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| Index – Civil Litigation |
| 2016 Barrister Exam |

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| Consolidation – general | 141 | L |
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| Consolidation – Small Claims | 141 | R |
| Consolidation – title of proceedings (identity of proceeding) | 141 | R |
| Consolidation – when appropriate | 141 | R |
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| Basket Clauses – allowing for use of applications (R. 14.05(3)(h)) | 150 | L |
| Commencement of proceeding – action (R. 1.03(1)) or application (R. 1.03(1)). | 143 | R |
| Commencement of proceeding – application- where provisions of Rules allow it (ex: for approval of settlement pursuant to 7.08(3)) | 149 | R |
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| Commencement of proceeding – place of | 143 | L |
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| Actions – commencement by means other than statement of claim | 144 | R |
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| Application – Notice of Application – judicial review | 144 | R |
| Court Documents – form and content | 145 | L |
| Court Documents – form and content – body (R. 4.02(2)) | 145 | L |
| Court Documents – form and content – heading (R. 4.02(1)) | 145 | L |
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| Lawyer – Client’s property – lien | 146 | R |
| Solicitor – Client’s property – lien | 146 | R |
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| Solicitor – change of solicitor | 146 | L |
| Lawyer – determining authority (R. 15.02) | 146 | L |
| Lawyer – of record | 146 | L |
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| Lawyer of Record – def’n, change/removal | 146 | L |
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| Orders – Proportionality | 147 | R |
| Personal representation – when not allowed | 146 | L |
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| Service – removal of solicitor | 146 | R |
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| Lawyer – ceased to practice | 146 | R |
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| Solicitor – Lawyer of Record | 146 | L |
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| Solicitor – representation by | 146 | L |
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| Solicitor – continuing to act – notice of change/order removing lawyer | 146 | R |
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| Lawyer – removal of lawyer – lawyer can withdraw | 146 | R |
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| Trial of an issue – application – material facts | 150 | L |
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| Application – Notice of Appearance | 151 | R |
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| Date of hearing – Application | 152 | L |
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| Service – last known address | 157 | L |
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| Service – alternatives to personal service – on a corporation | 157 | R |
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| Solicitor – service, acceptance (vs admission) | 157 | L |
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| Validating – service – substituted service | 158 | R |
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| Motion – service – substituted service – set aside | 158 | R |
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| Service – lawyer of record (r. 16.05(1)) | 158 | R |
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| Breach of trust – pleaded | 163 | L |
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| Malice – pleaded | 163 | L |
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| Pleadings – defined | 163 | L |
| Pleadings – Evidence vs. fact | 163 | L |
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| Pleadings – Material Facts | 163 | L |
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| Pleadings – of Bad Faith | 163 | L |
| Pleadings – of Breach of trust | 163 | L |
| Pleadings – of Fraud | 163 | L |
| Pleadings – of Malice | 163 | L |
| Pleadings – of Misrepresentation | 163 | L |
| Pleadings – point of law (r. 25.06(2)) | 163 | R |
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| Pleadings – delivery of (actually filing/serving of) Statement of Claim (r. 14.08) | 165 | L |
| Pleadings – delivery of (generally) | 165 | L |
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| Pleadings – delivery of Notice of Intent to Defend (r. 18.02) | 165 | R |
| Pleadings – delivery of Statement of Defence (r. 18.01) | 165 | R |
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| Service - Statement of Claim - time | 165 | L |
| Statement of claim – issuance of, timing of service | 165 | L |
| Statement of claim – pleadings – filing of | 165 | L |
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| Third party defence – Pleadings – delivery of | 166 | L |
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| Pleadings – delivery of Crossclaim (r. 28) | 166 | L |
| Pleadings – delivery of Defence to Crossclaim (r. 28.05(1)) | 166 | L |
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| Abatement (plea in) – pleadings, types of def. | 167 | R |
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| Defences – simplified procedure (objection to r76) | 167 | R |
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| Statement of Defence – form – admission | 167 | L |
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| Defences – special – Limitations Act | 168 | L |
| Defences – special – pleading estoppel | 168 | R |
| Defences – special – pleading illegality of agreement | 168 | L |
| Defences – special – pleading res judicata | 168 | R |
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| Defences – special – pleading want of jurisdiction | 168 | R |
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| Defendant – condition precedent (r 25.06(3)) | 168 | L |
| Defendant – Limitations Act | 168 | L |
| Defendant – pleading conditions precedent | 168 | L |
| Defendant – pleading estoppel | 168 | R |
| Defendant – pleading illegality of agreement | 168 | L |
| Defendant – pleading lack of notice | 168 | L |
| Defendant – pleading res judicata | 168 | R |
| Defendant – pleading Statute of Frauds | 168 | L |
| Defendant – pleading ultra vires | 168 | R |
| Defendant – pleading want of jurisdiction | 168 | R |
| Defendant – Statute of Frauds | 168 | L |
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| Pleadings – of Negligence (contributory) – Defence | 168 | R |
| Res judicata – pleading of | 168 | R |
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| Defence – special – accord & satisfaction | 169 | L |
| Defence – special – act of third party | 169 | L |
| Defence – special – arising after action is brought | 169 | R |
| Defence – special – defamation | 169 | R |
| Defence – special – equitable defences | 169 | R |
| Defence – special – insanity | 169 | L |
| Defence – special – non est factum | 169 | L |
| Defence – special – not qualified (professional) | 169 | L |
| Defence – special – purchaser without notice for value | 169 | R |
| Defence – special – release, payment or performance | 169 | L |
| Defence – special – settled account | 169 | L |
| Defence – special – surrender | 169 | L |
| Defence – special – waiver | 169 | L |
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| Defendant – pleading act of third party | 169 | L |
| Defendant – pleading defamation | 169 | R |
| Defendant – pleading equitable defences | 169 | R |
| Defendant – pleading insanity | 169 | L |
| Defendant – pleading non est factum | 169 | L |
| Defendant – pleading not qualified | 169 | L |
| Defendant – pleading purchaser for value without notice | 169 | R |
| Defendant – pleading release, payment or performance | 169 | L |
| Defendant – pleading settled account | 169 | L |
| Defendant – pleading surrender | 169 | L |
| Defendant – pleading waiver | 169 | L |
| Defendant – pleading want of authority | 169 | L |
| Equitable defences – pleading of | 169 | R |
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| Qualified practitioner (not) – pleading of | 169 | L |
