosure action, 64.03(8)
- after taking account in sale action, 64.04(7)
- change of account before day fixed for payment, 64.06(24)
- claim for possession may be joined,
- conversion from foreclosure to sale, 64.04(22)
- default judgment, 19.04(1)
- dismissal of action, 64.05(6)
- final order of foreclosure
- continuation of reference, 64.05(7), (8)
- plaintiff failing to redeem, 64.05(6)
- redemption by subsequent encumbrancer, 64.05(9)
- foreclosure actions, 64.03(12), (13)
- judgment, 64.05(4), (5)
- liability of defendants for costs, balance due, 64.05(10)
- more than one party entitled to redeem, 64.06(13), (14)
- mortgagee to transfer property where redeemed, 64.06(19)
- named defendant in sale action, 64.04(9)
- order altering time where change of account, 64.06(27)

Foreclosure, Sale And Redemption (cont'd)
• • persons to be joined, 64.05(1), (2)

- service outside Ontario, 17.02
- references
- adding parties other than encumbrancers, 64.06(11)
- adding subsequent encumbrancers, 64.05(2), 64.06(4)
- assigned mortgage, proof of account, 64.06(15)
- change of account, 64.06(21)-(27)
- default judgment, who conducts, 64.02
- determining priorities, 64.06(13), (14)
- directions, 64.06(14), (20)
- duties and powers of referee, 64.06(3)
- general procedure, 55, 64.06
- motion to set aside judgment or order adding party, 64.06(6), (12)
- notice of encumbrancer named as original party, 64.06(7)
- notice to original defendants, 64.06(8)–(10)
- plaintiff to file material concerning encumbrancers, 64.06(2)
- referee's report, 64.06(16)-(18)
- service of documents
- construction lien claimant, 64.06(5)(b)
- execution creditor, 64.06(5)(a)
- generally, 64.06(5)(c)
- original defendant, not encumbrancer, 64.06(9)
- $\begin{array}{c} transfer \ of \ property \ on \ payment, \\ 64.06(19) \end{array}$
- who conducts, default judgment, 64.02
- · request to redeem
- default judgment in foreclosure action, 64.03(10), (11)
- default judgment in sale action, 64.04(8)
- foreclosure actions, 64.03(6), (7)
- effect, 64.03(8)
- failure to file, 64.06(10)
- redemption by named defendant, 64.03(12)
- sale actions, 64.04(5)-(7)
- service of referee's report, 64.06(17)
- sale
- claims that may be joined, 64.04(4)
- . . default judgment
- action converted from foreclosure, 64.03(17), (18)
- generally, 19.04(1), 64.04(7)

- final order for sale, 64.04(10), (11)
- judgment obtained in foreclosure action, 64.03(24)–(26) . .
- notice of taking account, defendant noted in default, 19.02(3)
- order
- amending judgment for foreclosure, 64.03(19)
- payment of deficiency on sale, 64.04(14)
- payment of purchase money into court, 64.04(12)
- persons to be joined, 64.04(1), (2)
- power of referee
- convert from foreclosure, 64.03(22)
- . . . reconvert to foreclosure, 64.03(23)
- redemption by named defendant, 64.04(9)
- request to redeem, 64.04(5)-(7)
- statement of claim, 64.04(3)
- service outside Ontario, 17.02(e)

Form Of Documents

- affidavits, 4.06(1)
- binding of records, appeal books and compendia, transcripts, factums, case books, 4.07
- generally
- general heading, body, backsheet, fax number, 4.02
- use and variation of prescribed forms,
- legibility, size, spacing, 4.01
- · orders, see Orders
- pleadings, 25.02
- special case, 22.04
- transcript standards, 4.09

Forms, see also Volume 2

- table of, 1.06(2)
- use of, 1.06(1)

Fourth And Subsequent Party Claims, see also Third Parties

- claims by fourth or subsequent parties, 29.11(3)
- generally, 29.11, 29.12
- service, 29.11(2), (2.1)
- where available, 29.11(1), 29.12

- beneficiaries to be joined in proceedings, 9.01(2)
- grounds to vary or set aside orders, 59.06(2)
- pleading, 25.06(8)

French Language, see Interpreters; Bilingual Proceedings

Frivolous or Vexatious, see also Vexatious Proceedings

- actions, security for costs, 56.01
- application for leave to commence or continue proceeding, 38.13
- court may stay or dismiss frivolous or vexatious proceeding, 2.1.01
- determination of issue before trial, 21.01(3)(d)
- documents, 25.11(b)
- motions, 37.16
- pleadings, 25.11(b)

G

Gag Proceedings

- appeals, s. 137.2(3)
- application provisions, s. 137.5
- procedural matters
- • commencement, s. 137.2(1)
- • cross-examinations, limit on, s. 137.2(4), (5)
- • generally, s. 137.2
- • hearing date, obtaining, s. 137.2(3)
- •• time frame for hearing of motion, s. 137.2(2)
- proceedings that limit debate, dismissal of
- • costs if motion to dismissed were denied, s. 137.1(8)
- • costs on dismissal, s. 137.1(7)
- • damages, s. 137.1(9)
- • dismissal, no, s. 137.1(4)
- • expression defined, s. 137.1(2)
- • further steps, no, s. 137.1(5)
- • generally, s. 137.1
- • order to dismiss, s. 137.1(3)
- • pleadings, no amendments to, s. 137.1(6)
- • purposes, s. 137.1(1)
- stay of proceedings
- • duration of, s. 137.4(3)
- • generally, s. 137.4(1)
- • lifting, s. 137.4(4), (5)
- • notice re, s. 137.4(2)
- • Statutory Powers Procedure Act and, s. 137.4(6)

Garnishment

- affidavit, contents, 60.08(4), (5)
- availability, 60.08(1)
- debt, definition, 60.08(12), (13)
- discharge of garnishee, 60.08(19)
- dispute of garnishment by garnishee, 60.08(15), 60I
- enforcement

- • against garnishee, 60.08(17)
- • orders for payment, 60.02(1), 60.08
- forms
- • garnishee's statement, 60I
- • notice of garnishment, 60H
- • Notice of Renewal of Garnishment, 60H.1
- • notice of termination of garnishment,
- • notice to co-owner of debt, 60I.1
- • requisition for garnishment, 60G
- garnishee's statement, 60.08(15), 60I
- • blank, served with notice of garnishment, 60.08(7)
- • failure to file and serve, 60.08(17)
- generally, 60.08
- hearing, 60.08(16)–(16.2)
- joint debts
- • general, 60.08(1.1)
- • hearing, 60.08(16.2)
- • notice to co-owner of debt, 60.08(15.1), (15.2)
- • payment, 60.08(21)
- notice of termination of garnishment, 60.08(20), 60J
- obtaining notice of garnishment, 60.08(4)
- · payment by garnishee
- • less than amount due, 60.08(15)
- • subject to Wages Act, s. 7, 60.08(14)
- • to person other than sheriff, 60.08(18)
- • to sheriff, 60.08(14)
- • to sheriff, discharge, 60.08(19)
- registrar issuing notice of garnishment, 60.08(6), (6.1), 60H
- renewal, 60.08(3.1)
- security for costs, 56.01(2)
- service of notice of garnishment, 60.08(7)–(10)
- when garnishee becomes liable, 60.08(11)

Guardian Ad Litem, see Litigation Guardians

Guardians

- ad litem, see Litigation Guardians
- appointment
- directing reference, 54.02(2)
- proceedings concerning estates of minors, 67.02(3)
- reference relating to conduct, 54.02(2)
- settling and approving security, references, 55.07(1)

Hearings

• appeals from interlocutory orders

• • dispensing with record and factum, 62.01(9)

Н

• • hearing date, 62.01(3)

• • notice of appeal, 62.01(4), 62A

• • place, 62.01(6)

· appeals to appellate court

• • argument limited to grounds stated, 61.07(2)

• • notice of listing for hearing, 61.08, 61G

applications

• • conference telephone, 38.12

• • date, 38.03(2), (3), (3.1)

• • delivery of affidavit after crossexamination, 39.02(2)

• • dispensing with record and factum, 38.09(4)

• • disposition, 38.10

• • examination of witness at hearing, 39.03(3)

• • failure of applicant to appear

• • • generally, 38.08(2)

• • • setting aside judgment, 38.11

• • failure to deliver notice of appearance, 38.07(2)

•• filing notice with proof of service, 38.06(4)

• • judge hearing motions not to hear, 37.15(2)

• • minimum notice period, 38.06(3)

• • motion to set aside or vary judgment, 38.11

• • notice not served, 38.06(2)

• • place

named in notice of application, 38.03(1)

• • service and filing of affidavits, 39.01(2), (3)

• • summons to witness, 39.03(4)

• • transcript of evidence, 38.09(6)

• definition, 1.03

forms

• • notice of listing for hearing (appeals), 61G

• garnishment matters, 60.08(16)

judicial review applications

• • hearing date in Divisional Court, 68.03

• • listing for hearing, 68.05(2)

• listing for hearing

• • appeals, 61.09(5)

• • judicial review, 68.05(2)

motions

• • absence of public, 37.11

• • complicated issues or proceedings, 37.15

• • conversion to motion for judgment, 37.13(2)

• • delivery of affidavit after crossexamination, 39.02(2)

• • disposition, 37.13

• • examination for discovery, use, 39.04

• examination of witness, 39.03

• • failure to appear, 37.09(2)

• • filing notice of motion, 37.08

• hearing date, 37.05

•• jurisdiction of judge, associate judge, 37.02

• • minimum notice period, 37.07(6)

• • motion record required, 37.10(1)

• • open to public, 37.11(2)

• • place

••• general, 13.1.01

• • • complicated issues or proceedings, 37 15(1)

• • • motions made on notice, 37.03

• • • motions made without notice, 37.03

• • pre-trial conferences, no disclosure to court, 50.09

• • service and filing of affidavits, 39.01(2), (3)

• • setting aside or varying judgment on application, 38.11

• • setting aside or varying orders, 37.14(1)

• • summons to witness, 39.03(4)

• • transcript of evidence, 37.10(5)

• • trial of an issue, 37.13(2), (3)

• motions for leave to appeal

• • Court of Appeal, 61.03.1(9), (10)

• motion record and factum, 61.03(2)

• • notice of motion, 61.03(1)

motions in appellate court

• certificate of estimated time for motion, 61.16(4.1)

• • motions to be heard by more than one judge, 61.16(3)

• • motions to receive evidence, 61.16(2)

• • record and factum, 61.16(4), (4.1)

• • review of Registrar's order, 61.16(5)

• • review of single judge's order, 61.16(6)

• notice, directions on reference, defendant noted in default, 19.02(3)

• offers to settle not to be communicated, 49.06(2)

Hearings (cont'd) • place

- appeals from interlocutory orders, 62.01(6)
- applications, 38.03(1)
- motions, 37.03
- · pre-trial conference
- fixing date, 50.02
- references
- directions, 55.02, 55A
- directions, conduct of sales, 55.06(4)
- relief from joinder, 5.05
- removal of special case into Court of Appeal, 22.03(2)
- special case, 22.05
- status hearings, 48.14(5)–(7)

I

Implied Undertaking, *see* Deemed Undertaking

Infants, see Minors; Parties Under Disability

Injunctions

- application for, ancillary relief, 14.05(3)(g)
- claim for, service outside Ontario, 17.02(i)
- enforcement, 60.05
- interlocutory
- • extension, 40.02(2)
- generally, 40
- how obtained, 40.01
- labour injunctions, 40.02(4)
- maximum duration without notice,
- period of extension, 40.02(3)
- labour dispute, s. 102
- no automatic stay pending appeal, 63.01(2)
- power to grant, s. 101
- undertaking as to damages, 40.03

Inspection Of Documents, see Discovery, Documents

Inspection Of Property

- content of order for inspection, 32.01(3)
- deemed undertaking, see Deemed Undertaking
- defined as discovery, see Discovery, definition
- experts, trials, 52.03(3)
- extent of order for inspection, 32.01(2)
- generally, 32
- inspection by court, 52.05
- notice of inspection, 32.01(4)

Insurance Policies

- assignment, discharge of a mortgage, 72.04(3)
- disclosure, discovery, 30.02(3), 31.06(4)
- production for inspection, 30.02(3)

Interest

- accounts, administration proceedings, 65.02(2)
- bank rate, definition, s. 127(1)
- calculation of rate, s. 127(2)(a)
- date of order, definition, s. 127(1)
- disallowance, s. 130
- payment out of court, 72.03(5)
- · postjudgment
- costs, s. 129(4)
- default judgment, 19.04(5)
- entitlement, s. 129(1)
- order to set out interest rate where applicable, 59.03(7)
- periodic payments, s. 129(2)
- rate, definition, s. 127(1)
- requisition for default judgment, 19.04(2), 19.04(3)
- transitional provision, s. 129(5)
- prejudgment
- calculation, s. 128(1)
- entitlement, s. 128(1)
- exclusions, s. 128(4)
- non-pecuniary loss, s. 128(2); 53.10
- rate, definition, s. 127(1)
- requisition for default judgment, 19.04(2), (3)
- special damages, s. 128(3)
- publication of rate, s. 127(2)
- quarter, definition, s. 127(1)
- references, charging for failure to comply, 55.07(2)
- sale actions, application of purchase money, 64.04(13)
- tables, see ss. 127, 128
- variation of rate, s. 130

Interim Preservation Of Property, see also Interim Recovery Of Personal Property

- generally, 45
- · motion for order
- affidavit in support, 45.03(2)
- service, 45.03(2)
- orders
- custody or preservation, 45.01(1)
- entry on or into property, 45.01(1)
- sale, 45.01(2)
- specific fund to be paid into court, 45.02

Interim Preservation Of Property (cont'd)
• • specific fund to be secured, 45.02

- title of personal property not in dispute, 45.03

Interim Recovery of Personal Property, see also Interim Preservation Of Property

- forms
- bond interim recovery of personal property, 44A
- generally, 44
- interim order
- contents, 44.02
- . . enforcement by sheriff, 44.07
- motion, 44.01(1)
- security, 44.04
- condition and form, 44.04
- release, 44.06
- where by bond, 44.04(2), (3) set aside, stay or vary, 44.05
- where defendant has prevented recovery, 44.08
- liability, s. 104(2)
- motion, 44.01(1)
- affidavit in support, 44.01(1)
- disposition, 44.03
- • service of notice, 41.01(2)
- power to order, s. 104(1)

Interim Reports, see References

Interlocutory Injunctions, see Injunctions

- Interpleader · availability, 43.02
- disposition, 43.04
- facts or law raised before associate judge, 43.04(3)
- forms
- interpleader order general, 43A
- interpleader order motion by sheriff, 43B
- generally, 43
- how obtained, 43.03
- affidavit in support, 43.03(3)
- applications and motions, 43.03(1), (2)
- motions, 43.03(2)
- powers of court, 43.04(1), (2)
- property, definition, 43.01
- security for costs, 56.01(2)

Interpretation Of Documents

- deeds, wills, instruments
- commencement of proceedings, 14.05(3)
- representation order, 10.01(1)
- resolutions of municipalities, 14.05(3)

- rules
- generally, 1.04(1)
- matters not provided for, 1.04(2)
- parties acting in person, 1.04(3)

Interpreters, see also Bilingual

- examinations out of court, 34.09
- oath or affirmation, interpretation of affidavits, 4.06(8)
- • duty to interpret accurately, 53.01(5)
- provision, 53.01(6)

Intervention

- leave to intervene as added party
- considerations for the court, 13.01(2)
- where available, 13.01(1)
- · leave to intervene
- • Court of Appeal, 13.03(2)
- • Divisional Court, 13.03(1)
- • friend of the court, 13.02

Issue Estoppel, 21.01

J

Joinder

- claims, 5.01
- • counterclaims, 27.01(1)
- crossclaims, 28.01(1)
- foreclosure actions, 64.03(5)
- • fourth and subsequent party, 29.11(1)
- redemption actions, 64.05(3)
- . . relief against joinder, 5.05
- sale actions, 64.04(4)
- generally, 5
- necessary parties, 5.03
- parties, 5.02
- adding plaintiffs or applicants, 5.04(3)
- assignor of chose in action, 5.03(3)
- counterclaims, 27.01(2)
- crossclaims, 28.01
- estate proceedings, 9.01
- foreclosure actions, 64.03(1)-(3)
- fourth and subsequent parties, 29.11
- misjoinder, 5.04(1)
- multiple defendants or respondents, 5.02(2)
- multiple plaintiffs or applicants,
- necessary parties, 5.03
- . . non-joinder, 5.04(1)
- persons incorrectly named, 5.04(2)
- power of court to add, delete or substitute, 5.04(2)

- Joinder (cont'd)
 power of court to add necessary parties, 5.03(4)
- redemption actions, 64.05(1), (2)
- relief against joinder, 5.03(6), 5.05
- sale actions, 64.04(1), (2)
- trust proceedings, 9.01

Joint And Several Liability

- offer to contribute, 49.12(1), 49D
- offer to settle, 49.11, 49A

Judges And Officers, *see also* Case Management Masters; Provincial Judges: Superior Court of Justice; Family Court; Small Claims Court

- bilingual judge, s. 126(4)
- ceasing to hold office or incapacitated, settling and signing order, 59.04(14),
- definition of judge, 1.03
- delayed decisions, s. 123
- · disqualified
- not to preside after hearing motions, 37.15(2)
- not to preside after holding pre-trial, 50.10
- extra-judicial services, s. 84
- failure to give decision, s. 123(5)
- inability to give decision, s. 123(3), (4)
- gowns, s. 85
- judges, how addressed, s. 86
- jurisdiction
- • associate judge, 37.02(2)
- • generally, ss. 4(2), 13(2)
- judge, 37.02(1)
- liability, generally, s. 82
- oath of office, s. 80
- persona designata abolished, s. 81
- referees, see References
- registrars, see Registrars
- view of property or location, 52.05

Judgments

- administration proceeding, 65.01
- applications, direction for service of judgment, 38.06(2)
- applications without notice, setting aside or varying, 38.11
- before trial
- action frivolous, vexatious or abuse of process, 21.01(3)(d)
- admissibility of evidence, 21.01(2)
- . . availability, 21.01(1), (3)
- factums, 21.03
- failure to make motion promptly,

- striking out pleading, 21.01(2), (6)
- · class proceedings
- • contents, 12.05(1)
- · consent
- effect of third party defence, 29.06
- party under disability, 7.08(2)
- party under disability, associate judge not to hear motion, 37.02(2)
- conversion of motion to motion for judgment, 37.13(2)
- counterclaims
- claim in main action not disputed, 27.09(1)
- counterclaim not disputed, 27.09(2)
- successful claim and counterclaim, 27.09(3)
- · crossclaims
- defendant noted in default, 28.07
- damages
- advance payments, s. 120
- appeal, power of court on, s. 119
- jury, guidance to, s. 118
- medical malpractice cases, s. 116.1
- periodic payment, ss. 116, 116.1
- review, s. 116
- · default, see Default Proceedings
- definition, 1.03
- fact or document yet to be proved,
- failure to testify, adverse party called as witness, 53.07(4)
- foreclosure actions, see Foreclosure, Sale And Redemption
- foreign currency obligations, s. 121
- form and contents, 59.03(3), (4), 59B
- forms
- application for registration of U.K. judgment, 73A
- default judgment (debt or liquidated demand), 19A
- default judgment (recovery of possession of personal property), 19C
- default judgment (recovery of possession of land), 19B
- default judgments, mortgage actions, see Foreclosure, Sale And Redemption
- general form of judgment, 59B
- judgment for administration of estate,
- judgment for partition or sale, 66A
- incorporating terms of offer to settle,
- joint liability not affected, s. 139
- offer to settle, accepted, 49.09

