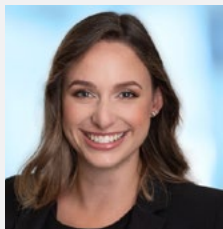


RETAIL CASE UPDATE



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Third Party Notices and Amendments to Rule 3-5(4)

In British Columbia, the proper way for a defendant to add a party is by filing a third party notice. Prior to April 4, 2022, Rule 3-5(45) of the *Supreme Court Civil Rules* stated that a third party notice had to be filed within 42 days after being served with the notice of civil claim or a counterclaim. After that, a third party notice could only be filed with leave (permission) of the Court, after bringing an application.

Practically speaking, once a defendant is served with a notice of civil claim, it often takes time to retain counsel, gather documents, and assess the available information relating to the claim. By the time counsel is retained and determines there is a viable third party claim, the 42 day window has often lapsed, necessitating a court application. It is of course very costly to bring such applications in chambers and can lead to delays in terms of dealing with the claim on the merits.

However, the Rule 3-5(4) of the *Supreme Court Civil Rules* has recently been amended to provide defendants to an action with the luxury of more time in these circumstances. As of April 4, 2022, the 42 day clock only begins to run when the defendant files a response to the notice of civil claim, rather than when the defendant is served with the claim. As such, a defendant has time to retain counsel, and counsel has more time to gather information to identify all potential at-fault parties and take the steps to file a third party notice before the 42 day clock begins to run. Overall, this will likely result in a significant costs savings for litigants as many applications to add third parties will no longer be required.

We hope you found this update useful.

If you would like more details about the issues covered, to provide general comments, or to suggest topics or cases of interest please email the author(s).

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