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| Summary judgment – no genuine issue | 176 | L |
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| Disability – discontinuance | 181 | L |
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| Discontinuance – counterclaim | 180 | R |
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| Discontinuance – defendant – deemed default (R. 23.06(2)) | 180 | R |
| Discontinuance – disability (R. 23.01(2)) | 180 | R |
| Discontinuance – not a defence (R. 23.04(1)) | 180 | R |
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| Discontinuance – third party claim | 180 | R |
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| Dismissal for delay – counterclaim | 181 | R |
| Dismissal for delay – crossclaim and third party | 181 | R |
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| Dismissal for delay – discretion | 182 | L |
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| Motions – use of transcript as evidence – cross-examination | 194 | R |
| Partnerships – affidavits – motions | 194 | L |
| Reasonable diligence – cross-examination – motions | 194 | R |
| Service – affidavits – motions | 194 | L |
| Simplified procedure – no cross-examination on affidavits – motions (R. 76) | 194 | R |
| Transcript – use in motion – cross-examination | 194 | R |
| Rule 76 – simplified procedure – cross-examination on affidavit | 194 | R |
| Adjournment for directions – cross-examination – motions (under R. 34) | 195 | R |
| Affidavits – re-examination on – motions | 195 | L |
| Examination – contempt order – motions | 195 | R |
| Examination of witness – before the hearing – motions (R. 39.03) | 196 | L |
| Examination of witness – reasonable diligence – motions | 196 | L |
| Failures or refusal – cross-examination – motions | 195 | R |
| Motions – affidavits – re-examination on | 195 | L |
| Motions – contempt order on cross-examination | 195 | R |
| Motions – cross-examination – adjournment for directions | 195 | R |
| Motions – cross-examination – failures or refusal | 195 | R |
| Motions – evidence – examination of witness – before the hearing (R. 39.03) | 196 | L |
| Motions – examination of witness – reasonable diligence | 196 | L |
| Motions – notice of examination (Rr. 34.04-34.06) | 195 | L |
| Notice of examination – motions | 195 | L |
| Notice of examination – motions (Rr. 34.04-34.06) | 195 | L |
| Re-examination on affidavits – motions | 195 | L |
| Cross-examination – motions – failures or refusal | 195 | R |
| Abandoned motions | 196 | R |
| Attendance money – examination – motions | 196 | L |
| Costs – motions | 197 | L |
| Costs – success (tied to) – motions | 197 | L |
| Costs fixed – motions | 197 | L |
| Disposition of a motion | 196 | R |
| Examination of witness – at the hearing – motions | 196 | L |
| Labour injunction – examining a witness at a motion (under “At the hearing”) | 196 | L |
| Motions – abandoned (& deemed for failure to file or attend) | 196 | R |
| Motions – costs | 197 | L |
| Motions – costs fixed | 197 | L |
| Motions – costs tied to success | 197 | L |
| Motions – dispositions | 196 | R |
| Motions – evidence – examination for discovery | 196 | R |
| Motions – examination of witness – at the hearing | 196 | L |
| Motions – notice of abandonment | 196 | R |
| Motions – prohibited motions | 196 | R |
| Motions – simplified procedure – examination of witness (none) | 196 | L |
| Motions – summons to witness – examination of witness | 196 | L |
| Motions – transcript – examination for discovery (R. 39.04) | 196 | R |
| Notice of abandonment – motions | 196 | R |
| Prohibited motions | 196 | R |
| Simplified procedure – examination of witness (none) – motions | 196 | L |
| Summons to witness – examination of witness – motions | 196 | L |
| Transcript – examination for discovery – use in motions (R. 39.04) | 196 | R |
| Witness – compelling attendance (R. 39.03) | 196 | L |
| Delay – prohibited motion | 196 | R |
| Abuse of process – motions – delay – frivolous or vexations motions | 196 | R |
| Amending order – motions | 198 | L |
| Cost awards – motions | 197 | L |
| Costs – assessed – motions | 197 | L |
| Costs – failure to pay as ordered – motions | 197 | L |
| Costs – none – motions | 197 | L |
| Costs – none without notice – motions | 197 | L |
| Costs in the cause – motions | 197 | R |
| Costs payable forthwith – motions | 197 | R |
| Costs payable forthwith after assessment thereof – motions | 197 | R |
| Costs reserved to the trial judge – motions | 197 | R |
| Costs scale – partial & substantial indemnity – motions | 197 | R |
| Costs to a party in any event of the cause – motions | 197 | R |
| Costs to a specified party fixed in the amount of $X – motions | 197 | R |
| Costs to a specified party in the cause – motions | 197 | R |
| Hearing dates to set aside or vary an order – motions | 198 | L |
| Motion to set aside or vary order (to whom made) – motions | 198 | R |
| Motions – amending an order | 198 | L |
| Motions – cost awards | 197 | L |
| Motions – costs – failure to pay as ordered | 197 | L |
| Motions – costs – none without notice | 197 | L |
| Motions – costs in the cause | 197 | R |
| Motions – costs payable forthwith | 197 | R |
| Motions – costs payable forthwith after assessment thereof | 197 | R |
| Motions – costs reserved to the trial judge | 197 | R |
| Motions – costs scale – partial & substantial indemnity | 197 | R |
| Motions – costs to a party in any event of the cause | 197 | R |
| Motions – costs to a specified party fixed in the amount of $X | 197 | R |
| Motions – costs to a specified party in the cause | 197 | R |
| Motions – costs to be assessed | 197 | L |
| Motions – hearing dates to set aside or vary an order | 198 | L |
| Motions – no costs | 197 | L |
| Motions – notice of motion to set aside or vary an order | 198 | L |
| Motions – setting aside an order | 198 | L |
| Motions – to whom motion to set aside or vary order must be made | 198 | R |
| Motions – varying an order | 198 | L |
| Notice of motion to set aside or vary an order – motions | 198 | L |
| Setting aside order – motions | 198 | L |
| Varying order – motions | 198 | L |
| Failure to pay – costs – motions | 197 | L |
| Motions – jurisdiction – judge or master | 198 | R |
| Jurisdiction – motions – judge or master | 198 | R |
| Disposition – motion to set aside or vary order – motions | 198 | R |
| Motions – disposition of motion to set aside or vary order | 198 | R |
| Discovery - also see Examination | 199 | L |
| Discovery – generally | 199 | L |
| Discovery – lawyer’s duty (Rules of Professional Conduct) | 199 | L |
| Discovery – lawyers’ obligations | 199 | L |
| Discovery – medical examinations (R. 33) | 199 | L |
| Discovery – process | 199 | L |
| Discovery – purposes | 199 | L |
| Discovery – Rules of Professional Conduct | 199 | L |
| Discovery – privacy | 199 | R |
| Discovery – confidential documents | 199 | R |
| Discovery – written plan | 199 | R |
| Discovery plan – requires agreement (R. 29.103(1)) | 199 | R |
| Discovery – written plan – content | 200 | L |
| Duties – lawyer – discovery | 199 | L |
| Lawyer – duties – discovery | 199 | L |
| Process – discovery | 199 | L |
| Purposes – discovery | 199 | L |
| Disclosure – meaning – discovery | 200 | R |
| Disclosure vs production – discovery | 200 | R |
| Discovery – disclosure – meaning | 200 | R |
| Discovery – documents – insurance policy | 200 | R |
| Discovery – documents – related/affiliated companies | 201 | L |
| Discovery – obligations to disclose vs produce | 200 | R |
| Discovery – production – documents | 200 | R |
| Discovery – proportionality | 200 | L |
| Discovery – Sedona Canada Principles Addressing Electronic Discovery (The) | 200 | L |
| Discovery of documents – generally (R. 30) | 200 | R |
| Insurance policy – documents – discovery | 200 | R |
| Production – documents – discovery | 200 | R |
| Proportionality in discovery | 200 | L |
| Affiliated companies – documents – discovery | 201 | L |
| Related companies – documents – discovery | 201 | L |
| Sedona Canada Principles Addressing Electronic Discovery (The) | 200 | L |
| Affidavit of documents – discovery | 201 | R |
| Affidavit of documents – form & contents – discovery (R. 30.03) | 202 | L |
