



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

There are three main instances where you might need to book a registrar's hearing by Notice of Application:

1. **When the Parties Cannot Agree on the Contents of Books:** If a party objects to the contents of another party's appeal book or appeal record or if the parties cannot agree on whether a full transcript should be ordered, the Registrar may decide what these books ought to contain: see *Court of Appeal Rule 28* and *52*;
2. **When the Parties Cannot Agree on what an Order Should Say:** If the parties are unable to agree on the terms of any Court of Appeal order, the Registrar may decide what the order should say: see *Court of Appeal Rule 68*;
3. **When the Parties Cannot Agree on an Amount of Costs:** After an appeal is concluded, an award of costs is made. Unless the Court has ordered otherwise, all costs are awarded to the person who was successful in the appeal: see *Court of Appeal Act, s.44* *Court of Appeal Rules 52, 69* and *Costs (Civil Practice Directive, 18 July 2022)*.

### **How do I Prepare and Conduct an Application before the Registrar?**

1. **Call the Registrar's Scheduler.** Call the Registrar's Scheduler at 604.660.2729 to obtain a list of available dates. Typically, the Registrar sits on Tuesdays and Thursdays every month and can usually accommodate hearings on those days. Please inform the Registrar's Scheduler if you are looking for an assessment of special or increased costs, as a pre-hearing conference or additional directions are usually required.
2. **Agree on a Date.** After you have obtained the Registrar's availability from the Registrar's Scheduler, inform the other party that you intend to set down the application, provide them with the available dates, and agree on a date. The application should not be filed unless the other party refuses to reasonably agree on a date. If the application is scheduled and the opposing party does not appear, the Registrar will want to see an affidavit detailing what steps you took to schedule it and that the documents have been properly served. There should be no debate on the amount of time required as all applications are set for one hour. Only the party who has scheduled the application may adjourn or reschedule it.
3. **If Seeking to Assess Costs, Ensure the Necessary Orders are Filed.** Unless you are setting an application to have the order settled and to assess the bill of costs at the same time,

the Registrar's Scheduler will not provide you with a date unless the order authorizing those costs has been signed by the parties, submitted to the Court registry, and entered by the Court. This is because, without the order, the Registrar does not have the power to do the assessment.

4. **Prepare Your Materials.** The Registrar will have the Court file with him in the courtroom and prefers the parties not incur the expense of preparing a hearing record. Hearing records will not be accepted for filing. As well, if you wish to rely on any authorities available on [CanLII](#), the Registrar does not require paper copies of any authorities (though the opposing party might).
  - a. For Applications Assessing Costs: An "affidavit of justification" is usually prepared attesting to the costs you wish to claim in your Bill of Costs (Form 21). If the parties can agree on disbursements, they can simply hand receipts to the Registrar at the hearing or attach them to the Notice of Application. Parties often bring a blank Certificate of Costs in Form 17 for the Registrar to fill out and certify at the end of the hearing.
  - b. For Applications to Settle Orders: For applications involving the settlement of the order, the party bringing the application usually attaches both parties' drafts of the order, which allows the Registrar to see where there are disagreements in wording. Though the default is to hear these applications orally, parties may request that it be done in writing: Rule 68(2).
  - c. For Applications to Settle the Contents of Books: The Registrar will usually settle books by examining what has been filed. If no books have yet been filed, it is useful to file proposed tables of contents or a brief submission summarizing the dispute.

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

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