- Judgments (cont'd)
 partition or sale of land, 66.02
- reciprocal enforcement of U.K. judgments
- definitions, 73.01
- effect of registration, 73.03
- notice of application for registration of, 73.02(1)
- supporting material on application, 73.02(2), (3), (4)
- redemption actions, 64.05(4), (5)
- references, see References
- sale actions, see Foreclosure, Sale And Redemption
- set aside, party failing to attend, 52.01(3)
- set-off of mutual debts, s. 111
- special case, 22.05(2)
- summary, see Summary Judgments
- third party
- default, 29.07
- effect of defence, 29.06
- variation, party failing to attend, 52.01(3)
- without prejudice to persons not parties, 5.04(1)

Judicial Review

- application records
- applicant's, 68.04(1), (2)
- copies for use of the court, 68.04(7)
- failure of applicant to deliver, 68.06
- material served on application, 68.04(8)
- respondent's, 68.04(4), (5)
- transcript of evidence, 68.04(9)
- applications to Divisional Court, 38.01(2)
- · certificate of perfection
- failure to file, 68.06
- how commenced, 68.05(1)
- · commencement of proceeding
- application commenced outside regional centre, 68.01(2)
- notice of application, 68.01(1)
- · dismissal for delay, 68.06
- factums
- applicant's, 68.04(1), (3)
- copies for use of the court, 68.04(7)
- • failure of applicant to deliver, 68.06
- • respondent's, 68.04(4), (6)
- notice of application to Divisional Court for judicial review, 68A
- generally, 68

- · hearing date in Divisional Court, 68.03
- Divisional Court, 68.02(1)
- Superior Court of Justice, 68.02(2)
- jurisdiction, 38.02
- listing for hearing, 68.05(2)
- procedural summary, p. PC-12

Judicial Review Procedure Act, see

- · addresses, order of presentation, 52.07
- answering only some questions, 52.08(1)
- bilingual jury, s. 126(5)
- composition, s. 108(4)
- conflicting answers, 52.08(1)
- continuation with five jurors, s. 108(8)
- damages, guidance and submissions, s.
- disagreement, 52.08(1)
- discharge of juror, s. 108(7)
- inspection of property or location, 52.05
- judgment only on some claims, 52.08(2)
- jury notice
- • availability, s. 108; 47.01
- form, 47A
- . . striking out, 47.02
- time for delivery, 47.01
- trial record to contain, 48.03(1)
- no finding, 52.08(1)
- · recording verdicts, 52.09
- request for jury trial, s. 108(1)
- trial lists, 48.08(1), (2)
- trials without jury, s. 108(2)
- verdicts or questions, s. 108(5)

Jurisdiction

- criminal, s. 38(1)
- family, s. 38(2)
- · motions
- associate judge, 37.02(2)
- judge, 37.02(1)
- provincial offences, s. 38(2)
- referee, see References
- registrars, see Registrars
- Small Claims Court, s. 23
- stay or dismissal, 21.01(3)(a)
- youth court, s. 38(3)
- youth justice court, s. 38(3)

• certificate of pending litigation, 42

- Land (cont'd)
 enforcement of orders for recovery or delivery of possession, 60.03, 60.10,
- foreclosure, see Foreclosure, Sale And Redemption
- mortgage actions, see Foreclosure, Sale And Redemption
- recovery, signing default judgment, 19.04(1)
- redemption actions, see Foreclosure, Sale And Redemption
- sale actions, see Foreclosure, Sale And Redemption
- sales, see Sale, land

Lawyers

- affidavit
- proceeding concerning estate of minor, 67.03(1), (2)
- settlement involving party under disability, 7.08(4)
- answering on examination for discovery,
- appearance for pre-trial conference, 50.05
- ceasing to practise law, 15.06
- certificate
- completeness of appeal book, 61.10(1)
- concerning affidavit of documents, 30.03(4)
- perfection
- appeal, 61.09(3)
- judicial review application, 68.05(1)
- trial record, 48.03(1)
- · change in representation
- lawyer's lien, 15.03(4), (5)
- notice of appointment of lawyer, 15.03(2), 15B
- notice of change of lawyer, 15.03(1), 15A
- notice of intention to act in person, 15.03(3), 15C
- commencement of proceeding
- demand for declaration of authority,
- without client's authority, 15.02(3)
- without lawyer's authority, 15.02(2)
- corporation, 15.01(2)
- order for removal, 15.04(6), (7)
- declaration of plaintiff's place of residence, 56.02
- definition, 1.03
- duty of lawyer of record, 15.05
- estate proceedings, 75.09

- fees, assessment of costs, 58.05(1)
- generally, 15
- jury trials, right to address jury, 52.07(4)
- lawyer required, 15.01
- lawyer's office, definition, 1.03
- liability for costs, 57.07
- location of lawyer's office, place of hearing of motion, 37.03
- mentally incompetent party, 15.01(1)
- minor party, 15.01(1)
- · motion for removal by lawyer
- client to be served, 15.04(1)
- method of service on client, 15.04(2)
- service on party under disability, 15.04(3)
- · name, address, telephone number
- in backsheets, 4.02(3)
- in documents, 4.02(2)
- · order for removal
- contains client's address, 15.04(4)
- corporations, 15.04(6), (7)
- . . proof of service to be filed, 15.04(5)
- service, 15.04(2)
- service on party under disability, 15.04(3)
- party
- acting in person, 15.01(3)
- acting in representative capacity, 15.01(1)
- under disability, 15.01(1)
- · payment out of court
- consent, 72.03(4)
- payment directly to lawyer, 72.03(8), (13)
- province, from another, 15.07
- representation of litigation guardians, 7.05(3)
- representing parties with same interests on reference, 55.02(8)
- • demand for declaration of authority
- retainers
- limited scope, 1.03(1), 15.01.1
- · service on lawyer of record
- acceptance of service, 16.03(2), (3)
- • availability, 16.01(4)
- delivery to lawyer's office, 16.05(1)
- deposit at document exchange, 16.05(1)
- mail, 16.05(1)
- proof of service, 16.09(3), (4)
- . . telephone transmission, 16.05(1)
- signature
- appeal factum, 61.11, 61.12(3)

- Lawyers (cont'd)
 application for judicial review factum, 68.04(3), (6)
- form of special case, 22.04
- stay of proceeding commenced without authority, 15.02(4)

Leave

- · amendment
- document or pleading, 25.11
- • pleading generally, 26.01, 26.02
- appeals, see also Appeals
- Court of Appeal
- costs appeal or cross-appeal joined with appeal of right, 61.03.1(17), (18), (19)
- date for oral hearing, 61.03.1(15)
- in writing, 61.03.1(1)
- motion record and factums, 61.03.1(4)–(13)
- notice of motion, 61.03.1(2), (3)
- time for delivering of notice of appeal, 61.03(16)
- Divisional Court
- interlocutory order of a judge of the Superior Court of Justice, 62.02(1)
- final order of a judge of the Superior Court of Justice for costs, 62.02(1)
- costs appeal or cross-appeal joined with appeal as of right, 61.03(7), (8), (9)
- date for hearing, 61.03(5)
- motion records and factums, 61.03(2), (3), (4)
- time for delivering notice of appeal, 61.03(6)
- general
- arguing grounds other than those stated, 61.08(2)
- cross-appeals, 61.07(3)
- dismissal of motion for delay, 61.13(6), (7), (8)
- motion record and factum, 61.03(2)-(4)
- order for stay pending appeal,
- setting aside writ of execution, 63.03(6)
- · appeals from interlocutory orders
- factums, 62.02(5)
- grounds on which leave may be granted, 62.02(4)
- motion in writing, 62.02(2)
- motion record, 62.02(5)
- notice of motion, 62.02(3)

- order of judge, 62.02(1)
- reasons for granting required, 62.02(1)
- reliance on grounds not stated in notice, 62.01(4)
- subsequent procedure where leave granted, 62.02(8)
- attacking irregularity after expiry of time or further step, 2.02
- class proceedings, 12.06
- commencement of proceeding, 14.01(3)
- delivery of amended pleadings, subsequent facts, 25.06
- delivery of statement of defence, 19.01(2)
- discontinuing actions, 23.01(1)
- effect on subsequent action, 23.04(1)
- party under disability, 23.01(2)
- discovery, action set down for trial, 48.04(1)
- enforcement of orders against alleged partners not served, 8.06(3)
- evidence at trial
- affidavit evidence, 53.02(1)
- expert witness testifying, report not served, 53.03(2)
- witness whose evidence was previously taken, 36.04(2)
- · examination for discovery
- examination by both oral and written questions, 31.02(1)
- examination of party more than once, 31.03(1)
- non-parties, 31.10(1)
- other officer, director or employee of corporation, 31.03(3)
- use of evidence at trial, party under disability, 31.11(5)
- use of information refused at discovery, 31.07(1)
- withholding information, 31.06(6)
- inspecting documents deposited with registrar, 30.11
- intervening
- added party, 13.01
- Divisional Court, Court of Appeal, 13.03
- friend of the court, 13.02
- issuing certificate of pending litigation, 42.02
- issuing third party claim, 29.02(1)
- issuing writs
- possession, 60.10(1), (2)
- seizure and sale, 60.07(2)
- sequestration, 60.09(1), (2), 60.11(5),

- Leave (cont'd)
 listing for trial, action struck off trial list, 48.11
- • failure to move for leave, 24.01
- motions
- hearing at another place, 37.03
- hearing in absence of public, 37.11(2)
- where action set down for trial, 48.04(1)
- motions and applications
- delivery of affidavit subsequent to cross-examination on affidavit, 39.02(2)
- examining witnesses at hearings, 39.03(4)
- parties under disability in default, 7.07, 19.01(4)
- partners defending proceeding separately, 8.02
- pleading subsequent to reply, 25.01(5)
- pre-trial determination of issue evidence, 21.01(2)
- service outside Ontario, 17.03
- special case determined by Court of Appeal, 22.03(1)
- statement of defence and counterclaim
- amending, 27.07(2)
- extending time for service or delivery, 27.04(2)
- issuing after time prescribed, 27.03(a)
- · statement of defence and crossclaim
- delivery, 28.04(1)
- summary judgment, special urgency, 20.01(2)
- taking evidence before trial, 36.01
- use of privileged documents at trial, 30.09
- withdrawing defence, 23.06(1)
- admissions, 23.06(1), 51.05
- withholding disclosure or production on discovery, 30.04(8)

Letters of Request

examinations out of court, persons out of Ontario, 34.07(2), 36.03

Letters Rogatory, see Examinations Out

Liberty of the Subject

associate judge not to hear motions, 37.02(2)

Limitation Periods

- case law, Vol. 2, p. 1367
- chart, Vol. 2, p. 1325

Liquidated Demands

• default judgment, 19.04(1)

- · forms
- default judgment, 19A

Lis Pendens, see Certificate of Pending

Listing for Hearing, see Hearings

Listing for Trial, see Setting Down

Litigation Administrators

- appointment, 9.02(1), (2)
- executor or administrator existing, 9.03(4)

Litigation Guardians, *see also* Children's Lawyer; Parties Under Disability; Public Guardian and Trustee

- absentee, 7.02(1.1), 7.03(2.1)
- affidavits required for approval of settlements, 7.08(4)
- applicant's, 7.02
- appointment, 7.03(6)
- costs, 57.06
- recovery from person under disability, 57.06(2)
- court appointment unnecessary, 7.02(1)
- defendant's, 7.03(1)
- duties, 7.05
- examination for discovery, 31.03(5)
- generally, 7
- lawyer to represent, 7.05(3)
- mentally incapable person, 7.02(1.1), 7.03(2.1)
- notice of discontinuance by plaintiff, 23.01(2)
- notice of motion to dismiss for delay, 24.02
- persons under disability, 7.04
- plaintiff's, 7.02
- powers, 7.05(1)
- removal or substitution, 7.06
- representation of party under disability, 7.01
- respondent's, 7.03(1)
- Substitute Decisions Act applications, 7.01(2)
- service
- motion for removal of lawyer, 15.04(3)
- order removing lawyer of record,

Local Registrars, see Registrars

Mail

- filing documents, 4.05(4)–(6)
- acknowledgment of receipt card, 16A

Maintenance

- minors
- allowance sought on disposition of property, 67.02(2)
- payment out of court, 72.03(14)

Managers, see Receivers

Mandatory Mediation - Case Managed

- application
- exceptions, certain actions, 24.1.04(2.1)
- Crown Liability and Proceedings Act, 2019, 24.1.04(3)
- scope, 24.1.04(1)
- · attendance at mediation session
- • authority to settle, 24.1.11(2)
- who is required to attend, 24.1.11(1), 24.1.11.1
- civil case management, special provisions re, 24.1.09.1
- confidentiality, 24.1.14
- definitions
- definitions, 24.1.03
- mediation co-ordinator, 24.1.03
- exemption from mediation, 24.1.05
- failure to attend, non-compliance, 24.1.12
- list of mediators, 24.1.08
- · local mediation committees
- • establishment, 24.1.07(1)
- • functions, 24.1.07(4)
- membership, 24.1.07(2), (3)
- mediation co-ordinator, 24.1.06
- · mediation session
- assignment of mediator, 24.1.09(6)–(8)
- extension or abridgment of time, 24.1.09(2)
- postponement, 24.1.09(3)
- selection of mediator, 24.1.09(4), (5)
- time limit, 24.1.09(1)
- mediators' fees (Rule 24.1, O. Reg. 451/98), p. 727
- nature of mediation, 24.1.02
- non-compliance, 24.1.13
- · outcome of mediation
- additional mediation session, 24.1.16
- agreement, 24.1.15(3)–(4)
- failure to comply with signed agreement, 24.1.15(5)
- mediator's report, 24.1.15(1)–(2)
- · procedure before mediation session copy of pleadings, 24.1.10(4)
- non-compliance, 24.1.10(5)

- statement of issues, 24.1.10(1)–(3)
- purpose, 24.1.01
- special provisions, 24.1.09.1

Mandatory Mediation — Estates, Trusts and Substitute Decisions

- · attendance at mediation session
- authority to settle, 75.1.09(2)
- • failure to attend, 75.1.09(3)
- • who is required to attend, 75.1.09(1)
- choice of mediator, 75.1.07
- confidentiality, 75.1.11
- consent order for additional mediation sessio, 75.1.13
- definitions
- designated party, 75.1.03
- list, 75.1.03
- mediation co-ordinator, 75.1.03
- · directions for conduct of mediation
- directions, 75.1.05(4)
- motion for directions, 75.1.05(1)–(3.1)
- exemption from mediation, 75.1.04
- forms
- assignment of mediator, request for, 75.1A
- certificate of non-compliance, 75.1D
- non-compliance, certificate of, 75.1D
- notice by mediator, 75.1B
- request for assignment of mediator, 75.1A
- statement of issues, 75.1C
- mediators, 75.1.06
 mediators' fees (Rule 75.1, O. Reg. 43/05), p. 1627
- · outcome of mediation
- agreement, 75.1.12(3)-(5)
- failure to comply with signed agreemen, 75.1.12(6)
- mediator's report, 75.1.12(1), (2)
- no agreement, 75.1.12(7)
- procedure before mediation session
- non-compliance, 75.1.08(4)
- statement of issues, 75.1.08(1)–(3)
- remedy for non-compliance, 75.1.10
- scope, 75.1.02

Mandatory Orders

- application for, ancillary relief, 14.05(3)(g)
- extension, 40.02(2)
- generally, 40
- how obtained, 40.01
- maximum duration without notice,
- period of extension, 40.02(3)

Mary Carter Agreements, 49.07 Material Facts, see Facts

Mediations, see also Estates; Mandatory Mediation — Case Managed Actions; Mandatory Mediation — Estates, Trusts and Substitute Decisions

- additional sessions, consent order for, 75.2.10
- application provisions, 75.2.01
- attendance at session, 75.2.06
- conduct of, directions for, 75.2.03
- confidentiality, 75.2.08
- consent orders for additional sessions,
- designated party defined, 75.2.02
- family law, s. 149
- agreements with service providers, s. 149(2)
- fees, s. 149(3)(4)
- mediator, 75.2.04
- non-compliance, remedy for, 75.2.07
- outcome of, 75.2.09
- procedure before session, 75.2.05

Medical Examinations, see also Examinations for Discovery

- attendance, 33.05
- availability on pre-trial conference, 50.11
- consent, 33.08
- deemed undertaking, see Deemed Undertaking
- defined as discovery, 1.03
- failure to comply with order, 33.07
- generally, s. 105; 33
- health practitioner defined, s. 105(1)
- motion for examination, 33.01
- order for examination, s. 105; 33.02
- provision of information, 33.04
- questions by examiner, s. 105(5)
- reports
- preparation, 33.06(1)
- providing copies, 33.04
- service, 33.06(2)

Mentally Incapable Persons, see Parties Under Disability

Method of Attendance at Hearings

- electing method of hearing, 1.08(1)
- exception, case conferences, 1.08(3)
- exception, Court of Appeal, 1.08(2)
- mandatory mediation, 1.08(8)
- objections, 1.08(4), (5), (7)
- oral examinations for discovery, 1.08(8)

· order directing method of hearing,

Minors, see also Children

- approval of sale, mortgage, lease, 67.01
- approval of settlements, 7.08(4)
- attaining age of majority, payment out of court, 72.03(7)
- direction for payment out, references, 55.05(4)
- forms
- order to continue, minor reaching age of majority, 7B
- maintenance, payment out of court,
- motion by lawyer for removal as lawyer of record, 15.04(3)
- order directing payment for minor, 59.03(5)
- order to continue on reaching age of majority, 7.06(1), 7B
- personal service, 16.02(1)(j)
- persons under disability, 1.03
- proceedings concerning estates
- affidavit in support, 67.02
- commencement of proceedings, 67.01
- consent of minor over age of sixteen,
- dispensing with consent, 67.03(2)
- examining minor with respect to consent, 67.03(3)
- generally, 67
- inquiry concerning consent of minor outside Ontario, 67.03(4)
- lawyer's affidavit, 67.03(1)
- proceedings for partition, 66.01(2)
- report of Children's Lawyer in divorce action, s. 112
- representation by litigation guardian, 7.01, 7.03, 7.04

Mistake, see Errors and Omissions

Mootness

on appeal and in courts of first instance, s. 134

Mortgage Actions, see Foreclosure, Sale and Redemption

Mortgage References, see References

Mortgages, see also Foreclosure, Sale and Redemption

- application for approval, 14.05(3)
- discharge of mortgage held by accountant, 72.04
- proof of account where assigned, 64.06(15)
- property of minor