| Affidavit of documents – forms – corporation & partnerships (Form 30B) | 202 | L |
| Affidavit of documents – forms – individual (Form 30A) | 202 | L |
| Affidavit of documents – lawyer certify | 201 | R |
| Affidavit of documents – service/filing | 201 | R |
| Certification – lawyer – affidavit of documents | 201 | R |
| Computer disk – as document – discovery | 201 | L |
| Electronic form information – as document – discovery | 201 | L |
| Discovery – affidavit of documents | 201 | R |
| Discovery – electronic information – as document | 201 | L |
| Discovery – document – definition | 201 | L |
| Discovery – form and content of affidavit | 202 | L |
| Discovery – power – definition – documents | 201 | L |
| Confidential information – discovery – redacting | 201 | R |
| Privileged information – discovery – redacting | 201 | R |
| Discovery – redaction – confidential or privileged information | 201 | R |
| Document – definition – discovery | 201 | L |
| Form & contents – affidavit of documents – discovery (R. 30.03) | 202 | L |
| Power – definition – documents – discovery | 201 | L |
| Redaction – discovery | 201 | R |
| Discovery – large corporation – caution – foreign headquarters | 201 | L |
| Service/filing – affidavit of documents | 201 | R |
| Corporation – discovery – caution – foreign headquarters | 201 | L |
| Affidavit of documents – where no documents to produce | 202 | L |
| Discovery – affidavit of documents – where no documents to produce | 202 | L |
| Discovery – inspection of documents | 205 | L |
| Discovery – privilege – affidavit of documents | 202 | L |
| Discovery – privilege – grounds | 202 | L |
| Inspection of documents – affidavit of documents – discovery | 205 | L |
| Lawyer-client privilege – affidavit of documents – boilerplate language unacceptable | 202 | L |
| Litigation privilege – affidavit of documents – boilerplate language unacceptable | 202 | L |
| Privilege – affidavit of documents – discovery | 202 | L |
| Privilege – definition of – documents – discovery | 202 | L |
| Solicitor client privilege – affidavit of documents –boilerplate language acceptable | 202 | L |
| Discovery – admissibility of document | 204 | R |
| Affidavit of documents – failure to disclose or produce/privilege claim | 206 | L |
| Admissibility of documents – discovery | 204 | R |
| Affidavit of documents – incomplete | 205 | R |
| Continuing discovery – affidavit of documents | 205 | R |
| Discovery – affidavit of documents – continuing obligation | 205 | R |
| Discovery – affidavit of documents – improper failure to disclose or produce/privilege claim | 206 | L |
| Discovery – affidavit of documents incomplete | 205 | R |
| Discovery – continuing – not privileged (R. 30.07(a)) | 205 | R |
| Discovery – privileged document not to be used without leave or to impeach witness | 204 | R |
| Documents – continuing discovery | 205 | R |
| Documents – continuing discovery – sanctions | 206 | L |
| Documents – privileged – not to be used without leave | 204 | R |
| Leave – privilege document – use of | 204 | R |
| Privilege – document – use of – leave | 204 | R |
| Privilege – document – use of – to impeach testimony (without leave) | 204 | R |
| Privilege – documents – supplementary affidavit of documents | 205 | R |
| Failure to disclose – discovery | 205 | R |
| Failure to disclose –discovery – sanctions | 206 | L |
| Discovery – class privilege | 202 | L |
| Discovery – Freedom of Information and Protection of Privacy Act | 206 | L |
| Discovery – non-parties – documents | 206 | L |
| Surveillance evidence - privilege | 202 | R |
| Discovery – privilege – surveillance | 204 | R |
| Discovery – production from non-parties | 206 | L |
| Documents – discovery – non-parties | 206 | L |
| Non-parties – discovery – production | 206 | L |
| Freedom of Information and Protection of Privacy Act – discovery | 206 | L |
| Insurer – privilege | 203 | L |
| Privilege – deciding whether to claim litigation privilege | 203 | R |
| Litigation privilege – deciding whether to claim | 203 | R |
| Privilege – insurer, communications with | 203 | L |
| Privilege – lawyer-client privilege | 203 | L |
| Lawyer-client privilege | 203 | L |
| Legal advice privilege | 203 | L |
| Privilege – solicitor – past or future wrongdoing | 203 | L |
| Non-privileged communications – lawyer-client | 203 | L |
| Privilege – solicitor-client | 203 | L |
| Solicitor-client privilege | 203 | L |
| Privilege – surveillance – discovery | 204 | R |
| Privilege – lawyer-client – extension to student-at-law | 203 | L |
| Solicitor-client privilege – extension to student-at-law | 203 | L |
| Lawyer-client privilege – extension to student-at-law | 203 | L |
| Lawyer-client – no privilege – fraud/crime | 203 | L |
| Production – non-parties – discovery | 206 | L |
| Solicitor-client privilege – in-house counsel | 203 | R |
| Lawyer-client privilege – in-house counsel | 203 | R |
| Privilege – lawyer-client – waiver | 203 | L |
| Lawyer-client privilege – waiver | 203 | L |
| Solicitor-client privilege – waiver | 203 | L |
| Agent – lawyer-client privilege applies | 203 | L |
| Discovery – communications without prejudice | 204 | L |
| Dominant purpose test (current test) – litigation privilege | 203 | R |
| In house counsel – privilege | 203 | R |
| Litigation privilege – documents | 203 | R |
| Litigation privilege – purpose of | 203 | R |
| Litigation privilege – test for | 203 | R |
| Privilege – in house counsel | 203 | R |
| Privilege – litigation privilege | 203 | R |
| Privilege – settlement communications | 204 | L |
| Privilege – solicitor-client – extending to agent of | 203 | L |
| Privilege – without prejudice | 204 | L |
| Privilege – zone of privacy | 203 | R |
| Without prejudice communication | 204 | L |
| Zone of privacy – Privilege | 203 | R |
| Examination - also see Discovery | 206 | R |
| Discovery – examination for – generally | 206 | R |
| Examination - explanation to someone unfamiliar with the process | 206 | R |
| Examination – for discovery, purpose of | 206 | R |
| Examination – UK, called interrogatories | 206 | R |
| Examination – USA, called dispositions | 206 | R |
| Examination for discovery – definition | 206 | R |
| Examination for discovery – official examiner | 206 | R |
| Examination for discovery – procedure | 206 | R |
| Loss of privilege – without prejudice | 204 | L |
| Official examiner – examination for discovery | 206 | R |
| Privilege – settlement communications – loss of privilege | 204 | L |
| Privilege – settlement communications – subsequent communications | 204 | L |
| Procedure – examination for discovery | 206 | R |
| Without prejudice – loss of privilege | 204 | L |
| Adverse in interest – examination for discovery | 207 | R |
| Assignees – examination for discovery | 208 | L |
| Discovery – cases for examination – actions | 207 | R |
| Discovery – parties to be examined – nominal parties, assignees or trustees in bankruptcy | 208 | L |
| Parties adverse in interest – discovery | 207 | R |
| Discovery – parties to be examined – parties adverse in interest | 207 | R |
| Examination – after defendant has admitted liability or been noted in default – damages | 208 | L |
| Examination – under Insurance Act | 208 | L |
| Examination for discovery – adverse in interest | 207 | R |
| Examination for discovery – assignees | 208 | L |
| Examination for discovery – availability (action, not applications) | 207 | R |
| Examination for discovery – extension of time | 207 | L |
| Examination for discovery – nominal parties | 208 | L |
| Examination for discovery – simplified procedure | 207 | R |
| Examination for discovery – time limit | 207 | L |
| Examination for discovery – trustee in bankruptcy | 208 | L |
| Examination for discovery – who is examined (“adverse in interest”) | 207 | R |
| Extension of time – examination for discovery | 207 | L |
| Nominal parties – examination for discovery | 208 | L |
| Simplified procedure – examination for discovery | 207 | R |
| Time limit – examination for discovery | 207 | L |
| Trustee in bankruptcy – examination for discovery | 208 | L |
| Children’s lawyer – examination of - discovery | 209 | L |
| Corporation – examinations for discovery | 208 | R |
