



Calculating the Deadline for Filing a Trial Brief in a Civil or Family Law Case

I. The Rules

The *Supreme Court Civil Rules* and the *Supreme Court Family Rules* set out that trial briefs must be filed a certain number of days before the scheduled trial date. The Rules also set out the consequences for failing to do so.

Rules 12-1.1 (1) - (5) of the *Supreme Court Civil Rules* state:

- (1) Unless the court otherwise orders, the plaintiff must, **at least 56 days** before the scheduled trial date,
 - (a) file a trial brief in Form 41, and
 - (b) serve a copy of the filed trial brief on all other parties of record.
- (2) Unless the court otherwise orders, each party of record, other than the plaintiff, must, **at least 49 days** before the scheduled trial date,
 - (a) file a trial brief in Form 41, and
 - (b) serve a copy of the filed trial brief on all other parties of record.
- (3) Unless the court otherwise orders, the plaintiff may, **at least 42 days** before the scheduled trial date,
 - (a) file an amended trial brief in Form 41, and
 - (b) serve a copy of the filed amended trial brief on all other parties of record.
- (4) If a party of record has failed to comply with subrule (1) (a) or (b) or (2) (a) or (b), the judge or master at a trial management conference may order costs against that party.
- (5) Unless the court otherwise orders, **a trial must be removed from the trial list if neither the plaintiff nor any other party of record has filed a trial brief as required by subrule (1) or (2).**

Rules 14-2.1 (1) - (5) *Supreme Court Family Rules* state:

- (1) Unless the court otherwise orders, the claimant must, **at least 56 days** before the scheduled trial date,
 - (a) file a trial brief in Form F45, and
 - (b) serve a copy of the filed trial brief on each of the other parties.

- (2) Unless the court otherwise orders, each party, other than the claimant, must, **at least 49 days** before the scheduled trial date,
 - (a) file a trial brief in Form F45, and
 - (b) serve a copy of the filed trial brief on each of the other parties.
- (3) Unless the court otherwise orders, the claimant may, **at least 42 days** before the scheduled trial date,
 - (a) file an amended trial brief in Form F45, and
 - (b) serve a copy of the filed amended trial brief on each of the other parties.
- (4) If a party has failed to comply with subrule (1) (a) or (b) or (2) (a) or (b), the judge or master at a trial management conference may order costs against that party.
- (5) Unless the court otherwise orders, **a trial must be removed from the trial list if neither the claimant nor any other party has filed a trial brief as required by subrule (1) or (2).**

II. The Interpretation Act

To calculate the deadlines for filing trial briefs and amended trial briefs in a specific civil or family law case, look at the *Interpretation Act*, R.S.B.C. 1996, c. 238, sections 25, 25.2, 25.5 and 29. These sections contain instructions for how to count days when a rule or statute requires that something be done “at least” a certain number of days before a “reference day” (i.e., a specific day such as a scheduled trial date), and what to do if that day falls on a holiday or a day when an office is closed.

Sub-section 25(1) of the *Interpretation Act* states:

- (1) In sections 25.2 to 25.4, “**reference day**” means any of the following by reference to which the beginning or end of a period of time must be determined:
 - (a) a specific or implied day;
 - (b) a day on which a specified or implied event or act occurs;
 - (c) a day on which a different period begins or ends.

Sub-section 25(3) of the *Interpretation Act* states:

- (3) A period for doing an act that is determined under section 25.2, 25.3 or 25.4 to begin or end on a holiday begins or ends, as the case may be,
 - (a) if the reference day is before the period, on the next day that is not a holiday, and
 - (b) if the reference day is after the period, on the previous day that is not a holiday.**

Sub-sections 25.2(1), (2) and (3) of the *Interpretation Act* state:

- (1) In this section, “**week**” means a period of 7 consecutive days.
- (2) Subject to subsection (3), the beginning or end of a period of one day or consecutive days or of one week or consecutive weeks, expressed in relation to a reference day, is to be determined as follows:

- (a) if the reference day is before the period, by counting forward from and including the day after the reference day;
 - (b) **if the reference day is after the period, by counting backward from and including the day before the reference day.**
- (3) If a period described in subsection (2) is expressed as “clear” days or weeks or “**at least**” or “not less than” a number of days or weeks,
- (a) the beginning or end of the period, as determined under subsection (2) (a), is one day later, and
 - (b) **the beginning or end of the period, as determined under subsection (2) (b), is one day earlier.**

“Holiday” includes Sunday. See section 29 of the *Interpretation Act* for a list of holidays.

