

RETAIL CASE UPDATE



Kim Yee

Author
Harper Grey LLP
604.895.2845
kyee@harpergrey.com



Jaeda Lee

Author
Harper Grey LLP
604.895.2943
jlee@harpergrey.com

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What is Fast Track Litigation, and how can Retailers Take Advantage of It?

Rule 15-1 of the BC Supreme Court Civil Rules is a cost-effective litigation tool which can be used to a retailer's advantage in claims with a value of \$100,000.00, or less. Rule 15-1, otherwise known as fast track litigation, is a set of unique procedures that allows for shorter examinations for discovery, fewer interlocutory applications, early trial dates, shorter trials, and a simplified cost regime. What this means for retailers is that where 15-1 applies, those cases can be concluded quicker and at a far lower cost. Rule 15-1 applies unless a court otherwise orders, if:

- The plaintiff's claim for damages does not exceed \$100,000.00 (however, the Court could use its discretion to award in excess of that);
- The trial can be heard in 3 days or less and can be heard without a jury;
- The parties to the action consent; or,
- The court orders the action into fast track.

Key features of fast track litigation include:

- Applications cannot be brought, unless a case planning conference or a trial management conference has been conducted in relation to the action;
- Discoveries of each party are not to exceed 2 hours (unless the examinee consents to a longer discovery); and
- With respect to costs, the amount of costs, exclusive of disbursements, to which a party to a fast track action is entitled is as follows:
 - o If the time spent on the hearing of the trial is 1 day or less, \$8,000.00;
 - o If the time spent on the hearing of the trial is 2 days or less but more than 1 day, \$9,500.00;
 - o If the time spent on the hearing of the trial is more than 2 days, \$11,000.00.

Ultimately, Rule 15-1 keeps the costs of litigation proportionate to the overall value of the claim. Given that Rule 15-1 typically prevents a judge from awarding damages to a plaintiff in a fast track action in excess of \$100,000, fast track litigation is most appropriate in minor personal injury actions.

The important takeaway is that when a retailer is faced with defending a claim which is likely to have damages that will not exceed \$100,000.00, consideration should be given to invoking the rules with respect to fast track litigation pursuant to Rule 15-1.

We hope you found this update useful.

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