



THE PROVINCIAL COURT  
OF BRITISH COLUMBIA

Effective Date: 31 January 2022

SM. CL. 02 *Revisions in red*

## PRACTICE DIRECTION

### SMALL CLAIMS PROCEEDINGS DURING COVID-19

#### Purpose

In order to facilitate the just, speedy, inexpensive and simple resolution of small claims matters while protecting the health and safety of all court users during the COVID-19 pandemic, this Practice Direction sets: (A) the default method of hearing and appearance for small claims proceedings; and (B) the timelines and processes for litigants to file required documents with the Court and, in some instances, serve the documents, in advance of a trial conference, settlement conference, application to a judge, payment hearing, or Rule 9.1 simplified trial.

In this Practice Direction, the term “virtual proceeding” means a hearing or case conference conducted by telephone or Microsoft Teams (“Teams”) audioconference or videoconference.

#### Application

This practice direction applies to all [court registries](#) in the Province.

#### Directions

Further to [OIC 310/2021](#) ordered May 25, 2021, certain requirements in the *Small Claims Rules*, B.C. Reg. 261/93 are modified to facilitate the following directions and procedures.

#### A. Default Method of Hearing and Appearances

1. For small claims trials, including Rule 9.1 simplified trials and Rule 9.2 summary trials, and Rule 13 default hearings, the default method of hearing and appearance will be in-person, unless a judge otherwise orders or directs.

2. For small claims trial conferences, settlement conferences, applications to a judge<sup>1</sup>, and payment hearings, the default method of hearing and appearance will be by telephone or Teams audioconference or videoconference, unless a judge or judicial justice otherwise orders or directs.
3. A party seeking an alternate method of hearing or appearance must make an application to a judge or judicial justice as applicable.
4. For small claims proceedings by Teams, parties are strongly encouraged to use videoconference. For every Teams proceeding, a dial-in conference number will also be provided so that parties can participate by telephone if they are unable to do so by videoconference or if their video connection fails during the proceeding.
5. Despite Rules 16.1(7) and 17(16), sworn evidence may be given and received by telephone or Teams audioconference or videoconference.
6. Parties must read and comply with:
  - a. The [Policy on Use of Electronic Devices in Courtrooms](#) and [Access to Court Proceedings Policy](#) for all small claims proceedings, whether in-person or virtual, including the general prohibition on the recording or broadcasting of small claims proceedings unless authorized by the Court; and
  - b. [NP 21 Virtual Proceedings and Remote Attendance in the Provincial Court](#) for virtual proceedings.

## **B. Timelines and Process for Filing and Serving Required Documents**

The existing filing and service requirements under the *Small Claims Rules* continue to apply unless modified as set out below.

For Applications to a Judge and Payment Hearings, parties shall use the [Supporting Materials Form](#) when filing their documents.

### **1. Trial Conferences**

Where the parties have been directed to attend a virtual or in person Trial Conference (Rule 7.5), parties must file a Trial Statement (Form 33) at least 14 days before the date set for the Trial Conference (Rule 7.5(9)). When the Trial Conference is scheduled, parties will receive an *Information for Virtual Appearance* document from the court registry about how to connect to the virtual appearance and file the Trial Statement with attached copies of all relevant documents before the Trial Conference.

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<sup>1</sup> Under *Small Claims Rules* 6(5), 1.1(41.22), 3(8), 7.3(42), 8(1)(b), 8(1.1), 12(8), and 16(6).

## 2. Settlement Conferences

Where a Settlement Conference has been set for hearing by telephone or Teams audioconference or videoconference, parties shall file their relevant documents and reports for consideration at the Settlement Conference [Rules 7(5) and (13)] at the court registry at least two business days before the Settlement Conference. When the Settlement Conference is scheduled, parties will receive an *Information for Virtual Appearance* document from the court registry about how to connect to the virtual appearance and submit their relevant documents and reports before the Settlement Conference.

## 3. Applications to a Judge

Where a litigant files an application to a judge [Rules 16(6) and 16.1] and a virtual hearing is scheduled, the court registry will provide the applicant with an *Information for Virtual Appearance* document about how to connect to the virtual hearing and how the parties can file documents related to the application two business days in advance of the hearing. The applicant shall serve a copy of *Information for Virtual Appearance* document and a blank [Supporting Materials Form](#) on the other party or parties when serving them with a copy of the application.

## 4. Payment Hearings

- a. Where a debtor has been ordered by a judge or judicial justice to attend a payment hearing, and the payment hearing is scheduled for hearing by telephone or Teams audioconference or videoconference, the debtor shall file the financial documents they are required to bring to the payment hearing [Rule 12(9)] at least two business days in advance of the payment hearing. The court registry will provide the creditor and debtor with an *Information for Virtual Appearance* document about how to connect to the virtual hearing, and how the debtor can file their documents in advance of the hearing.
- b. Where a creditor files a Summons to a Payment Hearing (Form 12) and the payment hearing is scheduled by telephone or Teams audioconference or videoconference, the court registry will provide the creditor with an *Information for Virtual Appearance* document about how to connect to the virtual hearing and how the debtor can file the financial documents listed in the summons in advance of the hearing. The creditor shall serve a copy of the *Information for Virtual Appearance* document and a blank [Supporting Materials Form](#) on the debtor when serving them with a copy of the summons. The debtor shall file the documents listed on the summons at least two business days in advance of the payment hearing.
- c. Where a debtor has requested a payment hearing and has filed a Notice of Payment Hearing Form (Form 13) [Rule 12(10)], and the payment hearing has been scheduled by telephone or Teams audioconference or videoconference, the court registry will provide the debtor with an *Information for Virtual Appearance* document about how to connect

to the virtual hearing and how the parties can file any related documents at least two business days in advance of the hearing. The debtor shall serve a copy of the *Information for Virtual Appearance* document and a blank [Supporting Materials Form](#) on the creditor when serving them with a copy of the Notice of Payment Hearing.

## 5. Rule 9.1 Simplified Trials

Where Rule 9.1 applies (Simplified Trials), the parties must file a completed Trial Statement (Form 33) with attached copies of all relevant documents at least 14 days before the date set for trial [Rule 9.1(17)]. Parties will receive information from the court registry when they are notified of their trial date about how to file their Trial Statement and related documents.

### History of Practice Direction

- Original practice direction dated April 19, 2021.
- May 25, 2021: updated per [OIC 310/2021](#).
- January 4, 2022: added COVID-19 alert for week of January 4 to 7, 2022.
- January 10, 2022: continues COVID-19 alert.
- **January 31, 2022: deletes COVID-19 alert.**

I make this practice direction pursuant to my authority under [OIC 310/2021](#) ordered May 25, 2021, *Provincial Court Act*, R.S.B.C. 1996, c. 379, *Small Claims Act*, R.S.B.C. 1996, c. 430 and *Small Claims Rules*, B.C. Reg. 261/93.

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