- Mortgages (cont'd)
 • affidavit in support of application for approval, 67.02
- consent of minor over age of sixteen,
- lawyer's affidavit, 67.01(1), (2)
- notice of application for approval,

- abandonment
- assessment of costs, 58.07
- costs, 37.09(3)
- deemed, 37.09(2)
- notice of abandonment, 37.09(1)
- absence of opposite party, 3.03(2)
- abuse of process, 37.16
- · appellate court
- certificate of estimated time for argument, 61.16(3.2)
- hearing by more than one judge, 61.16(3)
- motion to receive evidence, 61.16(2)
- notice of motion, filing, 61.16(3.1)
- procedure, 61.16(1)
- record and factum, 61.16(4)
- required to be heard by one judge, 61.16(2.1)
- review of Registrar's order, 61.16(5)
- review of single judge's order, 61.16(6)
- attacking irregularity, 2.02
- before commencement of proceedings, 37.17
- confirmation, 37.10.1
- failure to confirm, 37.10.1(2), (4)
- costs
- contested, 57.03(1), (2)
- motion without notice, 57.03(3)
- seeking costs from lawyer, 57.07(2)
- cross-examination on affidavits, procedure, 34.01, 39.02
- definition, s. 1; 1.03
- dismissal, approval of form of order not required, 59.03(2)
- dispositions, 37.13(1), (2), (3)
- exception, 37.13(4)
- · evidence
- affidavits, 39.01
- appointment of litigation guardian, 7.03(10)
- cross-examination on affidavit, 39.02
- examination for discovery, 39.04
- examination of witness, 39.03
- full and fair disclosure, 39.01(6)

- summons to witness, 39.03(5)
- extension of time, 3.02(2)
- factums, 37.10(6)–(10), 40.04
- confirmation of motion, 37B, 37.10.1(1)
- notice of motion, 37A
- refusals and undertakings chart, 37C
- frivolous or vexatious, 37.16
- generally, 37, 39
- · hearing
- complicated issues or series of proceedings, 37.15(1)
- conversion to motion for judgment, 37.13(2)
- date, 37.05
- failure to appear, 37.09(2)
- in absence of public, 37.11(1), (2)
- open to public, 37.11(2)
- order for trial of an issue, 37.13(2),
- where same judge not to preside at trial or hearing of application, 37.15(2)
- without oral argument, 37.12.1
- · jurisdiction to hear
- associate judge, 37.02(2)
- judge, 37.02(1)
- • registrar, 37.02(3)
- leave to appeal, 61.03, 61.03.1, 61.12(6), (7)
- moving party, definition, 1.03
- multiplicity, 37.16
- no disclosure of statements made at pretrial conference, 50.09
- notice of motion, 37.01
- content, 37.06
- endorsement of order, 59.02(1)
- • failure to file, 37.09(2)
- filing, 37.08
- leave to appeal to Court of Appeal, 61.03.1(2), (3)
- leave to appeal to Divisional Court, 61.03(1)
- motion record, 37.10(2)
- service, 37.07
- service and filing of affidavits, 39.01(2)
- setting aside or varying order, 37.14(1)
- where notice ought to have been served, 37.07(5)
- obtaining hearing date, 37.05
- offer to settle, 49.02(2)

Motions (cont'd)

- order prohibiting motions without leave, 37.16
- place of hearing
- motion by court, 13.1.02
- motions on notice, 37.03
- . . motions without notice, 37.03
- sheriff's interpleader, 43.05(6), (7)
- procedural summary, p. PC-14
- record
- binding, 4.07(1)
- contents, 37.10(2)
- filing material as part of record, 37.10(4)
- front covers, 4.07(1.1)
- responding party's, 37.10(3)
- where required, 37.10(1)
- references, 54.05, 54.09
- refusals and undertakings chart, 37.10
- · setting aside, varying, amending orders
- made by judge, 37.14(4)
- made by associate judge, 37.14(5)
- made by registrar, 37.14(3)
- made in Court of Appeal or Divisional Court, 37.14(6)
- motion to set aside or vary, 37.14(1), (2)
- telephone and video conferences, 1.08(1)
- to whom made, 37.04
- transcript of evidence, 37.10(5)
- undertakings chest, refusals and,
- without notice
- adding subsequent encumbrancers as defendants, foreclosure actions, 64.03(3)
- amending statement of defence and counterclaim, 27.07(2)
- appointment of litigation guardian, 7.03(8)
- certificate of pending litigation, 42.02(2)
- costs, 57.03(3)
- delivery of statement of defence and crossclaim, 28.04(1)
- discontinuance, 23.01(1)
- final order of foreclosure, 64.03(15),
- final order of foreclosure, redemption action, 64.05(6)
- final order for sale, 64.04(10), (11)
- foreclosure of subsequent encumbrancers, 64.03(14)
- full and fair disclosure, 39.01(6)

- generally, 37.07(2), (3)
- hearing without oral argument, 37.12.1
- interim recovery of personal property, 44.01(2), 44.03(2)
- interlocutory injunction, 40.02
- leave to commence proceeding, 14.01(3)
- mandatory order, 40.02
- noting defendant under disability in default, 19.01(4)
- order for payment of deficiency on sale, 64.04(14)
- order to continue, persons ceasing to be under disability, 7.06(1)
- payment out of court, party under disability, 72.03(10), (12)
- service of notice of application, 38.06(2)
- service of order, 37.07(4)
- service outside Ontario, 17.03
- setting aside or varying order, 37.14(1), (2)
- statement of defence and counterclaim, service or delivery, 27.03, 27.04(2)
- stop order, payment out of court, 72.05
- summary judgment, 20.01(2)
- where notice ought to have been served, 37.07(5)
- writs of possession, 60.10(1)

Municipalities

- · by-laws and resolutions
- • application for interpretation, 14.05(3)
- proceeding for interpretation, representation order, 10.01(1)
- claims for debts, service outside Ontario, 17.02
- personal service, 16.02(1)

Mute Persons

- examinations out of court, interpreters, 34.09(1)
- interpreters at trial, 53.01(5)

Necessary and Proper Parties, see Parties; Joinder

Next Friend, see Litigation Guardians **Notice**

- abandonment of appeal or cross-appeal,
- abandonment of motion, 37.09(1)
- actions, see also Actions

- Notice (cont'd)
 • added party having interest in equity (mortgage references), 64.06(11)
- alleged partners, 8.03
- appeal, 61.04, 61.08
- automatic stay, 63.01
- generally, 14.03(2)–(4)
- simplified procedure, 76.02(3)
- appearance, 38.07
- application, see also Applications, 38.04
- contents, 38.02(1), 38.03(1), 38.04
- · appointment
- assessment of costs, 58.03, 58.04
- settle order, 59.04(9)–(13)
- appointment or change of lawyer, see also Lawyers
- generally, 15.03
- compliance with order for security for
- constitutional questions, s. 109; 4.11, 4F
- contested claims, references, 55.03(4)
- creditors, references, 55.05(5)
- cross-appeals, 61.07, 61.08
- • election to proceed, 61.15
- · defence, 38.07.1
- delivery of bill of costs for assessment,
- discontinuance of actions, 23.01
- dismissal of appeals for delay, 61.13(2), (2.1)
- election
- proceed with counterclaim, 23.02, 24.03
- transfer carriage of sale, 64.03(25)
- examination
- cross-examination on affidavit, 34.01, 34.04
- discovery, 34.01, 34.04
- in aid of execution, 34.01, 34.04,
- out of court, 34.01, 34.04
- taking evidence before trial, 34.01, 34.04
- expiration of writ of seizure and sale, 60.07(7)
- · forms
- notice and summary of document,
- notice of abandonment of appeal or cross-appeal, 61K
- notice of action, 14C
- notice of appeal to appellate court, 61A, 61A.1
- notice of appearance, 38.07, 38A

- notice of application, 14E
- notice of application for registration of United Kingdom judgment, 73A
- notice of application to Divisional Court for judicial review, 68A
- notice of appointment for assessment of costs, 58A
- notice of appointment of lawyer, 15B
- notice of change of lawyers, 15A
- notice of claim (property seized by sheriff), 60L
- notice of constitutional question, 4F
- notice of contested claim (references), 55D
- notice of cross-appeal, 61E
- notice of discontinuance, 23A
- notice of election to proceed with counterclaim, 23B
- notice of election to proceed with cross-appeal, 61L
- notice of examination, 34A
- notice of garnishment, 60H
- . . notice of hearing for directions, 55A
- notice of intent to defend, 18B
- notice of intention to act in person, 15C
- notice of listing for hearing (appeal), 61G
- notice of listing for hearing (judicial review), 68B
- notice of motion, 37A
- notice of payment into court, 72A
- Notice of Renewal of Garnishment, 60H.1
- notice whether action under Rule 76, 76A
- notice of reference to original defendants (mortgage references), 64P
- notice of reference to subsequent encumbrancer added on reference,
- notice of reference to subsequent encumbrancer named as original party, 640
- notice of termination of garnishment,
- notice of withdrawal of defence, 23C
- notice of withdrawal of offer, 49B
- notice to added party having interest in equity, 64.06(11), 64Q
- notice to alleged partners, 8A
- notice to creditors (references), 55E
- notice to deliver a bill of costs for assessment, 58B
- notice to Estate Registrar of deposit of will or codicil, 74.1

Oaths

- Notice (cont'd)
 • notice to Estate Registrar of withdrawal of will or codicil, 74.2
- notice to party added on reference, 55B
- supplementary notice of appeal or cross-appeal, 61F
- garnishment, 60.08(4)–(10)
- motion for directions, 60.17
- termination, 60.08(20)
- hearing for directions, references, 55.02
- in writing, generally, 4.04
- intent to defend, 18.02
- intention to call adverse party as witness at trial, 53.07(1), (2)
- intention to call officer, director, etc. of adverse party, 53.07(1), (2)
- intention to call partner of partnership that is adverse party, 53.07(1), (2)
- listing for hearing, appeals, 61.09(5)
- listing for hearing, judicial review, 68.05(2)
- listing for trial, 48.05
- two or more proceedings pending in court, 6.01(2)
- motion
- contents, 37.06
- filing, 37.08, 37.10(4)
- generally, 37.01
- service, 37.07
- original defendants, mortgage references,
- party added on reference, 55.02(5)
- payment into court, 72.02(5)
- property seized by sheriff, 60.13
- readiness for pre-trial conference, 76.08,
- readiness for trial, 48.02
- sale of personal property seized under writ, 60.07(16)
- subsequent encumbrancer added on reference, 64.06(4)–(7)
- supplementary notice of appeal or cross-appeal, 61.08
- where required, notice to be in writing,
- withdrawal of defence, 23.06(1)
- withdrawal of offer to settle, 49.04
- withdrawal of will or codicil, 74.02(7)
- writ of possession, to person in possession, 60.10(2)
- writ of seizure and sale, notice of payment, 60.16(1)

Noting in Default, see Default

- administration, s. 92
- interpreters, affidavits, 4.06(8)
- interpreters at trial, 53.01(5)
- of office, s. 80
- witnesses out of court, 34.08, 34.15

0

Offers to Settle

- acceptance, 49.07, 49.09
- costs, 49.07(5)
- costs consequences, 49.10, 49.13
- • chart, 49
- counterclaims, 49.14
- crossclaims, 49.14
- deemed without prejudice, 49.05
- defendant, definition, 49.01
- expiry, 49.04(3), (4)
- forms
- acceptance of offer, 49C
- notice of withdrawal of offer, 49B
- offer to contribute, 49D
- offer to settle, 49A
- generally, 49
- Mary Carter Agreements, 49.07
- motions excepted, 49.02(2)
- multiple defendants, 49.11, 49.12
- no indication to court at hearing, 49.06(2)
- offer to contribute, 49.12
- parties under disability, 7.08, 49.08
- payment into court as a term, 49.07(3)
- payment to trustee as a term, 49.07(3)
- plaintiff, definition, 49.01
- pleadings not to disclose, 49.06(1)
- third party claims, 49.14
- time for making offer, 49.03
- where available, 49.02(1)
- withdrawal, 49.04

Official Examiners

- administering oath or affirmation, 34.08
- fees, assessment of costs, 58.05(1)
- holding examinations out of court, 34.02
- preparation of transcript, 34.17
- status, s. 91(4)

Official Guardian, see Children's Lawyer

Officers, *see* Assessment Officers; Corporations; Judges and Officers

Omissions, see Errors and Omissions

Ontario Court of Justice, see also Provincial Judges

• appeals from, generally, s. 40

- Ontario Court of Justice (cont'd)
 Chief Justice of Ontario Court of Justice
- absence, s. 36(4)
- meetings with regional senior judges, s. 36(7)
- powers and duties, s. 36(1)
- regional assignment of judges, s. 37
- · composition, s. 35
- criminal jurisdiction, s. 38(1)
- disturbance outside courtroom, s. 41
- documents filed in French, s. 126(2)
- presiding officials, s. 39
- process in French, s. 126
- provincial offences and family jurisdiction, s. 38(2)
- regional senior judges, s. 36(2), (3), (5), (6)
- translation of documents or process into French, s. 126(2)
- youth court, s. 38(3)
- youth justice court, s. 38(3)

Ontario Judicial Council, see Provincial

Orders

- acknowledging satisfaction, 59.07
- admission, order based upon, 51.06
- amending, 37.14, 59.06(1)
- appointment to settle
- disputed order before judge or officer, 59.04(9)–(13)
- form, 59D
- form of draft order not approved, 59.04(5), (6)
- objections to proposed form of order, 59.04(9)
- registrar not satisfied, 59.04(5), (6)
- assistance, for, estates, 74.15
- binding effect
- representation orders, 10.01(2)
- estates bound, 10.02, 10.03
- interested persons not parties bound, 10.01(4)
- relief from binding effect, 10.03
- · class proceedings
- contents, 12.05(1), (2)
- costs, directing payment to party, 59.03(6)
- definition, s. 1; 1.03
- draft of formal order, 59.03(1)
- defendant to crossclaim, 28.06(3), (5)
- third parties, 29.05(2), (5)
- effective date, 59.01

- endorsement by judge or officer, 59.02(1)
- · enforcement, see Enforcement of Orders
- entry
- acknowledgment of satisfaction, 59.07
- • order directing reference, 55.02(1)
- place of entry and filing, 59.05
- • procedure, p. PC-18
- stay pending appeal does not prevent, 63.03(2)
- time, 59.05(1)
- extending or abridging time, 3.02
- failure to comply, interpleader, 43.04(2)
- failure to comply, interlocutory orders,
- form and contents
- directing payment for minor, 59.03(5)
- general, 59.03(3), (4)
- • order for costs, 59.03(6)
- postjudgment interest, 59.03(7)
- · forms
- final order of foreclosure, 64E
- . . final order for sale, 64L
- judgment, 59B
- order, 59A
- order dismissing action for delay,
- order dismissing appeal or cross-appeal for delay, 611
- order dismissing application for judicial review, 68C
- order dismissing motion for leave to appeal for delay, 61J
- order for attendance of witness in custody, 53D
- order for commission and letter of request, 34E
- order for security for costs, 56A
- order on appeal, 59C
- order to continue (minor reaching age of majority), 7B
- order to continue (transfer or transmission of interest), 11A
- stop order, 72C
- mandatory, 40
- motion to set aside, vary, or amend, 37.14
- · order to continue
- minor reaching age of majority, 7.06(1), 7B
- transfer or transmission of interest, 11, 11A
- payment of costs, 59.03(6)
- postjudgment interest, 59.03(7)
- power of court to impose terms, 1.05

- Orders (cont'd)
 preparation of draft, 59.03(1)
- reference, directing, 54.04(1)
- removal as lawyer of record, 15.04
- review of Registrar's order, 61.16(5)
- review of single judge's order, 61.16(6)
- satisfaction of order
- acknowledgment, 59.07
- withdrawal of writ of execution, 60.16(2)
- setting aside or varying, 37.14, 59.06(2)
- settling and signing
- appointment to settle disputed order before judge or officer, 59.04(9)–(13)
- appointment to settle where form of draft order not approved, 59.04(7)
- form of draft order approved, 59.04(3)
- generally, 59.04
- judge or associate judge unavailable, 59.04(14), (15)
- registrar to be satisfied as to form, 59.04(5), (6)
- return of order unsigned, 59.04
- signing order directing reference, 55.02(1)
- stay pending appeal does not prevent, 63.03(2)
- submitting for signature, 59.04(1)
- urgent cases, 59.04(8)
- where affidavit or production required, 59.04
- variation, 37.14, 59.06(2)
- written reasons to be filed in court file, 59.02(2)

Orders in Council

- application for interpretation, 14.05(3)
- proceedings for interpretation, representation orders, 10.01(1)

Originating Process, *see also* Actions; Applications; Counterclaims; Counterpetitions; Petitions; Statement of Claim; Third Parties

- amendment, 14.09
- claim for certificate of pending litigation to be included, 42.01(2)
- commencement of proceeding, 14.01(1)
- exceptions, 14.01(2)
- leave required, 14.01(3)
- counterclaim against non-party, 14.03(1), 27.03
- court seal, application, s. 147(2)
- definition, s. 1; 1.03
- filing, 14.07(2)
- forms

- information for court use, 14F
- . . notice of action, 14C
- notice of application, 14E
- notice of application for registration of United Kingdom judgment, 73A
- notice of application to Divisional Court for judicial review, 68A
- statement of claim (action commenced by notice of action), 14D
- statement of claim (general), 14A
- statement of claim (mortgage action),
- generally, 14
- information for court use, 14.05(1.1)
- inspection of documents mentioned therein, 30.04(2)
- issuance, 4.05(1), 14.07(1)
- notice of action, 14.03(2)
- notice of application, 14.05(1)
- reliance on subsequent fact, 14.01(4)
- service, 16.01(1)
- • impractical, 16.04(1)
- where amended pleading, 26.04(3)
- service not required, 16.01(2)
- service outside Ontario, see Service Outside Ontario
- statement of claim, 14.03(1)
- simplified procedure, 76.02(3)
- striking out or amending, 14.09
- third or subsequent party claim, 29.02(1), 29.11
- title of proceeding, 14.06(1), (2), (3)
- • exception, 14.06(4)
- transfer of proceedings from wrong forum, s. 110

Particulars

- demand, 25.10
- • trial record, 48.03(1)
- notice of change of account, 64.06(21)
- pleadings, 25.06(8)
- claim for special damages, 25.06(9)
- · request for sale by subsequent encumbrancers, 64.03(18), (19)
- requested to redeem by subsequent encumbrancer, foreclosure action, 64.03(7)
- requisition for certificate of stay,
- taking of accounts on references, 55.04(6)

acting in bad faith, motion for summary judgment, 20.06(2)