III. The Calculation

To calculate when a trial brief must be filed, a plaintiff [claimant] must:

- **Step 1:** Count back **56 days** starting the day before the scheduled trial date (*Interpretation Act*: s. 25.2(2)(b)); and
- **Step 2:** Count back **one additional day** (*Interpretation Act*, s. 25.2(3)(b)).

All other parties must count back **49 days** following the same 2 steps. If a plaintiff [claimant] wishes to file an amended trial brief, they must count back **42 days** following the same 2 steps.

****In other words, the scheduled trial date and the day of filing the trial brief are NOT to be counted. Count only the clear days in between.***

When counting back, if the 56th day falls on a Saturday, a Sunday or a day the registry is closed, a plaintiff [claimant] must file a trial brief on or before the previous business day that allows for a 56-day period in accordance with the *Supreme Court Civil Rules* [*Supreme Court Family Rules*]. **See next page for examples.**

Please note: If neither the plaintiff [claimant] nor any other party has filed a trial brief as required by the rules, the trial must be struck from the trial list. Supreme Court Scheduling managers have no authority to extend the time for filing trial briefs or to restore a matter to the trial list.

Example A: A family trial is scheduled for Tuesday, November 28, 2023:

- The last day the claimant can file and serve a trial brief is Friday, September 29, 2023 (SCFR 14-2.1(1))
- The last day each party, other than the claimant, can file and serve a trial brief is Friday, October 6, 2023 (SCFR 14-2.1(2))
- The last day the claimant can file and serve an amended trial brief is Monday, October 16, 2023 (SCFR 14-2.1(3))

Example B – A civil trial is scheduled for Monday, December 4, 2023:

- The last day the plaintiff can file and serve a trial brief is Friday, October 6, 2023 (SCCR 12-1.1(1))
- The last day each party of record, other than the plaintiff can file and serve a trial brief is Friday, October 13, 2023 (SCCR 12-1.1(2))
- The last day the plaintiff can file and serve an amended trial brief is Friday, October 20, 2023 (SCCR 12-1.1(3))

Example C – A family trial is scheduled for Monday, December 11, 2023:

- The last day the claimant can file and serve a trial brief is Friday, October 13, 2023 (SCFR 14-2.1(1))
- The last day each party, other than the claimant, can file and serve a trial brief is Friday, October 20, 2023 (SCFR 14-2.1(2))
- The last day the claimant can file and serve an amended trial brief is Friday, October 27, 2023 (SCFR 14-2.1(3))

September 2023

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
25	26	27	28	29 Trial A: Deadline for claimant to file trial brief (56 days)	30	

October 2023

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
						1

2	3	4	5	6	7	8
Court Closed (in honour of National Day for Truth and Reconciliation)				Trial A: Deadline for other parties to file trial brief (49 days) Trial B: Deadline for plaintiff to file trial brief (56 days)		
9	10	11	12	13	14	15
Court Closed (Thanksgiving)				Trial B: Deadline for other parties to file trial brief (49 days) Trial C: Deadline for claimant to file trial brief (56 days)		
16	17	18	19	20	21	22
Trial A: Deadline for claimant to file amended trial brief (42 days)				Trial B: Deadline for plaintiff to file amended trial brief (42 days) Trial C: Deadline for other parties to file trial brief (49 days)		
23	24	25	26	27	28	29
				Trial C: Deadline for claimant to file amended trial brief (42 days)		
30	31					

November 2023

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
		1	2	3	4	5
6	7	8	9	10	11	12
13 Court Closed (in recognition of Remembrance Day)	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28 Trial A: Trial Date	29	30			

December 2023

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
				1	2	3
4 Trial B: Trial Date	5	6	7	8	9	10
11 Trial C: Trial Date	12	13	14	15	16	17