| Corporation – second examinations of officer, director, or employee | 209 | L |
| Disability – examinations of | 209 | L |
| Disability – examinations of – evidence on | 209 | L |
| Discovery – corporation – second examination of officer, director, or employee | 209 | L |
| Discovery – corporations | 208 | R |
| Discovery – parties to be examined – corporations | 208 | R |
| Discovery – parties to be examined – partners and sole proprietors | 208 | R |
| Discovery – parties to be examined – persons under disability | 209 | L |
| Examination – children’s lawyer | 209 | L |
| Examination – corporation – employees | 208 | R |
| Examination – corporation – examining a second officer, director, or employee | 209 | L |
| Examination – disability | 209 | L |
| Examination – disability – evidence given on | 209 | L |
| Examination – litigation guardian | 209 | L |
| Examination – partnerships | 208 | R |
| Examination – partnerships – examining a second officer, director, or employee | 209 | L |
| Examination – Public Guardian and Trustee | 209 | L |
| Examination – sole proprietorship | 208 | R |
| Examinations for discovery – corporations | 208 | R |
| Litigation guardian – examination | 209 | L |
| Partnerships – examinations of | 208 | R |
| Partnerships – examinations of second officer, director, or employee | 209 | L |
| Public Trustee – examination of | 209 | L |
| Sole proprietorship – examinations of | 208 | R |
| Sole proprietorship – examinations of second officer, director, or employee | 209 | L |
| Discovery – parties to be examined - crown | 209 | R |
| Discovery – parties to be examined – examination of non-parties w/ leave (R.31.10) | 209 | R |
| Discovery – scope (R. 31.06) | 210 | L |
| Discovery – scope – knowledge, information, and belief (R. 31.06) | 210 | R |
| Examination – discovery – belief – definition | 210 | R |
| Examination – discovery – breadth of | 210 | L |
| Breadth of examination – discovery | 210 | L |
| Examination – discovery - of Crown | 209 | R |
| Examination – discovery - hearsay (information) | 210 | R |
| Examination – information – definition | 210 | R |
| Examination – discovery – knowledge, information, belief – definitions | 210 | R |
| Examination – non-parties with leave | 209 | R |
| Examination – obligation to provide all information & consequences | 210 | L |
| Examination – discovery - party's right to ask questions and get answers | 210 | L |
| Examination – privilege | 211 | L |
| Examination – proportionality (R. 29.2) | 200 | L |
| Examination – scope of (R. 31.06) | 210 | L |
| Examination – third parties | 208 | L |
| Examination for discovery – scope – knowledge, information, and belief | 210 | R |
| Leave – examination – non-parties | 209 | R |
| Proceedings against the Crown Act – examination | 209 | R |
| Adultery – privilege | 211 | L |
| Doctor – privilege – examination for discovery | 211 | L |
| Examination – doctor privilege | 211 | L |
| Examination – counsel answering questions | 216 | L |
| Examination – other jurisdictions, differences | 211 | L |
| Privilege – adultery – examination for discovery | 211 | L |
| Privilege – doctor & patient – examination for discovery | 211 | L |
| Privilege – spouses | 211 | L |
| Spouses – privilege | 211 | L |
| Examination for discovery – disclosure of potential witness (R. 31.06(2)) | 211 | R |
| Discovery – disclosure of potential witness (R. 31.06(02)) | 211 | R |
| Discovery – litigation privilege | 211 | R |
| Discovery – expert opinions | 212 | L |
| Examination for discovery – litigation privilege | 211 | R |
| Experts – defined | 212 | L |
| Experts opinions – disclosure obligation – wide | 212 | L |
| Experts opinions – examination for discovery | 212 | L |
| Litigation privilege – examination for discovery | 211 | R |
| Privilege – litigation – examination for discovery | 211 | R |
| Witness – disclosure of potential witnesses | 211 | R |
| Witness – expert opinions – examinations | 211 | L |
| Witness – the witness rule – examinations for discovery (R. 31.06(2)) | 211 | R |
| Examination – experts – unfavourable opinions | 212 | R |
| Expert opinions – unfavourable | 212 | R |
| Zone of privacy – privilege – expert opinions | 212 | R |
| Dominant purpose test – experts – privilege – exclusive purpose | 212 | R |
| Examination – experts – nondisclosure test | 212 | R |
| Exclusive purpose test – experts – privilege | 212 | R |
| Discovery – insurance policies | 213 | L |
| Examination for discovery – insurance policies | 213 | L |
| Insurance – privilege – none over policy | 213 | L |
| Insurance policies – examination for discovery | 213 | L |
| Discovery – oppressive questions | 213 | R |
| Discovery – questions – fishing | 213 | R |
| Discovery – questions – oppressive | 213 | R |
| Discovery – questions – ulterior motives | 214 | L |
| Discovery – questions regarding pleadings | 213 | R |
| Examination for discovery – questions – oppressive | 213 | R |
| Examination for discovery – fishing | 213 | R |
| Examination for discovery – questions – inconvenience (under “oppressive q’s”) | 213 | R |
| Examination for discovery – questions – proportionality in oppressive questions (R. 29.2) | 213 | R |
| Examination for discovery – questions – scandalous | 213 | R |
| Examination for discovery – questions – ulterior motive | 214 | L |
| Examination for discovery – questions regarding pleadings | 213 | R |
| Fishing – examination for discovery | 213 | R |
| Pleadings – questions on during discovery | 213 | R |
| Discovery – divided – test | 214 | L |
| Discovery – divided (R. 31.06(6)) | 214 | L |
| Discovery – questions – limited to asking of | 214 | L |
| Divided discovery (R. 31.06(6)) | 214 | L |
| Examination for discovery – questions – limited to asking of | 214 | L |
| Discovery – questions – law | 214 | L |
| Examination for discovery – procedure – written examination (R. 35) | 214 | R |
| Examination for discovery – questions – law | 214 | L |
| Examination for discovery – questions – of law | 214 | L |
| Examination for discovery – simplified procedure – written questions not allowed | 214 | R |
| Examination for discovery – written or oral questioning allowed but not both | 214 | R |
| Questions as to law – examination for discovery | 214 | L |
| Simplified procedure – written questions on examination for discovery not allowed | 214 | R |
| Examination for discovery – court imposed just limits (R. 31.03(9)) | 214 | R |
| Examination for discovery – multiple parties to examine | 214 | R |
| Examination for discovery – practice – first to serve Notice of Examination (result of) | 215 | L |
| Examination for discovery – practice – lead or main examination – where multiple parties | 214 | R |
| Examination for discovery – practice – when to serve Notice of Examination (Form 34A) | 214 | R |
| Examination for discovery – procedure – oral examination (R. 34) | 214 | R |
| Service – notice of examination | 214 | R |
| Discovery – persons present for examination | 215 | L |
| Documents – production at examination | 215 | L |
| Documents – production at examination – litigation privilege | 215 | L |
| Examination for discovery – documents – production | 215 | L |
| Examination for discovery – office of the official examiner | 215 | L |
| Examination for discovery – people present for | 215 | L |
| Privilege – litigation – physical production | 215 | L |
| Discovery – attendance being compelled – methods | 215 | L |
| Examination for discovery – compelling attendance – methods | 215 | L |
| Discovery – foreign party being examined – procedure | 215 | R |
| Discovery – location – resident – foreign | 215 | R |
| Discovery – location – resident of Ontario | 215 | R |
| Discovery – time – resident of Ontario | 215 | R |
| Examination for discovery – foreign plaintiff – where to hold examinations and procedure | 215 | R |
| Examination for discovery – time & place – not from Ontario | 215 | R |
| Examination for discovery – time and place – from Ontario | 215 | R |
| Witness – summons – examination | 215 | R |
| Attendance money – examination for discovery of foreign non-party | 216 | L |
| Examination for discovery – commission and letter of request – foreign party being examined | 216 | L |
| Examination for discovery – improper coaching | 216 | L |
