

## **NOTICE TO THE PROFESSION AND PUBLIC**

### **STREAMLINED TRIAL PROCESS – CIVIL (NON-FAMILY) ACTIONS**

This Notice outlines the procedure to have an Action set down for adjudication by a Streamlined Trial, per amendments to the [Alberta Rules of Court](#) coming into effect January 1, 2024.

#### **Purpose of Streamlined Trials**

Counsel and parties should remember that it is in the interests of all parties to have their dispute resolved by the most timely, efficient, and inexpensive method. A Streamlined Trial is conducted under Part 8, Division 5 of the *Rules of Court* and is used when an Action can be fairly and justly resolved by the streamlined process, and that process is proportionate to the importance and complexity of the issues, the amounts involved, and the resources that can reasonably be allocated to resolving the dispute: R. 8.25(1).

The Rules do not require that litigants file Affidavits about why the matter is suitable for a Streamlined Trial. That is a matter for argument, based on the Court Record and the submissions of the parties.

A Streamlined Trial is a full trial on the merits, and the presiding judge shall grant judgment at the end the trial.

Actions can be suitable for the Streamlined Trial process even if issues of credibility may arise, some oral evidence will be required, or expert evidence may be introduced: R. 8.25(2).

The following types of cases will often be suitable for the Streamlined Trial process:

- actions for the recovery of a liquidated sum;
- actions for the recovery of real or personal property;
- actions that depend primarily on the interpretation of documents;
- actions for damages for personal injury where the damage award would likely be under \$100,000; and
- wrongful dismissal actions.

## **Triggering the Streamlined Trial Process**

The parties must obtain an Order permitting the use of the Streamlined Trial process: R. 8.25(1). The process cannot be invoked by consent, however if the parties reach a consensus on the use of the Streamlined Trial Process, this will be a factor to be considered in the Application for a Streamlined Trial.

An Application for a Streamlined Trial is commenced using [Form 36](#): R. 8.26(1) and is heard at a Case Conference scheduled under R. 4.10. The R.4.10 Case Conference may be scheduled in Edmonton and Calgary by completing the [Civil & Family Justice Seized Booking Request Form](#). In the regions, please contact the Regional Court Coordinator.

Alternative dispute resolution is encouraged prior to booking a Streamlined Trial, but not mandatory unless directed. Counsel should be prepared to address this issue at the R. 4.10 Case Conference.

The Application for a Streamlined Trial must be accompanied by a draft Streamlined Trial Order specifying how the Streamlined Trial will proceed. The Streamlined Trial Order should list all the witnesses whose Affidavits will be relied upon at the Streamlined Trial, as well as all of those who may give oral evidence. A template Streamlined Trial Order is posted to the Court's website at this link: [https://www.albertacourts.ca/docs/default-source/qb/order---streamlined-trial-\(civil\).docx](https://www.albertacourts.ca/docs/default-source/qb/order---streamlined-trial-(civil).docx). The parties are encouraged to reach a consensus on the form of the Streamlined Trial Order.

The Applicant must complete those portions of the proposed Streamlined Trial Order that apply to its case. The Respondent should complete the portions of the Order that apply to its case. If the Respondent disagrees with any portion of the Applicant's Streamlined Trial Order, it must produce an alternative draft Order highlighting any difference in the proposals. Note that costs consequences or sanctions can flow from an unreasonable objection to use of the Streamlined Trial Process: R. 8.27(2).

## **Preparing for the Streamlined Trial**

Where a Streamlined Trial has been ordered, all parties have an obligation to prepare a record that will allow for an efficient adjudication: R. 8.28. The parties should immediately commence preparation of the trial record.

The parties must attend a second R. 4.10 Case Conference no later than three months before the scheduled trial date to confirm that the parties will be ready to proceed: R. 8.28(4). A date for the second R. 4.10 Case Conference and for the Streamlined Trial can be obtained from the Court Coordinator. Unless otherwise authorized (e.g., in the Streamlined Trial Order) this is done by submitting a [Trial Booking Form](#), paying the appropriate fee, and providing a copy of the Streamlined Trial Order and [Form 37](#), modified to meet the requirements of the Streamlined Trial process: R. 8.29(1).

Three months or more before the scheduled Streamlined Trial date, each party must confirm, in [Form 39](#), that they will be a) be ready to proceed with the Summary Trial on the scheduled trial date and b) that they have attended the second R.4.10 Case Conference: R. 8.29(4), R. 8.29(5), R. 8.7. If only one party confirms trial readiness, the scheduled date for the trial remains unless otherwise ordered. If no party confirms trial readiness, the trial date is cancelled.