- Parties (cont'd)
 addition, deletion, substitution amendment of pleadings, 26.02
- estate or trust proceedings, 9.01(4)
- intervention by persons not parties, 13.01
- administration proceedings, 65.01(1), (2)
- adverse
- cross-examination on affidavit, 39.02
- examination for discovery, 31
- assignee of chose in action, 5.03(3), 11
- bankrupt, 11
- conduct during proceeding, consideration in awarding costs, 57.01(1)
- consent of insurer, payment out of court,
- corporations, lawyer required, 15.01(2)
- correcting name in proceeding, 5.04(2)
- costs against successful parties, 57.01(2)
- counterclaim, 27.01
- against non-party, 27.03
- against persons already parties,
- amending defence to add counterclaim, 27.07
- crossclaim, 28.01
- deceased, order to continue, 11
- definition for purpose of use of evidence taken before trial, 36.04(1)
- discovery, see Examinations for Discovery
- evidence at trial, before other testimony, 52.06(2)
- foreclosure actions, 64.03(1)–(3)
- fourth and subsequent party claims, see Third Parties
- intervention as added party, 13.01
- joinder, 5.02, 5.03
- adding plaintiffs or applicants, 5.04(3)
- assignee of chose in action, 5.03(3)
- misjoinder, 5.04(1)
- multiple defendant or respondents,
- multiple plaintiffs or applicants, 5.02(1)
- non-joinder, 5.04(1)
- person incorrectly named, 5.04(2)
- persons jointly entitled, 5.03(2)
- persons not consenting to be added, 5.03(5)
- powers of court to add, delete or substitute parties, 5.03(4), 5.04(2)
- relief from joinder, 5.03(6), 5.05

- medical examination, 33.01
- named in title of proceeding, 14.06(1)
- necessary, 5.03
- non-resident respondents, place of hearing of motion, 37.03
- · partnership, see Partnerships
- · pleadings, see Pleadings
- pre-trial conference, appearance, 50.02
- redemption actions, 64.05(1), (2)
- · references
- • adding persons as parties, 55.02(5)
- bidding on sales of property, 55.06(5), (6)
- choosing referee, 54.03
- representation by different lawyers, 55.02(8)
- representation by same lawyer, 55.02(8)
- transferring carriage of reference, 55.02(12)
- · representation
- acting in person, 15.01(3)
- lawyer required, 15.01
- notice of appointment of lawyer,
- notice of change of lawyer, 15.03(1)
- notice of intention to act in person, 15.03(3)
- · representative parties
- generally, 10, 12
- lawyer required, 15.01(1)
- sale actions, 64.04(1), (2)
- security for costs, 56.09
- service, see Service
- setting down actions, 48.01
- sole proprietorships, see Sole Proprietorships
- third parties, see Third Parties
- transferred or transmitted interests or liabilities, 11
- trial, failure to attend, 52.01
- trustees, see Trusts
- under disability, see Parties Under Disability

Parties Under Disability, see also Parties

- ceasing to be under disability, 7.06(1)
- committee previously appointed, 7.01(3)
- costs, 57.06(1)
- discontinuance of action, 23.01(2)
- examination for discovery, 31.03(5)
- order to continue (minor reaching age of majority), 7B

Parties Under Disability (cont'd)
• • request for appointment of litigation guardian, 7A

generally, 7

judgment on consent

associate judge not to hear motion, 37.02(2)(d)

must be approved, 7.07(2)

• lawyer required, 15.01(1)

litigation guardian

defendant's or respondent's

absentee, 7.03(2.1)

appointment by court, 7.03(1)

Children's Lawyer, 7.03(2)

filing affidavit or certificate, 7.03(2.2), (2.3)

mentally incapable person, 7.03(2.1)

motion for appointment by plaintiff, applicant, 7.03(5)–(10)

motion to be appointed, 7.03(4)

request for appointment, 7.03(6), (7)

duties, 7.05(2)

lawyer to represent, 7.05(3)

plaintiff's or applicant's

absentee, 7.02(1.1)

appointment, 7.02

defending counterclaims, 7.03(3)

filing affidavit or certificate, 7.02(2), (3)

who may act, 7.02(1)

• • powers, 7.05(1)

removal or substitution, 7.06

· minor reaching age of majority, 7.06

motion to dismiss for delay, 24.02

noting default, 7.07, 19.01(4)

offers to settle, 49.08

payment into court, 7.09

payment out of court, 72.03(10)-(14)

removing lawyer of record, 15.04(3)

representation by litigation guardian, 7.01

settlement of claims

approval of judge, 7.08

material on motion or application,

notice to Children's Lawyer or Public Guardian and Trustee, 7.08(3)

Substitute Decisions Act applications, 7.01(2)

Partition

action, 66.01(1)

application, 66.01(1)

forms

• • judgment for partition or sale, 66A

generally, 66

• judgment, 66.02

proceeding by or on behalf of minor, 66.01(2)

• proceeds of sale, 66.03

Partnerships

• affidavits, 4.06(6)

enforcement of orders against, 8.06

examinations for discovery, 31.03(4)

examinations in aid of execution,

• forms

• • notice to alleged partner, 8A

• generally, 8

personal service, 16.02(1)(m)

proceedings by or against

defence, 8.02

disclosure of partners, 8.05

enforcement of orders against partners, 8.06(2)

enforcement of orders against partnership property, 8.06(1)

enforcement of orders against persons not served as alleged partners, 8.06(3)

notice to alleged partner, 8.03, 8A

persons deemed to be partners unless denied, 8.03(2)

persons defending separately, 8.04

persons served with notice deemed to be partners, 8.03(2)

service on partners disclosed, 8.05(3)

using firm name, 8.01

• securing attendance at trial, 53.07(1), (2)

Payment

· change of account

before day fixed for payment, 64.06(24)

fixing new day, 64.06(22)

motion by dissatisfied party, 64.06(23)

time allowed where new day fixed, 64.06(26)

costs, see Costs

creditor's notice, payment received under writ of seizure and sale, 60.16(1)

· direction for payment, references

money belonging to minor, 55.05(4)

money to be paid to creditors, 55.05(5)

payment into financial institution, 55.05(1)

payment out, 55.05(2), (3)

- Payment (cont'd)
 enforcement of order, 60.02(1)
- garnishment, 60.08
- mortgage debt
- joinder of claim in foreclosure action, 64.03(5)
- joinder of claim in sale action, 64.04(4)
- order for, deficiency on sale, 64.04(14)
- payment into court, see Payment Into Court
- payment out of court, see Payment Out of Court
- redemption by more than one defendant, 64.06(13), (14)
- time for taking of new account, mortgage reference, 64.06(18)
- transfer of property where redeemed, 64.06(19)
- trustee
- offer to settle, 49.07(3), (4)
- order directing payment for minor's benefit, 59.03(5)
- writ of seizure and sale, order for payment at future time, 60.07(5)

Payment Into Court

- account in chartered bank, 72.02(5)
- accountant, definition, 72.01
- administration proceedings, 65.02(3)
- Children's Lawyer, by, s. 89(7)
- direction to receive, 72.02(3)–(5)
- filing material, 72.02(2)
- forms
- notice of payment into court, 72A
- generally, 72.01, 72.02
- interpleader, disposition of application or motion, 43.04(1)
- money payable to party under disability,
- notice of payment, 72.02(9)
- offer to settle
- condition of acceptance, 49.07(4)
- term of offer, 49.07(3)
- order directing payment for minor,
- proceeds of sale, partition proceeding,
- purchase money where order for sale, 64.04(12), (13)
- receipt from bank, 72.02(6)
- references
- deposit for purchase of property, 55.06(9)
- failure to comply when required,

- purchase money from sale, 55.06(12)
- representative proceedings, 12.02
- security, motion for interim recovery of personal property, 44.03 security for costs, 56.04, 64.03(18)–(21),
- specific fund, interim preservation of property, 45.02
- summary judgment, term of order to proceed to trial, 20.05(2), (6)
- transfer to accountant, 72.02(11)
- writ of seizure and sale, 60.07(4)

Payment Out of Court

- accountant, definition, 72.01
- authority for payment out, 72.03(1)
- consent by insurer on behalf of party, 72.03(6)
- · discharge of a mortgage, 72.04
- · forms
- affidavit (motion for payment out of court), 72B
- stop order, 72C
- generally, 72.03, 72.04, 72.05
- minor attaining age of majority, 72.03(7)
- motion by person obtaining stop order, 72.05(3)
- · party under disability
- affidavit in support of motion, 72.03(11)
- costs, 72.03(13)
- motion by Children's Lawyer or Public Guardian and Trustee, 72.03(12)
- motion for order for payment out, 72.03(10)
- order for maintenance of a minor, 72.03(14)
- payment
- directly to lawyer, 72.03(8)
- foreign payee, s. 145
- interest, 72.03(5)
- on consent, 72.03(4)
- personal representative, 72.03(9)
- references, 55.05(2)–(5), 55.06(14)
- • stop order, 72.05
- under order or report, 72.03(2), (3)

Pending Litigation, *see* Certificates, pending litigation

Personal Property, see Property

Persons

- · not parties
- approval of settlements affecting, 10.01(3), (4)

- Persons (cont'd)
 • enforcement of orders against, 60.06(2)
- enforcement of orders by, 60.06(1)
- interim preservation of property,
- intervention as friend of the court,
- representation orders, 10.01(1)
- · under disability
- definition, 1.03
- examination for discovery, 31.03(5),
- representation, 7.04

Place of Hearing, see also Applications;

- applications
- motion to set aside or vary judgment, 38.11(2)
- named in notice of application, 13.1.01, 38.03(1)
- statute or rule governing, 13.1.01
- motions
- complicated issues or series of proceedings, 37.15(1)
- references, 54.05(2)
- setting aside, varying, amending orders, 37.14(3), (4), (5)
- setting aside or varying judgment or application, 38.11(2)

Place of Trial

- agreement, effect, s. 114
- changing place, 13.1.02
- generally, 46
- named by plaintiff, 46.01
- orders changing place, 46.03
- required by statute, 13.1.01, 46.01

Plaintiffs, see also Actions

- adding, consent required, 5.04(3)
- close of pleadings, 25.05
- consent where defendant noted in default, 19.01(1)(b), 19.03(2)
- counterclaims against, see Counterclaims
- definition, s. 1; 1.03
- discontinuance of action, 23.01
- dismissal of action for delay
- counterclaim, crossclaim, third party claim, 24.06
- effect on counterclaim, 24.03
- effect on crossclaim, third party claim, 24.04
- effect on subsequent action, 24.05
- plaintiff under disability, 24.02
- where available, 24.01

- examinations for discovery, 31.04(1)
- to attend trial, 52.01
- to move to restore action to trial list, 24.01
- to note defendant in default, 24.01
- to serve statement of claim, 24.01
- to set action down for trial, 24.01
- foreclosure actions, see Foreclosure, Sale and Redemption
- joinder of claims, 5.01
- joinder of parties, 5.02(1)
- offers to settle, see Offers to Settle
- · prejudice
- crossclaim, 28.10
- delivery of defence and crossclaim, 28.04(1)(b)
- issuing third party claim, 29.02(1)(b)
- third party claim, 29.09
- · resident outside Ontario, security for costs, 56.01
- sale of actions, see Foreclosure, Sale and Redemption
- security for costs, 56.01
- default in giving security, 56.06
- • notice of compliance, 56.08
- suing in different capacities, 5.01(2)
- under disability, see Parties Under Disability

Pleadings

- abuse of process, 25.11
- · action
- commenced by notice of action, 25.01(1)
- commenced by statement of claim, 25.01(1)
- · amendment
- adding counterclaim, 27.07
- adding crossclaim, 28.03
- at trial, 26.06
- failure to respond, 26.05(2)
- generally, 26
- • how made, 26.03
- . . new ground of claim, 14.01(4)
- power of court, 26.01
- . . proof of service, 26.04(2)
- referee granting leave, 55.02(10)
- service, 19.02(3), 26.04(1), (3)
- subsequent facts, 14.01(4)
- time for responding, 26.05(1)
- when permitted, 26.02
- claim for certificate of pending litigation, 42.02
- claim for relief, 25.06(9)

Pleadings (cont'd)
• close of, 25.05

- failure to set action down for trial, 24.01
- setting down for trial, 48.01
- condition of mind, 25.06(8)
- conditions precedent, 25.06(3)
- content of appeal book and compendium, 61.09(1)
- conversations, 25.06(7)
- counterclaim
- amending defence to add, 27.07
- by defendant to counterclaim, 27.10
- by defendant to crossclaim, 27.10
- by third parties, 27.10
- crossclaim between defendants, 28.11
- defendant not party to main action,
- generally, 25.01(2), 27
- joining defendants to counterclaim, 27.01(2)
- reply and defence to counterclaim, 27.05(2)
- service, 27.04(3), 29.02(2)
- statement of defence and counterclaim, 27.02
- third party claim by defendant, 29.13
- time for delivery of defence, 27.05(1), (3)
- time for delivery of reply to defence, 27.06
- time for delivery or service, 27.04
- title, 27.02, 27.03
- crossclaim
- amending defence to add, 28.03
- between defendants to counterclaim, 28.11
- between third parties, 28.11
- counterclaim by defendant, 27.10
- defence, 28.05(1) (2), 28.06
- generally, 25.01(3), 28
- reply by plaintiff, 28.06(4) . .
- • reply to defence, 28.08
- service, 29.02(2), (3)
- statement of defence and crossclaim, 28.02, 28.04
- third party claim by defendant, 29.13
- title, 28.02
- damages, 25.06(9)
- defences
- admissions, 25.07(1), (2)
- affirmative defences, 25.07(4)
- amount of damages, 25.07(6)
- denial, 25.07(2)

- denial of agreement, 25.07(5)
- different version of facts, 25.07(3)
- delivery commences proceeding, 14.01(2)
- demand for particulars, 25.10
- discontinuance of action, 23.01(1)
- • after close, 23.01(1)(b)
- documents or conversations, 25.06(7)
- form, 25.02
- forms
- counterclaim (against parties to main action only), 27A
- counterclaim (against plaintiff and person not already party to main action), 27B
- crossclaim, 28A
- defence to counterclaim, 27C
- defence to crossclaim, 28B
- notice of intent to defend, 18B
- reply, 25A
- . . reply to defence to counterclaim, 27D
- . . reply to defence to crossclaim, 28C
- reply to third party defence, 29C
- statement of claim (action commenced by notice of action), 14D
- statement of claim (general), 14A
- statement of claim (mortgage action), 14B
- statement of defence, 18A
- third party claim, 29A
- third party defence, 29B
- fraud, misrepresentation, breach of trust, malice or intent, 25.06(8)
- French, 4.02.1
- frivolous, vexatious or scandalous, 25.11
- generally, 25-29
- inconsistent, 25.06(4), (5)
- inspection of documents mentioned therein, 30.04(2)
- issuing, when not required, 14.01(2),
- material facts, 25.06(1)
- new ground of claim, 25.06(5)
- notice, allegation of, 25.06(6)
- offer to settle not to be disclosed, 49.06(1)
- pleading law, 25.06(2)
- prejudicial, 25.11(a)
- questions of law, determination before trial, 21.01(1)
- reply
- admissions, 25.09(1)
- affirmative reply, 25.08(2)
- deemed denial if none delivered, 25.08(4), 25.09(2)

- Pleadings (cont'd)
 • defence to counterclaim, 27.06
- denial of agreement, 25.09(2)
- different version of facts, 25.08(1)
- plaintiff's claim against crossclaiming defendant, 28.06(4)
- where required, 25.08(3)
- resulting in delay, 25.11
- added parties, 25.03(2)
- amended pleading, 26.04
- documents referred to, 25.03(4)
- parties served, 25.03(1)
- personal service not required, 25.03(3)
- striking out, 21.01(1), (2), 25.11
- subsequent to reply, 25.01(5)
- third party claim
- counterclaim by third party, 27.10
- crossclaim between third parties, 28.11
- defence
- generally, 29.03
- main action by third party, 29.05
- defendants to counterclaims, crossclaims, 29.13
- fourth and subsequent party claims, 29.11(1), (3), 29.12
- generally, 29
- issuing, 29.02(1)
- prejudice or delay to plaintiff, 29.09
- reply to defence, 29.04
- service, 29.02(2), (3)
- · time for delivery
- notice of intent to defend, 18.02(1)
- statement of defence, 18.01, 18.02(2), (3)
- time for service
- counterclaim, 25.04(3), (4)
- crossclaim, 24.04(5)
- reply, 25.04(3)
- • statement of claim, 25.04(1)
- statement of defence, 25.04(2)
- third party claim, 25.04(6)

Possession of Land

- action for, service outside Ontario, 17.02(e)
- claim, joinder in mortgage action, 64.03(5), 64.04(4), 64.05(3)
- writ of possession, 60.03, 60.10, 60C

Postjudgment Interest, see See Interest

Practice Directions, see also Index to Practice Directions, Guides, and Notices, Vol. 2, p. 317

- Court of Appeal, 1.07(1)
- effective date, 1.07(3), 1.07(6)
- Superior Court of Justice, 1.07(2)

Precedent, see cases following 22.03

Prejudgment Interest, see Interest

Prejudice

- amendment of pleadings, 26.01
- counterclaim, 27.08(2)
- crossclaim, 28.10
- leave to deliver defence and crossclaim, 28.04(1)(b)
- discovery
- leave to withhold disclosure or production, 30.04(8)
- leave to withhold information, 31.06(6)
- documents, 25.11(a)
- failure to deliver bill of costs, 58.04(4)
- issuing third party claim, 29.02(1)
- offer to settle, 49.05
- pleadings, 25.11
- third party claim, 29.09

Prerogative Remedies, see Judicial Review

Preservation of Property, see Interim Preservation of Property

Preservation of Rights

- certificate of pending litigation, see Certificates, pending litigation
- injunctions, see Injunctions
- interim preservation of property, see Interim Preservation of Property
- interim recovery of personal property, see Interim Recovery of Personal Property
- interpleader, see Interpleader
- · mandatory orders
- extension, 40.02(2)
- generally, 40
- how obtained, 40.01
- maximum duration without notice, 40.02(1)
- period of extension, 40.02(3)
- undertakings concerning damages, 40.03
- · receivers
- appointment, 41.02, 41.03
- definition, 41.01
- . . discharge, 41.06
- generally, 41
- motion for directions, 41.05

Preservation of Rights (cont'd)
• ereferring conduct of receivership,
41.04

Pre-trial Conferences

- applications, in, 50.03
- attendance, 50.05
- certificate of readiness (actions), 50.03.1
- consequences of listing for trial, 50.12
- costs, 50.09
- disclosure to court not permitted, 50.11
- documents to be made available, 50.05
- generally, 50
- hearing motions in absence of public, 37.11(1)
- materials to be filed, 50.04
- matters to be considered, 50.06
- powers, 50.07
- report, 50.08
- pre-trial judge not to be trial judge, 50.10
- • exceptions, generally, 50.10(2)
- • simplified procedure, 76.10
- scheduling, 50.02

Priorities

- application of purchase money, 64.04(13)
- determining entitlement to redeem, 64.03(10), (11)
- more than one party entitled to redeem, 64.06(13), (14)
- mortgage reference, 64.06(16)

Privilege

- affidavit of documents, 30.06
- documents
- determination of claim of privilege, 30.04(6)
- • disclosure, 30.02
- • use at trial, 30.09, 31.07(1)
- requirements concerning notice of motion or motion record, 15.04(1.2), (1.3)
- waiver after action set down for trial, 30.09