| Discovery – questions – counsel answering | 216 | L |
| Examination for discovery – counsel answering questions | 216 | L |
| Examination for discovery – role of lawyer in answering questions | 216 | L |
| Examination for discovery – questions – counsel answering | 216 | L |
| Examination for discovery – objections to questions | 216 | R |
| Objections to questions – examination for discovery | 216 | R |
| Discovery – objections to questions | 216 | R |
| Examination for discovery – questions – objections | 216 | R |
| Solicitor – obligations under examination | 216 | R |
| Examination for discovery – communication with witness | 217 | L |
| Examination for discovery – role of lawyer – Professional Conduct – communicating with witness | 217 | L |
| Rules of Professional Conduct – communications between lawyer and witness – examinations and in court | 217 | L |
| Communication with witnesses – examination for discovery | 217 | L |
| Discovery – improper conduct of examination | 217 | R |
| Examination for discovery – improper conduct | 217 | R |
| Examination for discovery – questions – refusal to answer | 217 | R |
| Refusal to answer – questions – examinations | 217 | R |
| Discovery – sanctions for default or misconduct of person to be examined (R. 34.15) | 218 | L |
| Examination for discovery – default in examination – failure to attend | 218 | L |
| Examination for discovery – misconduct – sanctions (R. 34.15) | 218 | L |
| Contempt order – examination for discovery | 218  222 | L  R |
| Discovery – second oral examination | 218 | R |
| Discovery – videotaping (R. 34.19) | 218 | R |
| Examination for discovery – questions – written – objections to | 218 | R |
| Examination for discovery – questions – written (R. 35) | 218 | R |
| Examination for discovery – second oral examination | 218 | R |
| Examination for discovery – videotaping (R. 34.19) | 218 | R |
| Examination for discovery – written – timeline | 218 | R |
| Videotaping – examinations for discovery (R. 34.19) | 218 | R |
| Continuing discovery (R. 31.09) | 219 | L |
| Discovery – continuing (R. 31.09) | 219 | L |
| Continuing discovery – failure to comply | 219 | L |
| Discovery – continuing – failure to comply | 219 | L |
| Sanctions – continuing discovery | 219 | L |
| Examination – use of transcript in trial | 219 | R |
| Transcript – examination for discovery – use in trial | 219 | R |
| Examination for discovery– transcript in trial – trial judge powers and abilities | 220 | L |
| Examination – transcript in trial – unfavourable evidence read in | 220 | L |
| Examination – transcript in trial - client disclosed unfavourable hearsay information | 220 | R |
| Evidence Act – impeaching a witness using examination transcript | 220 | R |
| Examination for discovery – transcript in trial – if person is later unavailable – e.g. death, illness, etc.(R. 31.11(6)) | 220 | R |
| Examination for discovery – transcript in trial – prior inconsistent statement | 220 | R |
| Examination for discovery – transcript in trial – evidence against another party in another suit | 221 | R |
| Impeaching credibility – transcript from examination | 221 | L |
| Transcript – evidence – alternate suit | 221 | R |
| Transcript – use in trial – to impeach credibility | 221 | L |
| Discovery – transcript in a motion | 221 | R |
| Examination for discovery – transcript on motion | 221 | R |
| Motion – examination for discovery transcript used | 221 | R |
| Discovery – inspection of property (R. 32) | 221 | R |
| Discovery – property – inspection of | 221 | R |
| Property – inspection of | 221 | R |
| Discovery – inspection of property – experiments | 221 | R |
| Discovery – physical & mental status of parties | 221 | R |
| Medical examinations – examination for discovery | 221 | R |
| Examinations – motor vehicle accidents – physical/mental | 222 | L |
| Motor vehicle accidents – physical/mental – examinations of parties | 222 | L |
| Confidentiality – discovery – deemed undertaking of (R. 30.1) | 222 | L |
| Deemed undertaking – discovery – confidentiality | 222 | L |
| Discovery – confidentiality – deemed undertaking of (R. 30.1) | 222 | L |
| Examination – deemed undertaking – confidentiality (R. 30.1) | 222 | L |
| Examination – disclosure from one action to another – consent or leave | 222 | L |
| Contempt – discovery – confidentiality, breach of | 222 | R |
| Examination for discovery– contempt for breach of deemed undertaking – confidentiality | 222 | R |
| Affidavit of documents – simplified procedure – Schedule D | 222 | R |
| Discovery – documents – simplified procedure | 222 | R |
| Discovery – simplified procedure | 222 | R |
| Examination for discovery– simplified procedure – 2 hours of examination | 222 | R |
| Schedule D – simplified procedure – affidavit of documents – examination for discovery | 222 | R |
| Simplified procedure – affidavit of documents – list of potential witnesses | 222 | R |
| Simplified procedure – examination for discovery | 222 | R |
| **29: OFFERS TO SETTLE AND PRE-TRIAL PROCEDURES** |  |  |
| Settlement – general | 223 | L |
| Pre-trial procedure – general | 223 | L |
| Rules – amendments – January 1, 2010 | 223 | L |
| Trial – place of – Ontario – anywhere in | 223 | L |
| Hearing – place of – Ontario – anywhere in | 223 | L |
| Place of trial | 223 | L |
| Place of hearing | 223 | L |
| Trial – place of – general | 223 | L |
| Hearing – place of - general | 223 | L |
| Hearing – transfer sought | 223 | R |
| Trial – transfer sought | 223 | R |
| Agreement – hearing – place of | 223 | R |
| Agreement – trial – place of | 223 | R |
| Balance of convenience test (former) – hearing – place of | 223 | R |
| Fair trial – trial – place of | 223 | R |
| Interests of justice test (current) – hearing – place of | 223 | R |
| Jury trial – not available | 223 | R |
| Jury trial - notice | 223 | R |
| Notice – jury trial | 223 | R |
| Trial – by jury – not available | 223 | R |
| Trial – place of – “fair trial” | 223 | R |
| Trial – place of – agreement | 223 | R |
| Hearing – place of – agreement | 223 | R |
| Trial – place of – balance of convenience test (old test) | 223 | R |
| Hearing – place of – balance of convenience test (old test) | 223 | R |
| Trial – place of – factors for change | 223 | R |
| Hearing – place of – factors for change | 223 | R |
| Trial – place of – interests of justice test | 223 | R |
| Hearing – place of – interests of justice test | 223 | R |
| Jury – composition | 224 | L |
| Jury – motion to strike | 224 | L |
| Jury – motion to strike – during trial | 224 | L |
| Jury – death or discharge | 224 | L |
| Jury – medical malpractice cases | 224 | L |
| Jury – verdict or answer to question | 224 | L |
| Jury – unanimous verdict/answer | 224 | L |
| Jury notice – motion to strike – factors to consider | 224 | L |
| Medical malpractice cases – jury | 224 | L |
| Notice – jury – motion to strike | 224 | L |
| Notice – jury – motion to strike – during trial | 224 | L |
| Notice – jury – motion to strike – who hears | 224 | L |
| Notice – jury – motion to strike – factors to consider | 224 | L |
| Trial – by jury –decisions | 224 | L |
| Trial – by jury – motion to strike Jury Notice | 224 | L |
| Jury notice – motion to strike | 224 | L |
| Certifying an action – setting trial date - Toronto | 224 | R |
| Certification – failure to cooperate | 224 | R |
| Commercial list – listing for trial - Toronto | 224 | R |
| Practice Direction – Commercial list | 224 | R |
| Defended action – trial date – setting down | 224 | R |
| Undefended action – trial date – setting down | 224 | R |
| Expedited trial – listing | 224 | R |
| Listing for trial (R. 48) - general | 224 | R |
| Practice direction – Toronto – listing for trial | 224 | R |
| Scheduling – trials | 224 | R |
| Service – trial – listing for | 224 | R |
| Trial record – trial – setting down | 224 | R |
| Setting down – trial | 224 | R |
| Listing for trial | 224 | R |
| Special list for expedited trials | 224 | R |
| Summary judgment – trial – listing for – expedited trial | 224 | R |
| Trial – listing for – defended action | 224 | R |
| Trial – listing for – expedited trials – summary judgment or other motion | 224 | R |
| Trial – listing for – service | 224 | R |