### **Evidence at the Streamlined Trial**

A trial under this process is streamlined primarily through the method by which evidence is introduced. The presumption is that most of the evidence will be introduced by Affidavit, not by the oral testimony of witnesses: R. 8.30(2). Any anticipated oral testimony must be provided for in the Streamlined Trial Order. Any objections to the admissibility of proposed evidence must be raised in a timely manner.

***Agreed Statement of Facts:*** Every case has certain undisputed background facts relating to the identity of the parties, the background to the cause of action, and the identity of the records that are not in dispute. Virtually all Streamlined Trials should proceed with an Agreed Statement of Facts: R. 8.28(b). The parties should agree on all facts that cannot reasonably be disputed. Records that are not in dispute can be exhibited to the Agreed Statement of Facts.

***Admitted Documents:*** Unless they are attached to the lead Affidavit or Agreed Statement of Facts, any document upon which a party intends to rely must be included in a properly indexed book of documents for the Streamlined Trial. The admissions of authenticity under R. 5.15 should be supplemented by any other possible admissions relating to the documents: R. 8.28(b).

***Format of the Record:*** It is assumed that all the evidence will be provided to the Court and introduced by way of Affidavit. The evidence should be properly organized and indexed as required: R. 8.28(d). If evidence is to be tendered in electronic format, that must be authorized by the Streamlined Trial Order. Only evidence that is relevant and material should be introduced; the parties should not engage in a “data dump” of everything on the file: R. 8.28(c).

***Affidavits:*** Each party’s case should primarily be presented by a lead Affidavit. Note that since a Streamlined Trial will dispose of all or part of a claim, Affidavits should generally be based on personal knowledge, not hearsay: R. 13.18(3). If any party proposes to call oral evidence, that must be provided for in the Streamlined Trial Order. Oral evidence should primarily be produced only when cross-examination is required. Cross-examination should primarily take place by questioning on the Affidavits before the trial, with the transcript included in the trial record.

***Experts:*** The Streamlined Trial Order should identify any anticipated expert evidence at the Streamlined Trial. The rules on expert evidence found in R. 5.34 apply to

Streamlined Trials. Proper notice must be given: R. 5.35. The parties should endeavor to agree on the area of expertise of the experts, and expert evidence should generally be introduced by Affidavits attaching the experts' reports and resumés: R. 5.36. Oral testimony of experts should be the exception: R. 5.39. Where justified, the experts can be examined prior to trial: R. 5.37.

**Oral Evidence:** The Streamlined Trial Order must specify which witnesses, if any, will be called to give oral evidence, and whether they will be permitted to a) give evidence in chief, or b) are only presented for cross-examination. The trial time required for each witness should be estimated. As a general rule, examination in chief of any witness should not exceed 10 minutes, and cross-examination of any witness should not exceed 30 minutes. The parties must carefully consider the need for and duration of any oral evidence and provide for it in the Streamlined Trial Order.

**Transcripts from Questioning and Interrogatories:** The parties should prepare in advance organized extracts of the written interrogatories and the transcripts from questioning that are to be introduced as evidence under R. 5.31.

### **Procedure at the Streamlined Trial**

In advance of the Streamlined Trial, each party must prepare for the trial judge a very brief written opening statement (maximum 5 pages) to a) outline what that party believes the evidence will demonstrate, and b) give an overview of that party's position on the outcome.

As noted, the Streamlined Trial process assumes that most of the evidence will be introduced by Affidavit. Oral evidence is limited. In many cases it will be unnecessary to call the affiants to testify in chief. The parties have a presumptive right to cross-examine the affiants, and where necessary they can be called to give oral evidence for that purpose. However, cross-examination should primarily take place by questioning on the Affidavits before the trial.

Each party shall file a closing brief usually limited to 15 pages, outlining the facts relied on, reasons for the relief requested, and any legal or other arguments. Each party will generally be limited to 15 minutes for closing argument. The party that gives the first closing argument will be allowed a short response to the closing argument of the other party.

As noted, a Streamlined Trial is a full trial on the merits. The trial judge shall grant judgment: R. 8.30(2).

Unless the Chief Justice otherwise directs, if a Streamlined Trial is adjourned after the commencement of the trial, the assigned trial Judge shall remain seized of the matter.