

# Fast Track Litigation

## Fast Track Basics

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## Basics of Fast Track Litigation

### What is Fast Track Litigation?

Fast track litigation is created by **Rule 15-1** of the British Columbia Supreme Court rules. The goal is to allow for less complicated cases to be completed more quickly. Specifically, the target is that cases subject to fast track can go from filing to trial within eight months. Eight months may not seem that fast, but as compared to much other litigation in the BC Supreme Court it is very quick.



#### Read the Rules

**Rule 15-1** Fast track litigation

### What is Different in Fast Track Litigation?

Fast track litigation speeds litigation by simplifying some parts of the Court processes. Specifically:

- **Jury trials are not available:** A party cannot choose to have a trial subject to the fast track rule heard by a jury
- **Examination for discovery is shorter:** Examination for discovery in a fast track proceeding is limited to two hours. This is instead of the ordinary rule where seven hours of discovery is permitted. For more information on examinations for discovery, see **Discovery**

- **Expert evidence is limited:** A party in a fast track proceeding may call only one expert witness on the topic of damages arising from personal injury or death. This is in contrast to the ordinary rule which allows three witnesses. For more information on expert evidence see **Experts Witnesses**
- **Costs are fixed:** The amount of costs available in a fast track trial are fixed. Specifically, costs awarded to the successful party are set at \$8,000 if the trial is one day or less, \$9,500 if the trial is two days, and \$11,000 if the trial is more than two days. These amounts do not include disbursements. For more information on costs awards see **Costs**

These rules are the default. However, a Court can order that any of these rules do not apply in any particular case, if convinced it is just to do so.

## When is Fast Track Available?

For a case to be under the fast track rules one of the parties must apply to move the case into fast track litigation. This is done by filing a notice of fast track action in **Form 61. Rule 15-1** describes certain types of cases that are appropriate for fast track litigation.

Cases that could be fast tracked have one or more of these factors:

- The only claims are for money, real property, personal property, or a builders lien, and the total value of everything claimed is \$100,000 or less (not including interest and costs)
- The trial of the action can be completed in 3 days
- The parties all agree
- The Court orders that the fast track rule applies

Fast track litigation applies only to actions started by a notice of civil claim. It does not apply to petitions. For more on the difference between actions and petitions see **Action or Petition.**

Fast track litigation cannot be used in family proceedings, class proceedings, or jury trials.

Note that nothing in **Rule 15-1** prevents the judge from awarding damages to a plaintiff in a fast track action for an amount over \$100,000.



## Read the Rules

**Rule 15-1** Fast Track Litigation



## Find the Form

**Form 61** Notice of Fast Track Action

If your matter is covered by the fast track rule, you will still need to follow most of the other Rules of Court. You should review:

- **Settlement**
- **Get Help**
- **Starting an Action**
- **Responding to a Claim**
- **Civil Litigation Overview** and
- **Your Day in Court**

## Can You Stop Fast Track Litigation?

The parties can by consent remove a case from the fast track. If the parties do not consent, any party can apply to court to remove the case from the fast track process.

You can apply by bringing an application, on the basis that the value, importance, or complexity of the case are higher than what is reasonable for a fast track action. For more information on bringing an application, see **Chambers Applications**.

In some cases, the Court may make its own decision to remove the case from the fast track process (**Rule 15-1(6)**).

Remember that if your proceeding is removed from the fast track litigation process, you will have to revert to the regular trial list and your proceeding will take longer and may cost more to complete.

## Major Steps in a Fast Track Action

Most but not necessarily all of these steps will apply in a Fast Track Action

- 1. File Notice:** Any party can file a notice of fast track action in **Form 61**
- 2. Case Planning Conference:** Any party (or the Court) can schedule a case planning conference
- 3. Trial Management Conference:** A trial management conference is held at least 28 days before the scheduled trial date
- 4. Applications:** Parties can bring applications, if necessary, but only after a case planning conference has been held
- 5. Discovery:** Parties are subject to examinations for discovery for a total of 2 hours
- 6. Apply for Trial Date:** Any party can apply for a trial date, which will be set for a date no later than 4 months after the application is made
- 7. Trial:** Trial is held without a jury

Costs are awarded according to the length of the trial and offers to settle may be considered by the Court. For more information see **Costs**.

## The Notice of Fast Track Litigation

If one of the conditions set out in **Rule 15-1** applies (notably that the total claimed is less than \$100,000 or the trial can be completed in 3 days), the fast track rules are mandatory. However, parties to litigation do not always agree that these conditions are satisfied.

Any party can express their view that the fast track litigation rule applies by issuing a notice of fast track action in **Form 61**. A copy of this must be served on all parties.



### Find the Form

**Form 61** Notice of fast track action

The words “subject to Rule 15-1” must be added to the style of proceeding immediately below the listed parties for all documents filed after the fast track has been chosen, as in the following example:

		No. 12345
		Vancouver Registry
IN THE SUPREME COURT OF BRITISH COLUMBIA		
BETWEEN:		
	JOE GREEN	
		PLAINTIFF
AND:		
	FRED BLACK	
		DEFENDANT
		SUBJECT TO RULE 15-1

## Case Planning Conference

Case planning conferences are described in **Case Planning Conferences**. In brief, a case planning conference is a meeting with a judge or master to deal with issues and timelines in your case such as, discovery of documents or people, dispute resolution procedures, or other pre-trial matters.



### Read the Rules

**Rules 5-1 to 5-4** Case planning

A party to a fast track action must not serve on another party a notice of application or an affidavit in support of an application unless a case planning conference or a trial management conference has been conducted (**Rule 15-1(7)**).

Trial management conferences are described in **Trial Management Conferences**. They are governed by **Rule 12-2** and are generally scheduled to ensure that all matters concerning conduct of the trial have been considered.

The requirement for a case planning conference to be held before any applications are filed does not apply to an application to have the action removed from the fast track litigation process, nor does it apply to applications to strike pleadings, an application for summary judgment, an application for a summary trial, or urgent applications.

### **Applying for a Trial Date**

If either party applies for a trial date within four months of choosing to use the fast track procedure, the registrar must give you a trial date that starts within four months after the date you apply for it (**Rule 15-1(13)**).

For more information on how to apply for a trial date, see **Scheduling a Trial**.