| Trial – listing for – special list – disposition by motion | 224 | R |
| Trial – listing for – undefended action | 224 | R |
| Trial – listing for (R. 48) – general | 224 | R |
| Trial - listing – commercial list – Toronto | 224 | R |
| Trial requirements memorandum | 224 | R |
| Undefended action – trial listing | 224 | R |
| Trial – listing for – consequences | 225 | L |
| Trial – listing for – consequences – leave for interlocutory steps | 225 | L |
| Trial – deemed ready | 225 | R |
| Trial – adjournments after listing – not granted | 225 | L |
| Trial - interlocutory steps after listing trial – leave required (exceptions, but rare) | 225 | L |
| Trial – discovery after listing trial – leave required (exceptions, but rare) | 225 | L |
| Consequences of listing for trial | 225 | L |
| Trial – listing for – when court will grant leave for further interlocutory proceedings | 225 | L |
| Trial – substantial/unexpected change of circumstances | 225 | L |
| Trial – interlocutory motions – substantial/unexpected change | 225 | L |
| Action not on trial list – dismissal for delay | 225 | R |
| Dismissal of action for delay – action not on trial list | 225 | R |
| Dismissal order – action not on trial list | 225 | R |
| Trial – listing for – dismissal for delay | 225 | R |
| Abandoned actions – dismissal for delay | 225 | R |
| Dismissal of action (by registrar) – conditions to be satisfied | 225 | R |
| Abandoned actions | 225 | R |
| Actions – abandoned | 225 | R |
| Actions – abandoned and dismissal of action | 225 | R |
| Status hearing | 225 | R |
| Order dismissing action | 225 | R |
| Abandoned actions – case management | 226 | L |
| Toronto case management project– abandoned actions | 226 | L |
| Transition period – rules – abandoned actions | 226 | L |
| Offers to settle – generally (R. 49) | 226 | L |
| Settlement – offer (R. 49) | 226 | L |
| Rule 49 – encouraging to settle | 226 | L |
| Offer to settle – must be in writing to attract cost consequences (R. 49) | 226 | L |
| Offer to settle – favourable – more or less | 226 | L |
| Counsel’s role – offers to settle | 226 | R |
| Form of offer – offers to settle (Form 49A) | 226 | R |
| Offer to settle – lawyer obligations to client | 226 | R |
| Lawyer’s obligations – offer to settle | 226 | R |
| Settlement – Rules of Professional Conduct | 226 | R |
| Offers to settle – counsel’s role | 226 | R |
| Offers to settle – form of offer | 226 | R |
| Rules of Professional Conduct – settlement | 226 | R |
| Solicitor – offer to settle – obligations to client | 226 | R |
| Settlement – cost consequences (R. 49.10) | 226 | R |
| Offer to settle – acceptance – mistake | 227 | L |
| Offer to settle – misconception of offer | 227 | L |
| Offer to settle – acceptance of offer | 227 | L |
| Acceptance of offer – settlement | 227 | L |
| Offer to settle – lawyer’s authority | 227 | L |
| Offer to settle – withdrawal of offer – must be written | 227 | L |
| Withdrawal of offer – settlement | 227 | L |
| Offers to settle – communicating offer | 227 | L |
| Solicitor – authority – offer to settle | 227 | L |
| Offers to settle – accepted – cost consequences | 227 | L |
| Costs – interest – offer to settle | 227 | L |
| Costs – settlement | 227 | L |
| Communicating offer – counsel’s duty | 227 | L |
| Interest – costs – accepted offer to settle | 227 | L |
| Settlement – costs – interest | 227 | L |
| Settlement – costs - plaintiff entitled unless written into agreement | 227 | L |
| Accepted offer to settle – plaintiff entitled to costs | 227 | L |
| Settlement – cost consequences | 227 | L |
| Offer to settle – accepted - plaintiff – partial indemnity | 227 | L |
| Settlement – agreement results in further dispute – motion | 227 | L |
| Settlement – failure to comply with agreement (R. 49.09) | 227 | R |
| Rejecting a reasonable offer – consequences – settlement | 227 | R |
| Offer to settle – unaccepted – cost consequences | 227 | R |
| Consequences – rejecting reasonable offer –general | 227 | R |
| Unaccepted settlement offer – cost consequences | 227 | R |
| Plaintiff - offer to settle – cost consequences | 227 | R |
| Offer to settle – plaintiff – costs | 227 | R |
| Offer to settle – defendant – costs | 227 | R |
| Defendant - offer to settle – cost consequences | 227 | R |
| Settlement agreement – motion to enforce | 227 | R |
| Motion to enforce – settlement agreement | 227 | R |
| Substantial indemnity – costs – when awarded following rejected offer to settle | 227 | R |
| Substantial indemnity – offer to settle – cost consequences | 227 | R |
| Cost consequences – none – offer to settle | 227 | R |
| Prejudgment interest – offer to settle - more or less favourable | 228 | L |
| Offer to settle – prejudgment interest - comparison | 228 | L |
| Partial indemnity – offers to settle - cost consequences | 228 | L |
| Offer to settle – judgment falls between offers – no cost consequences | 228 | L |
| Offer to settle – no judgment for plaintiff – no cost consequences | 228 | L |
| Offer to settle – where no consequences attach to offer | 228 | L |
| Costs – offer to settle – court’s discretion | 229 | L |
| Offer to settle – costs – court’s discretion | 229 | L |
| Offer to settle – court’s discretion - costs | 229 | L |
| Exercise of discretion – costs – courts | 229 | L |
| Prerequisites to applying R. 49.10 (prima facie cost consequences) | 228 | R |
| Court’s discretion – offer to settle – costs | 229 | L |
| Offer to settle – reasonable opportunity to consider – court’s discretion | 229 | L |
| Offer to settle – genuine effort to settle – court’s discretion – considering exceptions to R.49.10 | 229 | L |
| Offer to settle – costs – prerequisites to applicability of R. 49.10 | 228 | R |
| Offer to settle – represents compromise – court’s discretion – considering exceptions to R.49.10 | 229 | L |
| Offer to contribute – multiple defendants - settlement | 229 | L |
| Offer to settle – costs – multiple parties | 229 | L |
| Multiple defendants – offer to settle – costs | 229 | L |
| Multiple plaintiffs – offer to settle | 229 | L |
| Offer to settle – multiple plaintiffs | 229 | L |
| Joint & several liability – offer to settle – cost consequences | 229 | R |
| Joint & several defendants – offer to settle – cost consequences | 229 | R |
| Offer to contribute – v. offer to settle – costs | 229 | R |
| Offer to settle – costs – multiple parties – joint & several defendants | 229 | R |
| Defendant – offer to contribute – settlement | 229 | R |
| Co-defendants – offer to contribute – settlement | 229 | R |
| Offer to settle – costs – offer to contribute | 229 | R |
| Offer to settle –multiple parties – costs - joint & several liability EXAMPLES | 229 | R |
| Disability – offers to settle (R. 49.08) | 231 | L |
| Offer to settle – counterclaims, crossclaims, third party claims | 230 | R |
| Counterclaims, crossclaims, third party claims – offers to settle | 230 | R |
| Offer to settle – disability | 231 | L |
| Settlements – disability/minor | 231 | L |
| Admissions – uses (2 scenarios) | 233 | R |
| Registrar – offers to settle – duty to inform | 231 | L |
| Duty to inform Registrar - settlement | 231 | L |
| Settlement – duty to inform Registrar | 231 | L |
| Pre-trial conferences – applications | 231 | L |
| Pre-trial conferences - actions | 231 | L |
| Pre-trial conferences – heard by judge or case management master | 231 | L |
| Pre-trial conferences – purpose | 231 | L |
| Pre-trial conferences – scheduling | 231 | L |
| Settlement – duty to inform registrar | 231 | L |
| Duty to inform – registrar – settlement | 231 | L |
| Pre-trial conferences – pre-trial briefs | 231 | R |
| Pre-trial conferences – general (R.50) | 231 | L |
| Pre-trial conferences – experts – if intending to call at trial | 231 | R |
| Pre-trial conferences – documents to be used at trial | 231 | R |
| Pre-trial conferences – service of materials | 231 | R |
| Pre-trial conferences – witnesses – if intending to call at trial | 231 | R |
| Pre-trial conferences – participation by parties and lawyers | 231 | R |
| Pre-trial conferences – process (general) | 232 | L |
| Pre-trial conferences – judge's orders | 232 | R |
| Pre-trial conferences – matters required to be discussed | 232 | L |