Proceedings, see also Actions; Applications

- action, commencement, 14.02, 14.03, 14.03.1
- administration, see Administration
- against minors, representation by Children's Lawyer, 7.03(2)
- another proceeding pending, 21.01(3)
- appeals, see Appeals
- application, 14.05
- appointment of receiver, 41

- assessment of costs, see Costs
- commencement
- • delivery of pleading, 14.01(2)
- • leave required, 14.01(3)
- • motions before, 37.17
- • originating process, 14.01(1)
- • place of commencement, 13.1.01
- • pleading subsequent facts, 25.06(10)
- consolidation, s. 107; 6.01
- constitutional questions, s. 109
- continuation, non-compliance with accepted offer, 49.09
- cost, see Costs
- · counterclaims, see Counterclaims
- crossclaims, see Crossclaims
- default, see Default Proceedings
- definition, 1.03
- determination of issue before trial, see Determination of an Issue Before Trial
- directing reference, 54.02
- · discontinuance, see Discontinuance
- · dismissal, see also Dismissal
- default or misconduct, examination out of court, 34.15(1)
- • estate proceedings not properly constituted, 9.03(6)
- • failure to pay costs of motion, 57.03(2)
- • failure to provide medical examination, 33.07
- dismissal of action for delay, see Dismissal for Delay
- estates, *see* Estates; Estate Trustees; Wills and Codicils
- Family Court, see Family Court
- family law proceedings, see Family Law Proceedings
- foreclosure actions, *see* Foreclosure, Sale and Redemption
- fourth and subsequent party claims, see Third Parties
- generally, 14
- hearings throughout year, 3.03(1)
- interpleader, see Interpleader
- joinder of claims, 5.01
- joinder of parties, 5.02
- · judicial review, see Judicial Review
- lawyer required, 15.01
- · minors' estates, see Minors
- misjoinder or non-joinder of parties, 5.04(1)
- mortgage actions, *see* Foreclosure, Sale and Redemption
- motions, see Motions

- Proceedings (cont'd)
 non-compliance with Rules an irregularity, 2.01
- offers to settle, see Offers to Settle
- partition or sale of land
- action, 66.01
- application, 66.01
- judgment, 66.02
- proceeding by or on behalf of minor, 66.01(2)
- proceeds of sale, 66.03
- partnerships, see Partnerships
- payment into and out of court, see Payment Into Court; Payment Out of
- pleadings, see Pleadings
- pre-trial conference, 50.01
- redemption actions, see Foreclosure, Sale and Redemption
- references, see References
- relief from joinder, 5.05
- representation of persons under disability, 7.01
- representative, 12.07
- sale actions, see Foreclosure, Sale and Redemption
- separate hearings, 6.01.1
- series of proceedings, motions, 37.15
- simplified procedure, see Simplified Procedure
- sole proprietorships, 8.07
- special case for opinion of court, see Special Case
- stays, see Stay of Proceedings
- summary judgment, see Summary Judgment
- third party claims, see Third Parties
- title of proceeding, 14.06(1)

Production of Documents, *see* Discovery; Documents; Examinations Out of Court

Proof of Service, see Service

Property

- claims respecting, service outside Ontario, 17.02
- · disposition of property of minor
- affidavit in support of application, 67.02
- consent of minor over age of sixteen,
- lawyer's affidavit, 67.03(1), (2)
- notice of application for approval,
- foreclosure, sale, redemption, see Foreclosure, Sale and Redemption

- holding income under writ of sequestration, 60.09(1)
- inspection
- by court, 52.05
- • generally, 32.01
- interpleader, see Interpleader
- perishable, order for sale, 45.01(2)
- personal
- interim recovery, see Interim Recovery of Personal Property
- interpleader, see Interpleader
- order for delivery, 60.04, 60D
- order for inspection, 32.01
- seizure and sale under writ of seizure and sale, 60.07(15), (16), (23), (24)
- writ of sequestration, 60.04(2), 60.09,
- preservation, *see* Interim Preservation of Property
- procedure on mortgage references, see References
- reference
- administration proceeding, 65.02(1)
- conduct of sale, 55.06
- sale, see also Foreclosure, Sale and Redemption; Sale, land
- • interpleader, 47.04(1)
- · seized by sheriff, dispute of ownership, 60.13
- vesting order, s. 100
- seizure and sale, 60.07
- sequestration, 60.04(2), 60.09

Provincial Judges

- accommodation of needs, s. 45
- Associate Chief Judge Co-ordinator of Justices of the Peace
- • appointment, s. 42(5)
- · associate chief judges
- appointment, s. 42(4)
- . . expiry of term, s. 42(8), (10)
- resignation, s. 48(2), (4)
- retirement and continuation in office, s. 47(5), (6), (7)
- term of office, s. 42(7)
- appointment, s. 42(1)
- · Chief Justice of Provincial Division
- appointment, s. 42(3)
- . . expiry of term, s. 42(8), (9)
- resignation, s. 48(2), (4)
- retirement and continuation in office, s. 47(5), (6), (7)
- term of office, s. 42(7), (7.1), (7.2)
- · complaints of misconduct

- Provincial Judges (cont'd)
 • against associate chief judge, s. 50(3)
- against Chief Justice, s. 50(1), (2)
- against regional senior judge, s. 50(3)
- compensation, s. 51.7
- mediation, s. 51.5
- to Judicial Council, s. 51.3
- review by subcommittee, s. 51.4
- continuing education, ss. 51.10, 51.12
- full-time service, s. 44(1)
- information to be maintained in confidence, s. 42(11)
- Judicial Appointments Advisory Committee
- annual report, s. 43(8)–(10)
- appointment of provincial judges, recommendations, s. 43.1
- chair, s. 43(5)
- term of office, s. 43(6)
- . . composition, s. 43(2)
- Crown liability, s. 43(12)
- established, s. 43(1)
- function, s. 43.1(1)
- . . meetings, s. 43(7)
- operation, manner of, s. 43.1(2)
- personal liability, s. 43(11)
- term of office, s. 43(4)
- Ontario Judicial Council, s. 49
- chair, s. 49(8), (9), (10)
- composition, s. 49(2), (3), (4)
- confidential records, s. 49(24), (25),
- expert assistance, s. 49(21)
- . . hearing panels, s. 49(16), (17), (18)
- • hearings, s. 51.6
- hearings and meetings, s. 49(11)
- official languages, use of, s. 51.2
- participation restricted, s. 49(19), (20)
- personal liability, s. 49(27)
- provision of information to public, s. 51
- quorum, s. 49(13)
- remuneration, s. 49(28)
- review panels, s. 49(14), (15), (18)
- rules, s. 51.1
- support services, s. 49(22), (23)
- term of office, s. 49(5), (6)
- vacancies, s. 49(12)
- outside activities, s. 46
- part-time service, s. 44(1), (2), (3), (4)
- performance evaluation, ss. 51.11, 51.12
- Provincial Judges Remuneration Commission

- composition, s. 51.13(2), Schedule
- framework agreement, Schedule
- function, s. 51.13(2), Schedule
- qualifications, ss. 42(6), (6.1)
- · regional assignment, s. 37
- · regional senior judges
- appointment, s. 42(6), (6.2)
- continuation in office after retirement, s. 47(4), (7)
- expiry of term, s. 42(9), (9.1), (10)
- resignation, s. 48(2), (4)
- . . salary, transitional, s. 42(9.2)
- term of office, s. 42(7)
- removal for cause, s. 51.8
- resignation, s. 48(1), (4)
- retirement
- continuation in office, s. 47(3)
- generally, s. 47(1), (2)
- standards of conduct, ss. 51.9, 51.12

Provincial Offences

- jurisdiction, s. 38(2)
- provincial offences rules, s. 70.1

Public Guardian and Trustee

- appointment as litigation guardian, 7.03, 7.04
- leave to examine for discovery, 31.03(5)
- notice of discontinuance of action,
- notice of motion to dismiss for delay,
- · payment out of court
- party under disability, 72.03(10)–(14)
- payment out under order or report, 72.03(3)
- representation of persons under
- disability, 7.01
- service
- motion for removal of incompetent lawyer, 15.04(3)
- order removing incompetent lawyer, 15.04(3)
- service on, 16.03(9)
- service on, for absentee, 16.02(1)(i)
- service on, for mentally incapable person, 16.02(1)(k)

Questions

- appeals, notice of motion and factum to state, 61.03(4)
- examination by written questions, see Examinations for Discovery
- examination out of court

Questions (cont'd)

- answering questions objected to, 34.12(2)
- rulings on propriety of questions, 34.12(3)
- law, determination before trial, 21.01(1), (2)
- motion for summary judgment, 20.04(4)
- scope of examination for discovery,
- special case for opinion of court, 22.01(1), (2)
- transcripts of evidence, standards,

R

Receivers

- application for as ancillary relief, 14.05(3)(g)
- appointment
- enforcement of orders, 60.02(1)
- enforcement of writ of seizure and sale, 60.07(14)
- form of order, 41.03
- how obtained, 41.02
- directing reference, 54.02(2)
- discharge, 41.06
- generally, 41
- motion for directions, 41.05
- power to appoint, s. 101
- references, referee to settle and approve security, 55.07(1)
- · referring conduct of receivership, 41.04

Records

- appeal
- appeals from interlocutory orders, 62.01(7)–(9)
- · application, 38.09
- binding
- backsheet, 4.07(1)
- front cover, 4.07(1.1)
- endorsement of order, 59.02(1)
- hospital, providing copies of records on discovery, 33.04
- judicial review, 68.04
- failure of applicant to file, 68.06
- material filed on application, 68.04(8)
- transcript of evidence, 68.04(9)
- motion
- generally, 37.10
- leave to appeal, 61.03(1)–(4), 61.03.1(4)–(8)
- motions in appellate court, 61.16(4)
- perfecting appeals, 61.09(2), (3)

- place of filing, 4.05(3)
- trial, 48.03
- • recording jury verdict, 52.09

Recovery of Costs, see Costs

Recovery of Possession of Land, see Enforcement of Orders

Referees, see References

References

- absence of opposite party, 3.03(2)
- adding parties, 55.02(5), (6)
- administration proceedings, 65.02
- adopting different procedure, 55.01(1)
- amendment of pleadings, 55.02(10)
- appeals by way of, 61.01
- application of Rules 54-55, 54.01
- assessment of costs, 58.02(2)
- carriage of reference
- order designating who has carriage, 54.04(1)
- transferring to other party, 55.02(12)
- charging interest, 55.07(2)
- · claims of interested persons
- adjudication, 55.03(4)
- examination, 55.03(3)
- filing, 55.03(2)
- notice of contested claim, 55.03(4)
- publication of advertisement, 55.03(1)
- compelling attendance at reference, 55.02(14)
- conditions of sale, 55.06(2), (3), 55F
- · conduct of sale
- advertisements, 55.06(2)
- conditions of sale, 55.06(3)
- deposit, 55.06(9)
- hearing for directions, 55.06(4)
- interim report, 55.06(10)
- method of sale, 55.06(1)
- objections to sale, 55.06(11)
- payment of purchase money, 55.06(12)
- payment out of purchase money, 55.06(14)
- purchaser to sign agreement, 55.06(8)
- referee must be satisfied money paid into court, 55.06(15)
- who may bid at sale, 55.06(5), (6)
- who shall conduct sale, 55.06(7)
- writ of possession, 55.06(13)
- delivery of instruments, 55.02(17) · direction for payment of money
- money belonging to minor, 55.05(4)
- money to be paid to creditors, 55.05(5)

- References (cont'd)
 payment into financial institution, 55.05(1)
- payment out, 55.05(2), (3)
- · directions
- disallowing compensation, 55.07(2)
- dispensing with unnecessary procedures, 55.01(1)
- hearing, 55.02(1), (2)
- variation or supplementation, 55.02(4)
- what directions may be given, 55.02(3)
- documents, 55.02(15), (16)
- evidence of witnesses, 55.02(13), (14)
- execution of instrument, 55.02(17)
- expert appointed by referee, 55.02(14.2)
- expert witnesses, 55.02(14.1)
- failure to appear, 55.02(7)
- foreclosure actions
- adding subsequent encumbrancer as defendant, 64.03(2), (3)
- request for sale, 64.03(19)
- amending judgment to judgment for sale, 64.03(19)
- conversion from foreclosure to sale, 64.03(22)
- default judgment, 64.03(9), (10), (11)
- defendant noted in default, notice of reference, 19.02(3)
- failure of subsequent encumbrancer to prove claim, 64.03(14), (15) final order of foreclosure, 64.03(15),
- judgment for sale, 64.03(24)
- power of referee to convert to sale, 64.03(22)
- power of referee to reconvert to foreclosure, 64.03(23)
- procedure, 64.03(26)
- redemption by subsequent encumbrancer, 64.03(8)
- report, 64.03(6)
- fixing time for redemption, 64.03(12), (13)
- security for costs, 64.03(20), (21)
- time for request to redeem, 64.03(19)
- · forms
- conditions of sale, 55F
- default judgment for foreclosure with a reference, 64B
- interim report on sale, 55G
- notice of contested claim, 55D
- notice of hearing for directions, 55A
- notice of party added on reference,

- notice of reference to original defendants, 64P
- notice of reference to subsequent encumbrancer added on reference,
- notice of reference to subsequent encumbrancer named as original party, 64O
- notice to added party having interest in equity, 64Q
- notice to creditor, 55E
- notice to party added on reference,
- report on reference (administration of estate), 55C
- · mortgage actions
- adding party other than encumbrancer, 64.06(11), (12)
- adding subsequent encumbrancers, 64.06(4)–(7)
- application of Rule 55, 64.06(1)
- . . change of account, 64.06(21)-(27)
- default judgment, 64.02
- defendant noted in default, notice of
- duties and powers of referee, 64.06(3)
- more than one party entitled to redeem, 64.06(13), (14)
- mortgagee to transfer property where redeemed, 64.06(19)
- notice of reference to original defendants, 64.06(8), (9), (10)
- notice to subsequent encumbrancer named as original party, 64.06(7)
- plaintiff to file material concerning subsequent encumbrancers, 64.06(2)
- proof of account where mortgage assigned, 64.06(15)
- referee's report, 64.06(16), (17), (18)
- directions where referee unable to continue, 54.10
- immediate confirmation of report, 54.09(4), (5)
- opposing confirmation of report, 54.09(2), (3)
- place of hearing of motions before referee, 54.05(2)
- set aside or variation of order made on motion, 54.05(3)
- summary judgment, 20.04(3), (5)
- transferring carriage of reference, 55.02(12)
- who shall hear motions, 54.05(1)
- · notice of reference
- service outside Ontario, 17.02, 17.03(1)

- References (cont'd)
 order directing reference
- associate judge or registrar making order, consequences, 54.04(2)
- contents, 54.04(1)
- powers of referee, 54.04(3)
- person agreed on to direct reference, 54.03(2), (3)
- pre-trial conferences, 50.06
- procedure book, 55.02(11)
- receivers, conduct of receivership, 41.04
- redemption actions, 64.05
- continuation after final order of foreclosure, 64.05(7), (8)
- nothing due, or balance due to plaintiff, 64.05(10)
- redemption by subsequent encumbrancers, 64.05(9)
- reports, 64.05(6), (10)
- referees
- definition, 1.03
- interim report on sale, 55.06(10)
- powers
- administration proceedings, 65.02(1)
- generally, 54.04(3)
- on the taking of accounts, 55.04(1)
- referee unable to continue, 54.10
- reporting, generally, 55.01
- reporting findings and conclusions, 54.06
- requesting appointment to consider directions, 55.02(1)
- rulings, 55.02(18)
- settlement and approval of security of committee, guardian, receiver, 55.07(1)
- registrar
- money paid to joint credit, 55.05(1)
- payment out of money, 55.05(3)
- reports
- administration proceedings
- form of report, 55.02(22)
- interim report, 65.02(1)
- associate judge or registrar directing reference, 54.04(2)
- confirmation, 54.07, 54.08, 54.09
- defendant noted in default, 19.02(3)
- filing copy with proof of service, 55.02(21)
- findings and conclusions, 54.06
- fixing date to settle report, 55.02(19)
- interim report

- associate judge or registrar, 54.04(2)
- administration proceedings, 65.02(1)
- sale of property, 55.06(10)
- mortgage references, contents, service and filing, 64.06(16), (17)
- referee shall settle and sign, 55.02(21)
- rulings, reasons set out in report, 55.02(18)
- service, 55.02(21)
- special circumstances, 55.01(2)
- who shall prepare draft, 55.02(20)
- representation of parties with similar interests, 55.02(8), (9)
- rules to be followed, 55.01(3)
- rulings of referee, 55.02(18)
- · sale actions
- adding subsequent encumbrancer as party, 64.04(2)
- default judgment, 64.04(8)
- power of referee to reconvert to foreclosure, 64.03(23)
- procedure where converted from foreclosure action, 64.03(26)
- purchase money, 64.04(12), (13)
- report, 64.04(9), (10), (11)
- sale under order for sale, 64.04(12)
- scope of inquiry, 55.01(2)
- set aside or vary orders on references, 54.05(3)
- simple procedure to be adopted, 55.01(1)
- special circumstances to be reported, 55.01(2)
- · taking of accounts
- books of account, 55.04(4)
- fixing date to take accounts, 55.04(5)
- powers of referee, 55.04(1)
- . . preparation, 55.04(2), (3)
- production and inspection of vouchers, 55.04(5)
- questioning accounts, 55.04(6)
- to whom reference directed, 54.03(1)
- when reference may be directed, 54.02(1), (2)

Registrars

- amended statement of defence and counterclaim, issuance, 27.07(2)
- appeals
- dismissal for delay, 61.13(1)–(3)
- automatic, 61.13.0.1
- fixing date for review of single judge's order, 61.16(6)

- Registrars (cont'd)
 • refusal to accept appeal book and compendium, 61.10(2)
- blank summons to witness, examinations out of court, 34.04(6)
- certificate of pending litigation, issuance, 42.01
- certificate of stay pending appeal, issuance, 63.03(4), (5)
- certified copies of court documents, issuance, 4.03
- commission and letter of request, issuance, 34.07(3)
- communications by, 4.12
- definition, 1.03
- for appeals, 61.02
- deposit of wills and codicils, 74.02
- depositing documents with registrar, 30.11
- · dismissal
- actions for delay, 48.14(1), (2)
- appeals for delay, 61.13(1)–(3)
- cross-appeals for delay, 61.13(4), (5)
- judicial review applications for delay,
- automatic, 68.07(1)
- · exhibits for trial
- holding exhibits, 52.04(3)
- listing, 52.04(1)
- · fixing hearing date, motions in appellate court, 61.16(3)
- garnishment proceedings, 60.08(4)
- informing of settlement, 48.12
- · judicial review applications
- dismissal for delay, 68.06, 68.07
- fixing hearing date in Divisional Court, 68.03
- listing for hearing, 68.05(2)
- transfer of Divisional Court applications, 68.01(2)
- · listing for trial
- money paid to joint credit, 55.05(1)
- motion jurisdiction, 37.02(3)
- payment into and out of court, see Payment into Court: Payment out of Court; Accountant
- notice of garnishment, issuance,
- noting
- amendment of pleadings, 26.03(2)
- default, 19.01(1)–(3)
- entry of order of Court of Appeal,

