



SUPREME COURT OF BRITISH COLUMBIA

Effective Date: 2016/05/15

Number: PD - 50

Title:

**Practice Direction
Masters' Jurisdiction**

SUMMARY:

This Practice Direction has two parts. Part A sets out a direction of the Chief Justice pursuant to Section 11(7) of the *Supreme Court Act*, R.S.B.C 1996 c. 443, as to the matters in respect of which a master is not to exercise jurisdiction. Part B sets out guidelines for the assistance of the profession and the public as to the matters in respect of which a master has jurisdiction.

PART A - DIRECTION

1. PD - 42 - *Masters' Jurisdiction* dated March 25, 2013 is rescinded.

Restrictions on Masters' Jurisdiction

2. Section 11(7) of the *Supreme Court Act* provides:

A master has, subject to the limitations of section 96 of the Constitution Act, 1867, the same jurisdiction under any enactment or the Rules of Court as a judge in chambers unless, in respect of any matter, the Chief Justice has given a direction that a master is not to exercise that jurisdiction.

3. Pursuant to section 11 (7) of the *Supreme Court Act*, the Chief Justice directs that a master is not to exercise jurisdiction:
 - a. to grant relief where the power to do so is conferred expressly on a judge by a statute or rule;
 - b. to dispose of an appeal, or an application in the nature of an appeal, on the merits;
 - c. to pronounce judgment by consent where any party in a proceedings is under a legal disability;
 - d. to grant court approval of a settlement, compromise, payment or acceptance of money into court on behalf of a person under a legal disability, or court approval of a sale of assets of a person under a legal disability, with the exception of approval of infant settlements not greater than \$50,000 provided for under s. 40(7) of the *Infants Act*;
 - e. in any matter relating to criminal proceedings or the liberty of the subject other than uncontested petitions under the *Patients Property Act*;
 - f. to make an order holding any person or entity in contempt;
 - g. to grant injunctive relief, other than as identified under paragraph 6 of this direction;
 - h. to make an order under the *Judicial Review Procedure Act* or for a prerogative writ;
 - i. to grant a stay of proceedings where there is an arbitration;
 - j. to make a declaration under the *Survivorship and Presumption of Death Act*;
 - k. to remove a suspension from the practice of a profession; and
 - l. to set aside, vary or amend an order of a judge, other than:
 - i. to abridge or extend a time prescribed by an order where the original order was one that a master would have had the jurisdiction to make; or
 - ii. to vary the interim orders identified under paragraph 2 of this direction.

PART B- GUIDELINES

Matters Within a Master's Jurisdiction:

4. Paragraphs 5-9 set out guidelines as to the matters that are generally considered to fall within the jurisdiction of a master. These guidelines are for the assistance of the profession and the public and are not intended to be exhaustive.

Applications

5. Subject to constitutional limitations and to the direction set out in paragraph 3, a master has jurisdiction to hear applications under the Rules of Court, including applications for approval of sale in foreclosure proceedings.

Interim Orders in Family Law Cases

6. Subject to constitutional limitations and to the direction set out in paragraph 3, a master has jurisdiction in family law cases
 - a. to make interim orders under the *Family Law Act*, including those respecting:
 - i.* guardianship;
 - ii.* parenting arrangements including parenting time, parenting responsibilities, relocation applications, parenting coordinators and section 211 reports;
 - iii.* contact;
 - iv.* financial disclosure, child and spousal support and extraordinary expenses;
 - v.* protection of property or persons;
 - vi.* restraining the dissipation of property;
 - vii.* property including exclusive occupation of a family residence, interim distribution of property, and interim orders respecting residence; and
 - viii.* conduct of the parties and the proceedings.
 - b. to make orders for interim corollary relief under the *Divorce Act*.
7. A master has jurisdiction to vary any interim order described in subparagraphs 6(a) and 6(b) whether the initial order was made by a judge or a master.

Final Orders

8. Subject to constitutional limitations and to the direction set out in paragraph 3, a master has jurisdiction to make the following final orders:
 - a. orders by consent;
 - b. orders under Supreme Court Civil Rule 22-7 and Supreme Court Family Rule 21-5;
 - c. orders for summary judgment under Rule 9-6 where there is no triable issue;
 - d. orders striking out pleadings under Rule 9-5(1) provided there is no determination of a question of law relating to issues in the action;
 - e. orders granting judgment in default;
 - f. orders under Rule 21-7(5) where no matter is contested or where there is no triable issue; and
 - g. uncontested final orders in respect of the Administration of Estates under Part 25 of the Supreme Court Civil Rules.

Enforcement of Orders

9. Subject to constitutional limitations and to the direction set out in paragraph 3, a master has jurisdiction to enforce orders under Rule 13-4, the *Court Order Enforcement Act*, the *Family Maintenance Enforcement Act*, and any statute which requires an application to the court to enforce under the Rules of Court an order made by a statutory board, statutory decision maker or tribunal.

Chief Justice C. E. Hinkson