| Pre-trial conferences – no prejudice at trial | 232 | L |
| Pre-trial conferences – judge cannot preside at trial/hearing | 232 | L |
| Pre-trial conferences – commercial list | 233 | L |
| Pre-trial conferences – practice direction/materials (general) | 233 | L |
| Pre-trial conferences – pre-trial conference report prepared by judge or master (certification & undertaking) | 232 | R |
| Pre-trial conferences – Toronto proceedings – special considerations | 233 | L |
| Case conferences – general | 233 | L |
| Case conferences – attendance obligations | 233 | L |
| Case conferences – judge or master | 233 | L |
| Case conferences – initiation | 233 | L |
| Case conferences – powers of judge/master | 233 | L |
| Case conferences – action and applications | 233 | L |
| Action – case conference | 233 | L |
| Application – case conference | 233 | L |
| Judge – case conference | 233 | L |
| Master – case conference | 233 | L |
| Counsel – case conference | 233 | L |
| Admissions - purpose | 233 | R |
| Request to admit – service | 233 | R |
| Admissions – truth of fact/authenticity of document (R. 51) | 233 | R |
| Admissions – request to admit (R. 51) | 233 | R |
| Admissions (R. 51) – general | 233 | R |
| Admissions –withdrawal (consent or leave) | 233 | L |
| Admissions – deemed admission (R. 51) | 233 | R |
| Admissions – business records | 233 | R |
| Admissions – failure to respond to request to admit – deeming provision | 233 | R |
| Admissions - timing | 233 | R |
| Admissions – cost consequences – unreasonable denial | 233 | R |
| Admissions – motion for judgment | 234 | L |
| Admissions – summary judgment combo (ie. show no genuine issue for trial) | 234 | R |
| Evidence Act – request to admit | 233 | R |
| Motion for judgment – admissions | 234 | L |
| Summary judgment – admissions | 234 | R |
| Pre-trial procedures – simplified procedure (R. 76) | 234 | R |
| Simplified procedure – pre-trial procedures (R. 76) | 234 | R |
| Preparing for trial – gathering the evidence – general | 235 | L |
| Simplified procedure – witness – preparing for trial | 235 | L |
| Statements – witness – preparing for trial | 235 | L |
| Witness – simplified procedure – list of names/addresses – affidavit of documents – preparing for trial | 235 | L |
| Witness – statements (general)– preparing for trial | 235 | R |
| Rules of Professional Conduct – contact with other party | 235 | R |
| Preparing for trial – contact with other party – Rules of Professional Conduct | 235 | R |
| Trial preparation – contacting the other party – Rules of Professional Conduct (4.03 & 6.03(7)) | 235 | R |
| Witness – consent of witness's lawyer for contact (RPC 7.2-6) – preparing for trial | 235 | R |
| Witness – disclosing interest in case (RPC 5.3-1) – preparing for trial | 235 | R |
| Witness – statements – content – preparing for trial | 235 | R |
| Witness – statements – inconsistency/variance – preparing for trial | 235 | R |
| Witness – statements – interviewing witnesses (separately) – preparing for trial | 235 | R |
| Witness – statements – no recollection – preparing for trial | 235 | R |
| Witness – statements – questioning (no leading qs)– preparing for trial | 235 | R |
| Witness – statements – verification – signing or initialing – preparing for trial | 236 | L |
| Expert witness – trial preparation (general) | 236 | L |
| Witness – experts – generally – trial preparation | 236 | L |
| Witness – statements – assessment – trial preparation | 236 | L |
| Expert witness – service of report (R. 53.03) – trial preparation | 236 | L |
| Service – expert reports – trial preparation | 236 | L |
| Witness – experts – service – trial preparation | 236 | L |
| Witness – choice of (choosing b/w multiple) – preparing for trial | 236 | R |
| Witness – choice to call – preparing for trial | 236 | R |
| Expert witness – attendance and fee – trial preparation | 236 | R |
| Expert witness – fees – trial preparation | 236 | R |
| Expert witness – other expert reports – trial preparation | 236 | R |
| Expert witness – preparing expert – trial preparation | 236 | R |
| Witness – choosing who to call – trial preparation | 236 | R |
| Witness – experts – other expert reports – trial preparation | 236 | R |
| Witness – experts – preparing them for trial | 236 | R |
| Witnesses – taking evidence – before trial | 237 | L |
| Witness – unable to attend trial (general) | 237 | L |
| Witness – unable to attend trial – party | 237 | L |
| Witness – unable to attend trial – non-party | 237 | L |
| Evidence – taken before trial – rules of evidence apply | 237 | L |
| Evidence – use of evidence under R. 36 (transcript at trial) | 237 | R |
| Evidence – witness - taken before trial (R. 36) (not discovery) | 237 | L |
| Evidence – witness outside Ontario (letter of request) | 237 | L |
| Evidence – witnesses - taken before trial – use of transcript in trial (R. 36) | 237 | L |
| Letter of request – witness outside Ontario (R. 34) | 237 | L |
| Transcript – use in trial (R. 36) | 237 | R |
| Witness – transcript – use in trial | 237 | R |
| Taking evidence before trial – R. 36 (general) | 237 | L |
| Transcript – used as trial evidence (R. 36) | 237 | R |
| Trial – transcript – used as evidence (R. 36) | 237 | R |
| Trial – witness evidence taken before trial | 237 | L |
| Witness outside Ontario – letter of request | 237 | L |
| Affidavit evidence by witness – at trial (R. 53) | 237 | R |
| Evidence – trial - witness giving evidence by affidavit (R. 53) | 237 | R |
| First witness - trial | 238 | L |
| Party as first witness | 238 | L |
| Trial – evidence – witness giving evidence by affidavit (R. 53) | 237 | R |
| Trial – first witness | 238 | L |
| Trial – use of witness examination (transcript) before trial | 237 | R |
| Trial – witnesses – order to call | 237 | R |
| Witness – examination on affidavits at trial (R. 53) | 237 | R |
| Witness – first called – at trial | 238 | L |
| Order of witnesses | 237 | R |
| Witnesses – order of | 237 | R |
| Last witness - trial | 238 | L |
| Trial – witnesses – failure to call – inferences made by court | 238 | L |
| Trial – witnesses – adverse inference | 238 | L |
| Trial – failure to call witness | 238 | L |
| Trial – last witness | 238 | L |
| Trial preparation – witness – re-interview | 238 | L |
| Failure to call a witness | 238 | L |
| Witness – failure to call – inferences made by court | 238 | L |
| Witness – last called – trial | 238 | L |
| Witness - re-interview – trial preparation | 238 | L |
| Witness – weak evidence | 238 | R |
| Weak evidence – witnesses | 238 | R |
| Witness – acknowledge discussion of evidence with lawyer | 238 | R |
| Witness – discussion re: evidence –acknowledgement | 238 | R |
| Witness – instructions to (general) | 238 | R |
| Witness – instructions to – memorization (avoid) | 238 | R |
| Witness – instructions to – proper dress in court | 238 | R |
| Witness – instructions to – review exhibits and documents | 239 | L |
| Witness – instructions to – speaking voice | 238 | R |
| Trial preparation – preparing witness for cross-examination | 239 | L |
| Trial preparation – preparing witness for cross-examination - guidelines | 239 | L |
| Witness – instructions to – cross examination - guidelines | 239 | L |
| Witness – instructions to – cross examination – trial preparation | 239 | L |
| Cross-examination – witness – guidelines | 239 | L |
| Cross-examination – preparing for trial | 239 | L |
| Summons – issuance and service - witness | 239 | R |
| Summons – witness in Quebec | 239 | R |
| Witness – adverse party (Evidence Act s. 8) | 240 | L |
| Summons – witness outside Ontario | 239 | R |
| Witness – instructions to – trial date | 239 | R |
| Witness – summons – outside Ontario | 239 | R |
| Witness – summons – attendance money | 239 | R |
| Witness – documents in possession/control | 239 | R |
| Witness – summons - Ontario | 239 | R |
| Witness – summons – from Quebec | 239 | R |
| Witness – summons – issuance and service | 239 | R |
| Witness – summons (R. 53.04) | 239 | R |
| Witness – adverse party | 240 | L |
| Summons – adverse party | 240 | L |
| Admissions – discovery transcript – analyze carefully | 240 | L |
| Admissions – discovery transcript – hearsay (via admission against interest) | 240 | R |