- motion to vary or set aside, 37.14(1),
- review of registrar's order, 61.16(5)
- originating process, issuance, 14.07(1)
- references
- default judgment in mortgage action, 64.02
- money paid to joint credit, 55.05(1)
- payment out of money, 55.05(3)
- request for directions from judge, 64.06(20)
- return of exhibits, 52.04(2)-(4)
- settling orders, 59.04(9)–(13)
- signing and returning orders, 59.04
- · signing default judgment
- foreclosure actions
- conversion to sale action, 64.03(17), (18)
- no request to redeem, 64.03(9)
- request to redeem filed, 64.03(10)
- generally
- availability, 19.04(1)
- costs, 19.04(6)
- filing requisition for, 19.04(2)
- refusal by registrar, 19.04(3)
- redemption, 64.05(4), (5)
- sale actions, 64.04(8)
- signing orders, 59.04
- speedy trial list, 48.09
- summons to witness, issuance in blank form, 53.04(2)
- transmission of documents or exhibits, 4.10(1)
- trials, sending copies of expert's report to parties, 52.03(7)
- writ of seizure and sale not filed with sheriff, renewal, 60.07(9)

Regulations

- application for interpretation, 14.05(3)
- bilingual proceedings, s. 126
- money paid into court, 72.02
- proceedings for interpretation, representation orders, 10.01(1)
- Small Claims Court, jurisdiction, s. 23 **Replevin**, *see* Interim Recovery of Personal Property

Reply, see also Pleadings

- admissions, 25.09(1)
- close of pleadings, 25.05
- deemed denial where none delivered, 25.08(4)
- effect, 25.09(2)
- · defence
- counterclaim, 27.06

Reply (cont'd)

- • crossclaim, 28.08
- • main action by third party, 29.05(4)
- • plaintiff's claim against co-defendant, 28.06(4)
- delivery with defence to counterclaim, 27.05(2)
- effect of denial of agreement, 25.09(2)
- forms
- • reply, 25A
- • reply to defence to counterclaim, 27D
- • reply to defence to crossclaim, 28C
- • reply to third party defence, 29C
- mandatory requirement, 25.08(1), (2)
- motions and applications, service and filing of affidavits, 39.01(3)
- objections to assessment of costs, 58.10(2)
- restriction on delivery, 25.08(3)
- striking out, 25.11
- subsequent pleading, 25.01(5)
- time for delivery, 25.04(3)
- to defence to counterclaim, 25.01(2)
- to defence to crossclaim, 25.01(3)
- to statement of defence, 25.01(1)
- to third party defence, 25.01(4), 29.04

Representation by Lawyer, see Lawyers

Representation Orders

- availability, 10.01(1)
- deceased persons, 10.02
- estates, 10.02
- order in proceeding binds person or class, 10.01(2)
- relief from binding effect of order, 10.03
- settlement affecting person represented but not a party, 10.01(3), (4)
- unborn persons, 10.01(1)

Representative Proceedings, 12.07, *see also* Class Proceedings

Requests to Admit, see Admissions

Requisitions

- default judgment, 19.04(2)
- forms
- • requisition, 4E
- • requisition for default judgment, 19D
- garnishment, 60.08(2)
- generally, 4.08
- payment into court, 72.02
- payment out of court, 72.03
- writ of delivery, 60.04(1)
- writ of seizure and sale, 60.07(1)

Respondents

- appeals, see Appeals
- application record and factum, 38.09(3)–(5)
- · definition, 1.03
- joinder, 5.02(2)
- · judicial review proceedings
- • application record, 68.04(4), (5), (7)
- • factum, 68.04(4), (6), (7)
- references, adding, 55.02(5)
- sued in different capacities, 5.01(2), (3)

Revivor, *see* Transfer or Transmission of Interest or Liability

Rights

• preservation, see Preservation of Rights

Rules

- application of Rules
- Family Court, no application, 1.02(1), (2)
- • generally, 1.02(1), (2), (4)
- citation of Rules, 1.01
- · Civil Rules Committee
- • composition, s. 65
- • scope of rule-making authority, s. 66
- Criminal Rules Committee
- • composition, s. 69
- • scope of rule-making authority, s. 70
- definitions, 1.03
- Family Rules Committee
- composition, s. 67
- • scope of rule-making authority, s. 68
- • forms, 1.06
- • generally, 1
- • interpretation, 1.04(1)
- • matters not provided for, 1.04(2)
- • parties acting in person, 1.04(3)
- · non-compliance
- • attacking irregularity, 2.02
- • consequences, 2.01(1)
- • dispensing with compliance, 2.03
- orders on terms or directions, 1.05
- parties acting in person, 1.04(3)
- provincial offences rules, 70.1
- simplified procedure, 76
- transitional provisions, 1.02(2)–(4)

Rulings

- examination out of court, 34.12, 34.13
- references, 55.02(18)

S

Sale

• approval

Sale (cont'd)

- • application, 14.05(3)
- • representation orders, 10.01(1)
- conduct, directing reference, 54.02(2)
- forms
- • judgment for sale or partition, 66A
- land, *see also* Foreclosure, Sale, and Redemption
- • partition proceedings, 66
- • seized under writ of seizure and sale, 60.07(17)–(24)
- perishable property, interim preservation, 45.01(2)
- personal property seized under writ of seizure and sale, 60.07(16), (23), (24)
- · property of minor
- affidavit in support of application, 67.02
- • consent of minor over age of sixteen, 67.03
- • lawyer's affidavit, 67.01(1), (2)
- • notice of application for approval, 67.01
- · reference for conduct of sale
- • advertisement, 55.06(2)
- • conditions of sale, 55.06(3), 55F
- • conditions precedent for transfer, 55.06(15)
- • deposit, 55.06(9)
- • hearing for directions, 55.06(4)
- • interim report, 55.06(10), 55G
- • method of sale, 55.06(1)
- • objections to sale, 55.06(11)
- • payment into court, 55.06(12)
- • payment out of court, 55.06(14)
- • purchaser to sign agreement, 55.06(8)
- • who may bid, 55.06(5), (6)
- • who shall conduct, 55.06(7)
- • writ of possession, 55.06(13)
- sale actions, *see* Foreclosure, Sale and Redemption
- service of claim outside Ontario, 17.02

Security

- · interim recovery of personal property
- • condition and form, 44.04
- • order to pay into court, 44.03
- release of security, 44.06
- receiver, appointment, 41.03
- recovery of personal property held as security, 45.03(1)
- reference to appoint committee, guardian or receiver, 55.07(1)
- remuneration of experts at trials, 52.03(6)

• setting aside writ of execution, 63.03(6)

Security for Costs

- amount and form, 56.04
- appeals, 61.06
- availability, 56.01, 56.09
- declaration of place of residence, 56.02
- default of plaintiff, 56.06
- discretion of court, 56.09
- effect of order, 56.05
- form of order, 56.05, 56A
- · generally, 56
- motion for security, 56.03
- notice of compliance, 56.08
- · payment out of court
- • payment directly to lawyer, 72.03(8)
- • payment out on consent, 72.03(4)
- request for sale by subsequent encumbrancer, 64.03(18)–(21)
- summary judgment, order to proceed to trial, 20.05(2), (6)
- time for furnishing, 56.04
- variation of amount, 56.07

Seizure and Sale, *see* Writs, seizure and sale

Sequestration, *see* See Writs, sequestration

Service, see also Service Outside Ontario

- · alternatives to personal service
- • acceptance of service by lawyer, 16.03(2), (3)
- • availability, 16.03(1), 60.18(7)
- • e-mail, 16.05(1)(f), 16.06.1
- • service at place of residence, 16.03(5)
- • service by mail generally, 16.06(1)
- • service by mail to last known address, 16.03(4)
- service on children's lawyer, 16.03(8)
- • service on corporation by mail, 16.03(6)
- • ervice on the Crown in right of Ontario, Attorney General, 16.03(7)
- service on lawyer of record, 16.05
- ••• courier, 16.06.2
- • document exchange, 16.05(2)
- • telephone transmission, 16.05, (3.1)
- • service on public guardian and trustee, 16.03(9)
- attempts to evade service, 16.08
- deemed service, email, 16.03(10)
- · dispensing with service
- • grounds for order, 16.04(1)
- • when deemed served, 16.04(3)
- document not reaching party, 16.07

Service (cont'd)

- documents
- • exhibits, 4.06(3)
- extending or abridging time, 3.02(1),
- not requiring personal service, 16.01(3)
- e-mail
- effective service, 16.05(1)(f)
- required information, 16.06.1
- extension of time for service, 3.02
- acknowledgment of receipt card, 16A
- affidavit of service, 16B
- certificate of service by sheriff, 16C
- generally, 16
- lawyer of record, 15.04, 15.06, 16.01(4), 16.05
- mail
- effective date, 16.06(2)
- • manner of service, 16.06(1)
- non-party, 16.01(4)
- notice
- action, of, 14.03(4)
- appearance, of, 38.07
- application, of, 38.06
- examination in aid of execution, 60.18(7)
- garnishment, 60.08(4)
- motion, of, 37.07
- · orders
- affecting minors, 59.03(5)
- dispensing with service, 6.01(2)
- without notice, 37.07(4)
- originating process, 16.01(1), (2)
- party acting in person, 16.01(4)
- personal service
- absentee, 16.02(1)(i)
- Attorney General of Ontario, 16.02(1)(h)
- board or commission, 16.02(1)(d)
- corporation, 16.02(1)(c)
- Crown in right of Canada, 16.02(1)(f)
- Crown in right of Ontario, 16.02(1)(g)
- individual, 16.02(1)(a)
- mentally incapable persons, 16.02(1)(k)
- minor, 16.02(1)(j)
- municipality, 16.02(1)(b)
- original not required while serving,
- partnership, 16.02(1)(m)

- person outside Ontario carrying on business in Ontario, 16.02(1)(e)
- sole proprietorship, 16.02(1)(n)
- · proof of service
- affidavit of service, 16.09(1), (5)
- document exchange, 16.09(4)
- lawyer's admission or acceptance, 16.09(3)
- service outside Ontario, 17.05(4)
- sheriff's certificate, 16.09(2), (5)
- · statement of claim
- failure to serve within prescribed time, 24.01
- • generally, 14.08
- statement of defence, 18
- · substituted service
- • availability, 16.04(1)
- • effective date, 16.04(2)
- summons to witness, 53.04(4), (5)
- • extension of, 3.02
- time, 14.08
- validating service, 16.08

Service Outside Ontario

- contracting state, definition, 17.05(1)
- Convention, definition, 17.05(1)
- · forms
- notice and summary of document,
- request for service abroad of judicial or extra-judicial documents, 17A
- summary of the document to be served, 17B
- generally, 17
- manner
- • contracting states, 17.05(3)
- • non-contracting states, 17.05(2)
- motion for leave, 17.03(2)
- originating process, 17.01, 17.04(1)
- proof of service, 17.05(4)
- · setting aside service
- • grounds for order, 17.06(2)
- motion to set aside, 17.06
- validating service, 17.06(3)
- with leave, 17.03(1), 17.04(2)
- · without leave
- administration of estates, 17.02(b)
- authorized by statute, 17.02(n)
- • contracts, 17.02(f)
- counterclaim, crossclaim or third party claim, 17.02(q)
- damage sustained in Ontario, 17.02(h)
- injunctions, 17.02(i)
- interpretation of instrument, 17.02(c)

Service Outside Ontario (cont'd)
• • judgment of court outside Ontario, 17.02(m)

mortgage on property in Ontario, 17.02(e)

necessary or proper party, 17.02(o)

person resident or carrying on business in Ontario, 17.02(p)

property in Ontario, 17.02(a)

taxes, 17.02(r)

tort committed in Ontario, 17.02(g)

trustees where trust property in Ontario, 17.02(d)

Setting Aside

application without notice, 38.11

contempt order, 60.11(8)

· cross-appeal, 61.07

• default judgment, 19.02(1), 19.10

dismissal of judicial review application for delay, 68.06(4)

party under disability, 68.07(2)

interim order for recovery of personal property, 44.05

judgment against party who failed to attend trial, 52.01(3)

• judgment in mortgage action

party other than encumbrancer added on reference, 64.06(12)

subsequent encumbrancer added on reference, 64.06(6)

• jurisdiction to hear motion, 37.02

· mortgage reference

order adding party other than encumbrancer, 64.06(12)

order adding subsequent encumbrancer, 64.06(6)

motion to referee to set aside sale, 55.06(11)

non-compliance with Rules, 2.01(1), (2)

order

adding party, on reference, 55.02(6)

allowing affidavit evidence at trial, 53.02(2)

directing reference, 55.02(6)

generally, 59.06

judge of an appellate court, 61.16(6)

motion or application without notice,

motions generally, 37.14

stay pending appeal, 63.02(2)

Registrar's order in appeal proceeding, 61.16(5)

document not reaching party, 16.07

notice of application outside Ontario,

outside Ontario, RRO1990r194 17.06(1)

• writ of execution, 63.03(6)

Setting Down

actions remaining at conclusion of sitting, 48.10

consequences of action being placed on trial list, 48.07

consequences of setting down or consent, 48.04

defended actions

placing on trial list, 48.05

service of trial record, 48.02(1)

simplified procedure, 76.08

trial record, 48.03

· defended third party claim

service of trial record, 48.02(3)

• dismissal for delay, 48.14

failure to make motion to restore action to list, 24.01

• failure to set action down for trial, 24.01

· forms

order dismissing action for delay, 48D

generally, 48

informing registrar of settlement, 48.12

materials to be filed, 48.03(2)

motion for summary judgment, 20.05(1)

notice

defendant noted in default, 19.02(3)

order dispensing with notice or abridging time, 6.01(2)

placing action previously struck off on trial list, 48.11

placing action on trial list, 48.05

separate jury and non-jury trial lists, 48.08

speedy trial list, 48.09

speedy trial list, disposition of motion, 37.13(1)

status hearing, 48.14(5)–(7)

telephone and video conferences,

• trial at another place, 48.02(5)

• trial of issue, 48.13

trial list, 48.08

trial record, 48.03

• undefended actions, 48.02(2), 48.05

· undefended third party claims

service of trial record, 48.02(4)

• when action may be set down, 48.01

who may set action down, 48.01

Settlements

- · approval
- • persons under disability, 7.08
- • representation orders, 10.01(1)
- costs, 57.04
- duty to inform registrar, 48.12
- Mary Carter Agreements, 49.07
- notice to Children's Lawyer or Public Guardian and Trustee, 7.08(5)
- offers to settle, see Offers to Settle
- pre-trial conference, 50.06
- representative proceedings, payment into

Settling and Signing Orders, see Orders Sheriff

- amending writ of seizure and sale, 60.07
- assessment of costs, 58.12
- certificate of service, 16.09(2)
- certificate of stay pending appeal, 63.03(4)
- endorsement of renewal on writ of seizure and sale, 60.07(8)
- enforcement of interim order for recovery of personal property, 44.07, 44.08
- fees, see Volume 2
- forms
- • certificate of service by sheriff, 16C
- · interpleader
- application for interpleader order, 43.05(7)
- dispute of ownership of property seized by sheriff, 60.13(4)
- execution, definition, 43.05(1)
- executions from different courts, 43.05(6), (7)
- interpleader order motion by sheriff, 43B
- motion made in Superior Court of Justice, 43.05(6)
- procedure, 43.05(3), (4)
- property, definition, 43.05(1)
- sale of property that is security for debt, 43.05(5)
- when motion may be made, 43.05(2)
- writ of execution, 43.05(1)
- · motion for directions concerning enforcement of order, 60.17
- notice of expiration of writ of seizure and sale, 60.07(7)
- notice to creditors of abortive sale, 60.07(23), (24)
- releasing property where claim admitted,

- removal of expired, executed or withdrawn writs, 60.15
- report on execution of writs, 60.14
- seizure of personal property, delivery of inventory, 60.07(15)

Simplified Procedure

- · affidavit of documents
- cost of reproduction of documents, 76.03(1)
- failure to disclose, 76.04(2)
- lawyer's certificate, 76.04(3)
- list of potential witnesses, 76.04(1)
- application of other Rules, 76.01(3)
- application of Rule 76, 14.03.01, 76.01(1), (2)
- availability
- abandonment of claims by plaintiff, 76.02(5), (6)
- counterclaim, crossclaim or third party claim, 76.02(9), (10), (11)
- defendant objecting, 76.02(4), (7)
- multiple plaintiffs, 76.02(8)
- when mandatory, 76.02(1)
- when optional, 76.02(2) • change from, 76.04(6), (7)
- change to
- action to, 76.03(1), (2)
- counterclaim, crossclaim or third party claim, 76.03(3), (4)
- liability for costs, 76.03(5)
- costs, limits on, 76.12.1
- · costs consequences
- burden of proof, 76.13(8)
- counterclaims, crossclaims, third party claims, 76.13(9)
- defendant objecting to simplified procedure, 76.13(7)
- opting in, 76.13(1)
- plaintiff denied costs, 75.13(2)-(5)
- plaintiff ordered to pay defendant's costs, 76.13(6)
- cross-examination of deponent not permitted, 76.05
- disbursements, limits on, 76.12.1
- examination for discovery not permitted, 76.05
- examination of witness not permitted, 76.05
- expert affidavits, 76.09.1
- jury trial not available, 76.02.1
- jury trials, transition, 76.14
- • place of hearing, 13.1.01, 76.05(2)
- placing defended action on trial list, 76.11

Simplified Procedure (cont'd)
• pre-trial conference, 76.10

- procedural summary, p. PC-24
- procedure for listing for trial, 76.09
- setting down defended action, 76.08
- lawyer's certificate, 76.08(2)
- notice whether action under Rule 76, 76A
- trial record, 76.08(3)
- summary trial, 76.12
- trial list, defended action, 76.09
- Trial Management Checklist, 76D

Small Claims Court, see also Volume 2

- administrative judge, ss. 14(5.1), 87.2
- appeals from, s. 31
- branch of Superior Court of Justice, s.
- composition, s. 22(2)
- • deputy judge, s. 24(2), (3)
- hearings, s. 24(1)
- provincial judge, s. 24(2)
- contempt, s. 30
- costs limitation, s. 29
- costs where recovery within monetary jurisdiction of Small Claims Court, 57.05(1)–(3)
- deputy judges, s. 32
- complaints alleging misconduct of, s.
- Deputy Judges Council, s. 33
- documents filed in French, s. 126(1)
- enforcement of orders, s. 30
- evidence, s. 27
- installment orders, s. 28
- judges, ss. 22(3), 32, 87.1
- jurisdiction, s. 23
- referees, s. 24(2)
- representation of parties, s. 26
- Rules, see Volume 2
- summary hearings, s. 25
- transfer of action from Superior Court of Justice, s. 23(2), (3)
- transfer of proceeding to Superior Court of Justice, s. 107(2)–(6)
- translation of documents or process into French, s. 126(2)

Small Estates, 74.1, 75.01

Sole Proprietorships

- adverse party, securing attendance at trial, 53.07(1), (2)
- examination for discovery, 31.03(4)
- examination in aid of execution, 60.18(3)

- personal service, 16.02(1)
- proceedings by or against, 8.07

Special Case

- appeals by way of, 61.01
- determination by judge, 22.01(2)
- factums, 22.02
- form, 22.04
- · forms
- special case, 22A
- hearing
- determination of question of law, 22.05(2)
- inferences, 22.05(1)
- question of law for opinion of court, 22.01(1)
- removal into Court of Appeal, 22.03

Special Examiners, see Official Examiners

• dismissal for lack of, 21.01(3)(b)

Stare Decisis, see cases following 22.03

Stated Case, see also Special Case

• appeals by way of, 61.01

Statement of Claim, see also Pleadings

- deemed admitted, defendant noted in default, 19.02(1)
- defined as originating process, 1.03
- estate proceedings, 75.07
- failure to serve within prescribed time, 24.01
- foreclosure action, 64.03(4)
- naming defendants, 64.03(1)–(3)
- statement of claim (general), 14A
- statement of claim (mortgage actions), 14B
- insufficient time to prepare, 14.03(2)
- motion for judgment, 19.05
- motion for summary judgment, 20.01(1)
- motion for summary judgment dismissing, 20.01(3)
- naming place of trial, 46.01(1), 46.02
- notice of action, 14.03(3), (4)
- originating process, 1.03, 14.03(1)
- pleadings, 25.01(1)
- • time for service, 25.04(1)
- redemption actions, persons to be joined, 64.05(1), (2)
- sale actions, 64.04(1), (3)
- simplified procedure, 76.02(3)
- striking out, 21.01(1), 25.11
- · time for service
- together with notice of action, 14.08(2)

Statement of Claim (cont'd)
• • where commences action, 14.08(1)

Statement of Defence, see also Defences; Pleadings

- amending to add counterclaim, 27.07
- amending to add crossclaim, 28.03
- consent of plaintiff to delivery, 19.03(2)
- defence of main action by third party, 29.05
- effect of failure to comply with order concerning medical examinations, 33.07
- effect of failure to comply with order to proceed to trial, 20.05(6), (7)
- estate proceedings, 75.07
- failure to deliver, see also Default Proceedings
- • effect on service of crossclaim, 28.04(2)
- • failure to note defendant in default, 24.01
- • fourth and subsequent party, 29.11(2)
- • service of counterclaim, 27.04(3)
- forms
- • notice of intent to defend, 18B
- • statement of defence, 18A
- generally, 18
- late delivery, 19.01(5)
- notice of intent to defend, 18.02
- pleadings, 25.01(1)
- • time for delivery, 25.04(2)
- reply, 25.01(1)
- • estate proceedings, 75.07
- statement of defence and counterclaim, 27.02
- • amended, 27.07
- • delivery or service, 27.04
- • where defendant not party to main action, 27.03
- statement of defence and crossclaim, 28.02, 28.04, 28.05
- striking out, 21.01, 25.11
- third party defence, 29.03
- • effect, 29.06
- • reply, 29.04
- time for delivery, 18.01
- • counterclaim, 18.02(3)
- •• third party, 18.02(3)
- • where notice of intent to defend, 18.02(2)
- withdrawal, 23.06

Statements of Facts and Law, see Factums

Status Hearing, see Setting Down

Statutes

- application for interpretation, 14.05(3)
- conferring power to grant relief, motions and applications, 37.02(2)
- definition, 1.03
- proceedings for interpretation, representation orders, 10.01(1)

Statutory Powers Procedure Act, see

Stay of Proceedings

- administration proceeding, 65.01(3)
- availability generally, s. 106
- counterclaim, 27.09
- • claim in main action not disputed, 27.09(1)
- declaration of authority to commence not served after demand, 15.02(1)
- determination of issue before trial
- • factums, 21.03
- failure to make motion promptly, 21.02
- • motion by defendant, 21.01(3)
- discontinuance of earlier action, 23.04(2)
- dismissal of earlier action for delay, 24.05(2)
- enforcement of summary judgment, 20.08
- failure
- • to comply with interlocutory order, 60.12
- • to declare plaintiff's place of residence, 56.02
- •• to pay costs of motion, 57.03(2)
- • to provide names and addresses of partners, 8.05(2)
- interpleader, 43.04(2)
- multiple proceedings in court, 6.01(1)
- · proceeding
- • commenced without client's authority, 15.02(3), (4)
- • commenced without lawyer's authority, 15.02(2), (4)
- relief against joinder, 5.05
- subsequent action, 23.04(2)
- transmission of interest or liability, 11.01
- where service outside Ontario, 17.06

Stay Pending Appeal

- automatic, on delivery of notice of appeal, 63.01
- • co-operative housing orders, 63.01(4)
- • exceptions, 63.01(1), (2)
- • Tenant Protection Act orders, 63.01(3)

Stay Pending Appeal (cont'd)
• • lifting of stay, 63.01(5)

- by appeal court, 63.02(1)
- by trial court, 63.02(1)
- certificate of stay, 63.03(4), (5)
- chart, 63
- effect, 63.03
- forms
- certificate of stay, 63A, 63B
- writ of execution, 63.03(6)
- order of Ontario Rental Housing Tribunal, 63.03(5.1), (5.2)
- stay by order, 63.02(1)
- • expiry, 63.02(2)
- • setting aside or varying, 63.02(3)
- support order, 63.02(4) • •

Stop Orders

- forms
- • stop order, 72C
- order for payment out, 72.05(3)
- payment out of court, 72.05

Striking Out

- affidavit
- default or misconduct, examination out of court, 34.15
- failure to provide medical information on discovery, 33.07
- defence
- default or misconduct, examination out of court, 34.15
- failure to answer written question, examination for discovery, 35.04(4)
- failure to comply with interlocutory order, 60.12
- failure to pay costs of motion, 57.03(2)
- failure to provide names and addresses of partners, 8.05(2)
- evidence
- default or misconduct, examination out of court, 34.15
- failure to answer written question, examination for discovery, 35.04(4)
- jury notice, 47.02, 47.03
- originating process, 14.09
- pleadings, 25.11
- no cause of action or defence, 21.01(1), (2), 21.02
- · statement of defence
- failure to comply with order, 20.05(6), (7)
- failure to provide medical information on discovery, 33.07

Style of Cause, see Title of Proceeding

Subsequent Actions. see Actions

Substitute Decisions Act Applications, see Parties Under Disability

Subsequent Encumbrancers, see Foreclosure, Sale and Redemption

Summaries of Procedure, p. PC-2

Summary Judgment

- affidavit, 20.02
- availability, 20.01
- costs sanctions for improper use, 20.06
- counterclaims, crossclaims, third party claims, 20.09
- · disposition of motion
- no genuine issue for trial, 20.04(2)
- powers, 20.04(2.1)
- where only claim is for an accounting, 20.04(5)
- where only genuine issue is amount, 20.04(3)
- where only genuine issue is question of law, 20.04(4)
- effect, 20.07
- factums, 20.03
- · generally, 20
- order to proceed to trial, 20.05(1)
- failure to comply with terms, 20.05(6), (7)
- imposition of terms, 20.05(2)
- specified facts deemed established, 20.05(3)
- simplified procedure, see Simplified Procedure
- stay of execution, 20.08

Summons to Witness

- attendance money, 53.04(4)
- contents, 53.04(1)
- detention of witness, 53.04(8)
- documents that may be proved by copy, 53.04(3)
- duration, 53.04(6)
- · examinations out of court
- issued in blank, 34.04(6)
- persons not parties, 34.04(4)
- production for inspection, 34.10(3)
- sanctions for failure to obey, 34.15(1)
- failure to obey, 53.04(7)
- forms
- summons to give evidence for an extra-provincial tribunal, 70D
- issued in blank, 53.04(2)
- motion or application, 39.03(5)
- outside Ontario, 53.05
- personal service, 53.04(4)

Summons to Witness (cont'd)
• persons in Ontario, 53.04

- proof of service, 53.04(5)
- securing attendance of adverse parties at trial, 53.07(1), (2)
- warrant for arrest, defaulting witness,

Superior Court of Justice, see also Divisional Court; Small Claims Court

- appeal from interlocutory orders, 62.01
- appeal from Superior Court of Justice
- generally, s. 40
- appeals to Superior Court of Justice, s. 17
- application of rules of court, 1.02(1)
- applications
- date of hearing, 38.03(2), (3), (3.1)
- proceeding for administration, 65.01(1)
- to whom made, 38.02
- under rule, 14.05(3)
- under statute, 14.05(2)
- Chief Justice of Superior Court of Justice
- absence, s. 14(4)
- meetings, s. 14(7)
- powers and duties, s. 14(1)
- Commercial List, 37, 38
- composition
- generally, s. 12(1)
- hearings, s. 16
- default judgment with reference, mortgage action, 64.02
- directing reference, 54.03(1)
- interpleader motions by sheriff, 43.05(6), (7)
- · judges
- additional judges, s. 12(2)
- assignment of Court of Appeal judges to Superior Court of Justice, s. 13
- assignment of Superior Court of Justice judges to Court of Appeal, s.
- former High Court and District Court judges, s. 15(3)
- regional assignment, s. 15
- regional senior judges, s. 14(2), (3), (5), (6)
- supernumerary judges, s. 12(3)
- jurisdiction, s. 11(2)
- jury trials, s. 108(1)
- jurisdiction, 37.02
- obtaining hearing date, 37.05(1), (2),

- record, 37.10(1)
- to whom made, 37.04
- payment into court, 72.02
- practice directions, 1.07, see also Index to Practice Directions
- proceedings concerning estates of minors, 67.01
- seal, s. 147
- sittings outside Toronto, trial list, 48.08
- stop orders, 72.05
- superior court of record, s. 11(1)

Taking Accounts, *see* Accounts; Foreclosure, Sale and Redemption; References

Taking Evidence Before Trial, *see* Evidence; Examinations Out of Court

Tariffs, see Volume 2, see also Costs

Taxing Officer, see Assessment Officer

Telephone and Video Conference

- electing method of hearing, 1.08(1)
- exception, case conferences, 1.08(3)
- exception, Court of Appeal, 1.08(2)
- mandatory mediation, 1.08(8)
- objections, 1.08(4), (5), (7)
- oral examinations for discovery, 1.08(8)
- order directing method of hearing, 1.08(6)

Terms

- adding parties mortgage references, 64.06(11)
- adjournment of trial, 52.02
- disposition of application, 38.10(1)
- disposition of motion, 37.13(1)
- estate proceedings, 9.03(7)
- leave to deliver affidavit after cross-examination, 39.02(2)
- order altering time for redemption, change of account, 64.06(27)
- order for stay pending appeal, 63.02(1)
- setting aside or varying, 63.02(2)
- order varying automatic stay pending appeal, 63.01(3)
- postponement of trial, 52.02
- power of court to impose when making orders, 1.05
- security for costs as term of relief, 56.09
- setting aside or varying judgment on application, 38.11(3)
- setting aside or varying orders, 37.14(2)
- writ of seizure and sale, leave required, 60.07(2)

Testimony, see Evidence

Third Parties

- agreement preventing claim invalid, s. 113
- amendment of pleadings, service, 26.04(1), (2)
- · availability of third party claim, 29.01
- costs of discontinuance of main action, 23.05
- counterclaims, 27.10
- crossclaims, 28.11
- default of third party, 29.07
- default proceedings, 19.10
- defence, 29.03, 29.06
- defence of main action by third party, 29.05(1)
- • consequences, 29.05(2)
- • consequences of not defending, 29.05(5)
- • rights and obligations, 29.05(2)(a)
- • time for reply, 29.05(4)
- • time for statement of defence, 29.05(3)
- defendants to counterclaims, crossclaims, 29.13
- directions, 29.10
- discontinuance of main action, 23.03, 23.05
- · dismissal for delay
- • main action, 24.04
- • third party claim, 24.06
- forms
- • reply to third party defence, 29C
- • third party claim, 29A
- • third party defence, 29B
- fourth and subsequent party claims, 29.11, 29.12
- • service, 29.11(2), (2.1)
- • service of third party claim, 29.02(2)
- · generally, 29
- issuing third party claim, 29.02(1)
- • exceptions, 29.02(1.1), (1.2)
- listing for trial, 29.08(1), 48.05
- pleadings, 25.01(4)
- • service, 25.03(1)
- • service on added parties, 25.03(2)
- • time for delivery, 25.04(6)
- prejudice or delay to plaintiff, 29.09
- reply to defence, 29.04
- service
- • generally, 29.02(2), (3)
- • outside Ontario, 17.02(q)
- summary judgment, 20.09
- • stay of execution, pending, 20.08

- time for delivery of statement of defence, 18.02(3)
- trial, 29.08(2)
- withdrawal by defendant, 23.07
- withdrawal of statement of defence, 23.06(1)

Time

- abridgment, 3.02
- generally, 3.02
- • placing action on trial list, consolidation, 6.01(2)
- where associate judge not to hear motion, 37.02(2)
- affidavit of documents, service, 30.03(1)
- amendment of pleadings, 26.02
- appeals
- • agreement respecting evidence, 61.05(4)
- • amendment of notice of appeal or cross-appeal, 61.08(1)
- • commencement, 61.04(1)
- • deemed abandonment, 61.14(2)
- • delivery of notice of appeal, 61.03(4)
- • delivery of respondent's factum, 61.12(2)
- • dismissal for delay, 61.13(1)–(4)
- • automatic, 61.13.0.1
- • dismissal of cross-appeal for delay, 61.13(4), (5)
- • dismissal of motion for leave, 61.13(6), (7)
- • election to proceed with cross-appeal, 61.15
- •• factum of respondent to cross-appeal, 61.12(4)
- • filing notice of appeal, 61.04(4)
- • filing record and factum in appellate court motions, 61.16(4)
- • motion record and factum, 61.03(2)
- • notice of cross-appeal, 61.07(1), (2)
- • notice of motion for leave, 61.03(1)
- • ordering transcripts, 61.05(5)
- ordering transcripts, to
- • perfecting, 61.09(1)
- respondent's certificate respecting evidence, 61.05(2)
- • review
- • Registrar's order, 61.16(5)
- •• single judge's order, 61.16(6)
- appeals from interlocutory orders, 62.01(2)
- • appellant's certificate respecting evidence, 62.02(8)
- • appellant's record and factum, 62.01(7), (9)
- • factums on motion for leave, 62.02(5)

- Time (cont'd)
 • filing notice of appeal, 62.01(5)
- hearing date, 62.01(3)
- notice of appeal, 62.02(8)
- respondent's material and factum, 62.01(8), (9)
- applications
- application record and factum, 38.09(1), (2)
- date for hearing at Toronto, 38.03(2)
- filing affidavits, 39.01(2), (3)
- filing proof of service, 38.06(4)
- issuing of notice, 38.05
- motion to set aside or vary judgment, 38.11(1)
- service of notice, 38.06(3)
- appointment of litigation guardian, motion, 7.03(6)
- assessment of costs
- appeals, 58.11
- reply to objections to decision, 58.10(2)
- withholding certificate of assessment,
- bill of costs, service, 58.03(2)
- close of pleadings, 25.05
- compliance with notice to deliver bill of costs, 58.04(3)
- computation, 3.01
- · crossclaims
- defence, 28.05(1)
- reply to defence, 28.08
- reply to defence to plaintiff's claim, 28.06(4)
- statement of defence and crossclaim, 28.04(1)
- defence to counterclaim, 27.05
- determination of issue before trial, factum, 21.03
- discontinuance, 23.01(1)
- dismissal of crossclaim, third party claim, 23.03
- · dismissal for delay
- failure to make motion to restore action to trial list, 24.01
- failure to note defendant in default,
- failure to serve statement of claim, 24.01
- failure to set action down for trial, 24.01
- dismissal of action where claim paid, 14.10(1)
- disputing garnishment, 60.08(10)
- examinations for discovery

- service of affidavit answering questions, 35.02
- service of further answers, 35.04(2)
- · examinations out of court
- notice of examination, 34.05(1), (2)
- • preparation of transcripts, 34.17
- expert's report, service, 53.03(1)
- supplementary report, 53.03(3)
- extension, 3.02
- generally, 3.02
- service, document not reaching person, 16.07
- where associate judge not to hear motion, 37.02(2)
- garnishee becoming liable for payment, 60.08(7)
- hearings of proceedings, 3.03
- interest on accounts, administration proceedings, 65.02(2)
- interlocutory injunctions, duration,
- · judicial review applications
- applicant's record and factum, 68.04(1)
- dismissal for delay, 68.06
- respondent's record and factum, 68.04(4)
- list of further questions, examination for discovery, 35.04(1)
- listing for trial
- mandatory order, duration, 40.02(1)
- · mortgage references
- change of account, 64.06(24), (26),
- notice of change of account, 64.06(21)–(26)
- taking of new account, 64.06(18)
- · motions
- factum, 37.10(6)
- filing affidavits, 39.01(2), (3)
- filing notice of motion, 37.08
- motion record, 37.10(1), (2)-(4)
- notice, 37.07(6)
- setting aside or varying orders, 37.14(1)
- notice admitting or disputing claims, property seized by sheriff, 60.13
- notice of assessment of costs, service, 58.03(2)
- notice of election to proceed with counterclaim, 23.02, 24.03
- notice of expiration of writ of seizure and sale, 60.07(7)
- notice of intent to call adverse party as witness, service, 53.07(1), (2)
- notice of intent to defend, 18.02(1)

Time (cont'd)

- notice to alleged partner, service, 8.05(3)
- notice to deliver bill of costs, service, 58.04(2)
- offers to settle, 49.03, 49.04(3)
- particulars, 25.10
- pleadings
- counterclaims, 25.04(3), (4)
- crossclaims, 25.04(5)
- further particulars of special damages, 25.06(9)
- particulars, 25.10
- reply, 25.04(3)
- response to amended pleadings, 26.05(1)
- statement of defence, 25.04(2)
- • subsequent to reply, 25.01(5)
- third party claims, 25.04(6)
- production of documents admitted at examination out of court, 34.10(4)
- providing copies of medical and hospital reports, 33.04(1), (2)
- redemption
- after taking of accounts in foreclosure action, 64.03(8)
- defendant in sale action, 64.04(9)
- foreclosure actions, 64.03(12), (13)
- payment by all parties entitled, 64.06(13)
- redemption action, plaintiff declared foreclosed, 64.05(9)
- references
- motion for immediate confirmation of report, 54.09(4)
- motion set aside or variation of order made on motion, 54.05(3)
- opposing confirmation of report, 54.09(1), (3)
- service of notice of hearing for directions, 55.02(2)
- service of notice of motion, 55.02(6)
- signing and entering order directing reference, 55.02(1)
- reply
- defence to counterclaim, to, 27.06
- request to inspect documents, to,
- statement of defence of third party, to, 29.05(4)
- third party defence, to, 29.04
- request for sale
- defendant, not a subsequent encumbrancer, 64.03(17)
- subsequent encumbrancer added on reference, 64.03(19)

- subsequent encumbrancer named as defendant, 64.03(18)
- request to admit, response, 51.03(1)
- · request to redeem
- • foreclosure actions, 64.03(6)
- sale actions, 64.04(5)
- respondent's application record and factum, judicial review, 68.04(4)
- responding to amended pleadings, 26.05(1)
- responding to requests to admit, 51.03(1)
- return of exhibits, 52.04(3)
- sale of land, writ of seizure and sale, 60.07(17), (18)
- · security for costs
- • motion, 56.03
- payment into court, 56.04
- · seizure of personal property
- delivery of inventory by sheriff, 60.07(15)
- service by mail, 16.06(1)
- to last known address, 16.03(4)
- to place of residence, 16.03(5)
- notice of sale, 60.07(16)
- service, extension where document not reaching person, 16.07
- service through document exchange, 16.05(2)
- setting aside or varying
- • judgment in mortgage action
- added party other than encumbrancer, 64.06(12)
- added subsequent encumbrancer, 64.06(6)
- judgment on application, 38.11(1)
- order adding party on reference
- added party other than encumbrancer, 64.06(12)
- added subsequent encumbrancer, 64.06(6)
- settling and signing order, objection taken to proposed form, 59.04
- special case
- filing factums and proof of service, 22.02
- removal into Court of Appeal, 22.03(2)
- statement of claim, service, 25.04(1)
- statement of defence, 18.01
- counterclaim, 18.02(3)(a)
- defence of main action by third party,
- third party, 18.02(3)(b)
- where notice of intent to defend, 18.02(2)

- Time (cont'd)
 statement of defence and counterclaim
- • all parties to main action, 27.04(1)
- issuance where defendant not party to main action, 27.03
- new party brought in, 27.04(2)
- stay pending appeal, expiration of order, 63.02(1)
- summary judgment, factum on motion,
- · third party claims
- issuing, 29.02(1)
- service, 29.02(2), (3)
- trial, 29.08(2)
- third party defence, 29.03
- timetables, 3.04
- amendment, 3.04(1)–(3)
- non-compliance, 3.04(4)
- · withdrawal, 23.06
- writ of possession, duration, 60.10(3)
- · writ of seizure and sale
- duration of leave to issue, 60.07(3)
- where leave required, 60.07(2)

Title of Proceeding

- appeals, 61.04(2)
- backsheets, 4.02(3)
- class proceedings, 12.02
- estate proceedings, 4.02(1)(b)
- amending, 9.03(2)–(4)
- general heading in appellate courts, 61B
- proceedings by or against partnerships, amending, 8.04
- statement of defence and counterclaim,
- statement of defence and crossclaim,

Transcripts

- agreement respecting evidence, 61.05(4)
- appellant's certificate respecting evidence, 61.05(1)
- application record, 38.09(1)
- binding, 4.07(3)
- costs sanctions for unnecessary evidence, 61.05(8)
- cross-examination, purchase and service, 39.02(4)
- examination for discovery of non-parties, 31.09(3)
- estate claims, 75.08
- evidence
- • applications, 38.09(5)
- motions, 37.10(5)
- persons out of Ontario, 34.07(6), (7)
- evidence for appeal, binding, 4.07(3)

- evidence taken before trial, 36.04(1), (4)
- evidence taken out of court, additional contents, 4.09(11)
- examination of witnesses on motion or application, 39.03(1), (2)
- examinations out of court, 34.17
- copy filed for use in court, 34.18(2)
- filing, use on motions, applications, trials, 34.18
- failure of appellant to file, 61.13(2)
- form and contents, 4.09
- headings, 4.09(2)
- judicial review, applicant's application record, 68.04(2), (9)
- motion record, 37.10(2)
- ordering, appeals, 61.05(5)
- complying with certificates or agreement, 61.05(6)
- failure to file proof, 61.13(1)
- notice from court reporter when transcribed, 61.05(7)
- paper size, 4.09(1)
- · perfecting appeals
- relief from compliance with Rules, 61.09(4)
- service and filing, 61.09(3)
- time, 61.09(1)
- place of filing, 4.05(3)
- text, standards, 4.09(3)–(11)
- volumes, 4.07(3)

Transfer or Transmission of Interest or Liability

- effect, 11.01
- forms
- order to continue (transfer or transmission of interest), 11A
- order to continue, 11.02(1)
- failure to obtain order, 11.03
- service, 11.02(2)

Transfers

- carriage of sale where sale requested, 64.03(25)
- mortgaged property where redeemed, 64.06(19)
- payment out of court to personal representative, 72.03(9)

Transitional Provisions

- application of Rules, 1.02(2)–(4)
- references to counties for judicial purposes, s. 151
- renewal of writ, s. 150

Trial Lists

- · actions
- • remaining on list, 48.10

- Trial Lists (cont'd)
 • struck off, relisting for trial, 48.11
- traversed to next sitting, 48.10
- consequences of listing, 48.07
- dismissal of action for delay, 48.14
- failure to attend trial, 52.01
- jury cases, 48.08(1)
- non-jury cases, 48.08(2)
- practice directions, 48
- restoring action to list, failure to make motion, 24.01
- speedy, 48.09
- status hearing, 48.14(5)-(7)
- undefended action, 48.05

Trial of Issue

- application, treated as action, 38.10
- interpleader, 43.04(2)
- listing for trial, 48.13
- motion, 37.13(2), (3)

Trial Records

- backsheets, 4.07(1)
- endorsement of jury verdict on record, 52.09
- front covers, 4.07(1.1)
- listing for trial, 48.03
- • contents, 48.03(1)
- • material to accompany, 48.03(2)
- simplified procedure, 76.08
- pre-trial conference, 50.02

Trials

- amendment of pleadings, 26.06
- application, 38.10
- assessment of damages, s. 117; 19.05
- compelling attendance of witness in custody, 53.06
- counterclaims
- at trial of main action, 27.08(1)
- separate trial or as separate action, 27.08(2)
- crossclaims, 28.09
- defendant noted in default, 28.07
- defending plaintiff's claim against co-defendant, 28.06(3)(a)
- defendant noted in default, 19.05
- delayed decisions, s. 123
- determination of issue before trial, 21.03
- admissibility of evidence, 21.01(2)
- availability, 21.01
- failure to make motion promptly, 21.02
- striking out pleading, 21.01(2)(b)
- discount rate for future pecuniary damages, 53.09

- documents required to be taken to trial,
- estate claims, 75.08
- evidence
- admission with leave, 53.08
- • affidavits, 53.02
- compelling attendance of witness in custody, 53.06
- disallowing vexatious or irrelevant questions, 53.01(2)
- generally, 53
- • interprovincial summonses, 53.05
- judge to exercise control, 53.01(2)
- leading questions, where permitted, 53.01(4)
- oral examination as general rule, 53.01(1)
- protecting witness from harassment, 53.01(2)
- recall of witness, 53.01(3)
- use of evidence from discovery, 31.11
- witnesses, 53.01
- exclusion of persons interfering in conduct, 52.06(4)
- failure to make motion to restore action to trial list, 24.01
- filing transcripts of examination, 34.18
- forms
- order for attendance of witness in custody, 53D
- summons to witness (at hearing), 53A
- summons to witness outside Ontario, 53C
- warrant for arrest (defaulting witness), 53B
- generally, 52-55
- hearings throughout year, 3.03(1)
- · interpreters
- duty to interpret accurately, 53.01(5)
- who shall provide, 53.01(6)
- interprovincial summonses, 53.05
- jury action, see also Juries
- discretion to try case without jury, 47.02(3)
- listing for trial
- speedy trial list, disposition of motion, 37.13(1)
- third party claims, 29.08(1)
- notice of listing
- order dispensing with notice, two proceedings in same court, 6.01(2)
- service on defendant noted in default, 19.02(3)
- oaths, administration, s. 92
- official languages, s. 125

- Trials (cont'd)
 photography at, s. 136
- place of trial
- • named by plaintiff, 46.01(1), 46.02
- order changing place, 46.03
- required by statute, 13.1.01, 46.01(2),
- · prejudice or delay
- resulting from documents, 25.11(a)
- resulting from pleadings, 25.11(a)
- procedure
- adjournments, 52.02
- exclusion of witnesses, 52.06
- • exhibits, 52.04
- experts
- appointment, 52.03(1)
- contents of order of appointment,
- cross-examination, 52.03(10)
- named by judge, 52.03(2)
- remuneration, 52.03(4)-(6), (11)
- reports, 52.03(7)-(9)
- failure to attend, 52.01
- failure to prove fact or document, 52.10
- generally, 52
- jury verdicts, 52.08
- judgment only on some claims, 52.08(2)
- recording, 52.09
- where judge may direct action be retried, 52.08(1)
- order of presentation in jury trial,
- postponements, 52.02
- recording jury verdict, 52.09
- setting aside or varying judgment against party who failed to attend, 52.01(3)
- view, 52.05
- Protocol on the Use of Electronic Devices in the Courtroom, s. 136
- public access, s. 135
- references
- application of Rules 54-55, 54.01
- confirmation of report, 54.07
- motion for immediate confirmation, 54.09(4), (5)
- motion to oppose confirmation, 54.09(2), (3)
- motion where report back was required, 54.08(1), (2)
- passage of time where report back not required, 54.09(1)
- generally, 54-55

- order directing reference, 54.04
- report must be confirmed, 54.07
- report of findings and conclusions, 54.06
- to whom directed, 54.03(1)
- · setting down, see Setting Down
- summary judgment, order to proceed to trial, 20.05
- summons to witness
- attendance money, 53.04(4)
- contents, 53.04(1)
- detention of witness, 53.04(8)
- documents that may be proved by copy, 53.04(3)
- duration summons in force, 53.04(6)
- failure to obey summons, 53.04(7)
- issued in blank, 53.04(2)
- personal service, 53.04(4)
- . . persons in Ontario, 53.04
- proof of service, 53.04(5)
- warrant for arrest (defaulting witness), 53.04(7)
- third party claims, 29.08(2)
- defence of main action by third party, 29.05(2)
- listing for trial, 29.08(1)
- third party in default, 29.07
- where judge hearing motions not to preside, 37.15(2)
- witnesses, 53.04
- calling adverse party as witness, 53.07
- expert witnesses, 53.03
- leave required where report not served, 53.03(2)
- service of report as condition of testifying, 53.03(1)

Trusts

- advertisement for beneficiaries on references, 55.03(1)
- execution
- application, 14.05(3)(a)
- . . interest on accounts, 65.02(2)
- judgment for administration, 65.01(2)
- notice of application, 65.01(1)
- order for rendering of proper statement of accounts, 65.01(3)
- payment into court, 65.02(3)
- • references, 65.02(1)
- · forms
- • judgment for administration, 65A
- pleading breach, 25.06(8)
- · proceedings
- • adding persons as parties, 9.01(4)

- Trusts (cont'd)
 • beneficiaries, joinder, 9.01
- trustees refusing to be joined, 9.01(3)
- proceedings to determine questions, representation orders, 10.01(1)
- trustees
- application for directions, 14.05(3)
- . . application for removal, 14.05(3)
- application to fix compensation, 14.05(3)
- assessment of costs of passing of accounts, 58.08
- bankruptcy, examination for discovery, 31.03(7)
- claim against service outside Ontario,
- commencing proceedings for administration, 65.01(1)
- offers to settle
- payment to trustee, 49.07(3), (4)
- order for rendering of proper statement of accounts, 65.01(3)
- payment to trustee on behalf of minors, 59.03(5)
- references
- bidding on sale of property, 55.06(5), (6)
- examination of claims, 55.03(3)
- refusing to join in trust proceedings, 9.01(3)
- trust proceedings, 9.01
- variation, application for approval, 14.05(3)

U

Undefended Actions

- affidavit evidence at trial permitted, 53.02(3)
- listing for trial, 48.02(2), (3), 48.05

Undertakings, see also Deemed Undertakings

- · damages
- • interlocutory injunctions, 40.03
- • mandatory orders, 40.03
- failure to answer, 31.07(2)
- refusals and undertakings chart, 37C
- stop orders, 72.05(2)
- where motion before proceeding commenced, 37.17

Urgency

- date for hearing of applications, 38.03(3.1)
- motions
- absence of public, 37.11(1)

- before commencement of proceedings, 37.17
- hearing date for motions, 37.05(3)
- settling and signing orders, 59.04

Variation

- applications without notice, 38.11
- contempt orders, 60.11(8)
- cross-appeals, 61.06
- directions for conduct of reference, 55.02(4)
- dismissal of judicial review application for delay, 68.06(4)
- forms, 1.06
- interim orders for recovery of personal property, 44.05
- judgment against person who failed to attend at trial, 52.01(3)
- judgment in mortgage actions, 64.06(6),
- · order
- allowing affidavit evidence at trial, 53.02(2)
- associate judge not to hear motion, 37.02(2)
- grounds and procedure, 59.06(2)
- judge of an appellate court, 61.16(6)
- mortgage reference
- adding party other than encumbrancer, 64.06(12)
- adding subsequent encumbrancer, 64.06(6)
- obtained on motion
- made by Court of Appeal, 37.14(6)
- made by Divisional Court, 37.14(6)
- made by judge, 37.14(4)
- made by associate judge, 37.14(5)
- made by registrar, 37.14(3)
- reference, 55.02(6)
- stay pending appeal, 63.02(2)
- references
- directions, 55.02(4)
- order adding parties, 55.02(6)
- order directing reference, by added party, 55.02(6)
- Registrar's order in appeal proceedings, 61.16(5)
- security for costs, 56.07
- writ of sequestration, 60.09(4)

Venue, see Place of Trial

Verdicts

fact or document yet to be proved, 52.10

Verdicts (cont'd)

- jury
- • disagreement of jury, 52.08(1)
- • recording, 52.09

Vexatious Proceedings, see also Frivolous or Vexatious

- application for leave to commence or continue proceeding, 38.13
- availability of order prohibiting, s. 140(1)
- court may stay or dismiss frivolous or vexatious proceeding, 2.1.01
- leave to continue proceedings, s. 140(3), (4)
- · step in proceedings
- • consideration in assessment of costs, 58.06(1)
- • consideration in awarding costs, 57.01(1)
- judge to control interrogation at trial, 53.01(2)

W

Warrants

- arrest
- • contempt motion, 60.11(4), 60K
- • failure to attend or remain at trial, 53.04(7), (8), 53B
- committal, 60.11(7), 60L
- forms
- • warrant for arrest (contempt), 60K
- • warrant for arrest (defaulting witness), 53B
- • warrant of committal, 60L
- orders enforceable by police, s. 144

Wills and Codicils, see also Deeds, Wills, Instruments

- · deposit with registrar
- • access after deposit, 74.02(5), (6)
- • affidavit of execution, 74.02(2)
- • delivery to Archivist of Ontario, 74.02(8)
- • delivery to estate trustee, 74.02(7)
- • notice to Estate Registrar of withdrawal, 74.02(7)
- proof of
- • entitlement to require, 75.01
- • lost or destroyed will, 75.02

Withdrawal

- admissions, 23.06(1), 51.05
- counterclaims, crossclaims, third party claims, 23.07
- forms
- • notice of withdrawal of defence, 23C

- • notice of withdrawal of offer to settle, 49B
- offer to settle, 49.04, 49B
- statement of defence, 23.06(1)
- • where crossclaim or third party claim, 23.06(1)
- writs, 60.15, 60.16(2), (3)

Witnesses

- · compelling attendance of witnesses
- • examinations out of court, 34.04
- • references, 55.02(14)
- • trial, 53.04-53.07
- evidence on reference, 55.02(13)
- examination before hearing of motion or application, 39.03
- • cross-examination, 39.03(2)
- • re-examination, 39.03(2)
- refusal of examination, 39.03(3)
- • simplified procedure, 76.05
- examination of person out of Ontario, attendance money, 34.07(4)
- examination on application, consequences of failure to deliver notice of appearance, 38.08(2)
- examination on motion or application, 39.03(3), (5)
- simplified procedure, 76.05
- examination out of court, see Examinations
- expert on reference, 55.02(14.2)
- forms
- • summons to a witness outside Ontario, 53C
- •• summons to provide evidence for an extra-provincial tribunal, 70D
- • summons to witness (at hearing), 53A
- summons to witness (examination out of court), 34B
- impeachment using evidence from discovery, 31.11(2)
- · outside Ontario
- • interprovincial subpoena, 53.05
- • taking evidence before trial, 36.03
- • prisoners, 53.06
- re-examination before trial, 34.11(5), 36.02(5)
- taking evidence before trial, *see* Examinations
- trial
- adverse party, 53.07
- • affidavit evidence, 53.02
- • compelling attendance of witness in custody, 53.06
- • exclusion, 52.06

Witnesses (cont'd)

- harassment or embarrassment, 53.01(2)
- interpreter, 53.01(5), (6)
- interprovincial subpoena, 53.05
- oral, as general rule, 53.01(1)
- recall for further examination, 53.01(3)
- summons, 53.04
- unwilling or unable to give answers,
- vexatious or irrelevant questions, 53.01(2)

Writs

- writ of execution, see also Originating Process; Actions; Applications; Statement of Claim
- • costs, 60.19
- effect of stay pending appeal, 63.03(3)
- executed and expired writs, 60.15(1)
- forms
- direction to enforce writ of seizure and sale, 60F
- request to renew, 60E
- writ of delivery, 60D
- writ of possession, 60C
- writ of seizure and sale, 60A
- writ of sequestration, 60B
- • motion for directions, 60.17
- renewal, s. 150
- sheriff's report on execution, 60.14(1), (2)
- set aside, 63.03(6)
- withdrawal, 60.15(2.1), (3), 60.16(1),
- writ of delivery, enforcement, 60.04
- · writ of fieri facias, see writ of seizure
- writ of possession
- duration, 60.10(3)
- how obtained, 60.10(1)
- notice to persons in possession, 60.10(2)
- references, sale of property, 55.06(13)
- • renewal, 60.10(3)
- writ of seizure and sale
- amendment, change of debtor's name, 60.07(10), (11.1)

- creditor to notify sheriff of payments received, 60.16(1)
- creditor's name and address, 60.07(12)–(12.2), (25)
- direction to enforce, 60.07(13), 60F
- duration, 60.07(6)
- electronic issue of writ, 60.07(1.1.)–(1.2)
- enforcement of order, 60.02(1), 60.07
- enforcement of order for payment at future time, 60.07(5)
- enforcement of order for payment into court, 60.07(4)
- expiration, 60.07(6)
- leave to issue in effect for one year, 60.07(3)
- . . obtaining without leave, 60.07(1)
- order deem entered, 60.07(1.3)-(1.4)
- personal property, 60.07(15), (16), (23), (24)
- property in hands of receiver, 60.07(14)
- renewal, 60.07(8), (8.1), (9), 60E
- sale of land, 60.07(17)-(24)
- sheriff may decline to enforce, 60.07(13.1) . .
- . . where leave is required, 60.07(2)
- · writ of sequestration
- availability, 60.09
- contempt motion, 60.11(5)
- enforcement of order, 60.02(1), 60.09
- issuance for contempt, 60.11(5), (6)
- leave required, 60.09(2)
- property affected, 60.09(3)
- variation or discharge, 60.09(4)

Written Questions, see Examinations for Discovery

Youth Court

• jurisdiction, s. 38(3)

Youth Justice Court

• jurisdiction, s. 38(3)