| Admissions – discovery transcript (can be read-in at trial) | 240 | L |
| Admissions – pleadings | 240 | L |
| Admissions – pleadings – reply | 240 | L |
| Admissions – pleadings – silence is admission | 240 | L |
| Hearsay – admission in discovery transcript | 240 | R |
| Notice of Intention to Call | 240 | L |
| Trial – admissions | 240 | L |
| Trial – hearsay evidence - examination for discovery | 240 | R |
| Witness – notice of intention to call | 240 | L |
| Admissions – adverse party | 240 | R |
| Admissions – agreed statements of facts | 241 | L |
| Admissions – discovery transcript – impeach testimony | 240 | R |
| Admissions – discovery – prior inconsistent statements | 240 | R |
| Admissions – other sources (recall Request to Admit) (R. 50 and 51) | 240 | R |
| Admissions – pre-trial conference | 240 | R |
| Adverse party – admission | 240 | R |
| Agreed statement of facts | 241 | L |
| Impeach – discovery transcript - admission | 240 | R |
| Impeaching credibility | 240 | R |
| Statement of Facts – agreed | 241 | L |
| Mutually accepted Statement of Facts | 241 | L |
| Transcript – use in trial – to impeach credibility | 240 | R |
| Trial – examination for discovery – impeach witness | 240 | R |
| Witness – impeaching credibility | 240 | R |
| Documentary evidence – trial preparation (general) | 241 | L |
| Evidence – documentary (general) | 241 | L |
| Evidence – personal - privacy | 241 | L |
| Personal information – evidence – privacy | 241 | L |
| Documentary evidence – privacy legislation | 241 | L |
| Privacy legislation – documentary evidence – trial preparation | 241 | L |
| Privacy – evidence – personal information | 241 | L |
| Trial preparation – Documentary evidence (see Evidence – Documentary) | 241 | L |
| Preparing for trial – documentary evidence (see Evidence – documentary) | 241 | L |
| Documentary evidence - organization | 241 | L |
| Evidence – documentary – organization | 241 | L |
| Brief of documents – trial preparation | 241 | R |
| Documentary evidence – brief of documents | 241 | R |
| Documentary evidence – proof of documents | 241 | R |
| Evidence – documentary – brief of documents | 241 | R |
| Evidence – documentary – proof of documents | 241 | R |
| Business records – documentary evidence | 242 | L |
| Canada Evidence Act – documentary evidence – proof | 242 | L |
| Evidence – documentary – proof – business records | 242 | L |
| Evidence – documentary – proof – Canada Evidence Act | 242 | L |
| Evidence – documentary – proof – medical reports | 242 | L |
| Evidence – documentary – proof – telegrams, letters, etc. | 242 | L |
| Letters - evidence | 242 | L |
| Medical reports – evidence | 242 | L |
| Trial – trial brief | 242 | L |
| Trial – trial brief – contents | 242 | L |
| Trial brief | 242 | L |
| Brief of law | 242 | L |
| Trial – brief of law | 242 | R |
| Trial – evidence – business records | 242 | L |
| Trial Preparation – expert witness | See “Expert witness” | |
| Preparation for trial – expert witness | See “Expert witness” | |
| Trial Preparation – witnesses | See “Witness” | |
| Adjournment – court's discretion | 243 | R |
| Adjournment – Notice of Motion (+ materials: affidavits, etc.) | 243 | R |
| Adjournment – trial | 243 | R |
| Adjournment – trial - compelling reason | 243 | R |
| Failure to attend – trial (R. 52.01) | 243 | L |
| Trial – adjournment | 243 | R |
| Trial procedure – overview | 243 | L |
| Notice of motion – trial procedure | 243 | R |
| Trial – adjournment – compelling reason | 243 | R |
| Trial – adjournment – court's discretion | 243 | R |
| Trial – Motion to strike jury notice (complexity/strategy) | 244 | R |
| Trial – adjournment – Notice of Motions (+ materials: affidavits, etc.) | 243 | R |
| Trial – failure to attend (R. 52.01) | 243 | L |
| Amendments – pleadings – on motion (R. 26) | 244 | L |
| Amendments – pleadings – prejudice | 244 | L |
| Expert witness – Canada Evidence Act – max. 5 allowed | 244 | L |
| Expert witness – leave to have more called | 244 | L |
| Expert witness – Ontario’s Evidence Act – 3 opinion witnesses allowed | 244 | L |
| Jury – Motion to strike jury notice (R 47.01 and 47.02) | 244 | R |
| Jury – Motion to strike – timing | 244 | R |
| Jury – selection – eligibility to be a juror | 244 | R |
| Jury – selection – not eligible | 244 | R |
| Leave to call more expert witnesses | 244 | L |
| Motions – amend pleadings | 244 | L |
| Motions – leave to call more expert witnesses | 244 | L |
| Motions – strike out jury notice | 244 | R |
| Pleadings – amend - prejudice | 244 | L |
| Pleadings – amend (r.26.01) | 244 | L |
| Pleadings – motion to amend pleadings | 244 | L |
| Witness – expert – leave to call more | 244 | L |
| Jury – selection (general) | 245 | L |
| Jury – selection – challenges (Juries Act, s. 33) – 4 peremptory challenges | 245 | L |
| Jury – selection – guidelines | 245 | R |
| Jury – selection – information available to lawyer (limited) | 245 | L |
| Jury – selection – lawyer’s independent investigation | 245 | L |
| Jury – selection – random selection of 6 (clerk/registrar) | 245 | L |
| Motions – exclude witnesses | 245 | R |
| Witness – excluded from courtroom – no communication | 245 | R |
| Witness – exclusion from courtroom (general) | 245 | R |
| Exhibits – foundation | 248 | L |
| Exhibits – marking | 248 | L |
| Exhibits – return after trial | 248 | R |
| Exhibits –numbering | 248 | L |
| Trial – closing arguments – order of presentation | 249 | L |
| Trial – exhibits – foundation | 248 | L |
| Trial – exhibits – marking | 248 | L |
| Trial – exhibits – return after trial (consent) | 248 | R |
| Trial – exhibits – numbering | 248 | L |
| Trial – opening arguments – order of presentation | 249 | L |
| Trial – order of presentation (general) | 249 | L |
| Trial – order of presentation | 249 | L |
| Trial – order of presentation – judge’s discretion (R. 52.07) | 249 | L |
| Order of presentation – trial (general) – lawyer with onus begins | 248 | R |
| Opening and closing address – trial | 248 | R |
| Evidence – application of Ontario’s Evidence Act vs. Canada Evidence Act | 246 | L |
| Evidence – witness – telephone or video conference | 246 | L |
| Evidence – by affidavit | 246 | L |
| Trial – witness – oral examination | 246 | L |
| Witness – oral examination – court’s discretion/control | 246 | L |
| Expert witness – curriculum vitae | 246 | R |
| Expert witness – qualified to testify | 251 | R |
| Expert witness - report | 246 | R |
| Expert witness – scope of testimony | 246 | R |
| Expert witness – supplementary report | 246 | R |
| Expert witness – schedule for reports | 246 | R |
| Expert witness – service of expert report (R. 53.03) | 246 | R |
| Interpreter – for witness | 247 | L |
| Service of expert report (R. 53.03) | 246 | R |
| Trial – evidence – application of Ontario’s Evidence Act vs. Canada Evidence Act | 246 | L |
| Trial – evidence – expert – qualifying to testify | 246 | R |
| Trial – evidence – witness – telephone or video conference | 246 | L |
| Video conference – trial | 246 | L |
| Witness – experts – curriculum vitae | 246 | R |
| Witness – experts – scope of testimony | 246 | R |
| Witness – experts – supplementary report | 246 | R |
| Witness – experts – schedule for reports | 246 | R |
| Witness – experts - report | 246 | R |
| Witness – experts – qualifying to testify | 251 | R |
| Witness – experts – service of report | 246 | R |
| Witness – interpreter for | 247 | L |
| Witness – telephone or video conference | 246 | L |
| Witness – compelling attendance – trial (Ontario) | 247 | R |
| Compelling attendance at trial – summons to witness – failure to comply | 247 | R |
| Cross-examination – medical report - request | 246 | R |
| Evidence – medical reports - practitioner | 247 | L |
| Evidence – medical reports (v. experts reports) – time limits | 246 | R |
| Medical report – cross-examination | 246 | R |
| Medical reports – practitioners - evidence | 247 | L |
| Medical reports – practitioners – notice requirement | 247 | L |
| Medical reports (vs. expert reports) – time limits | 246 | R |
| Medical reports v. expert reports (rules v. evidence act) | 247 | L |
| Summons to witness – failure to comply - consequences | 247 | R |
| Time limits – medical reports vs. expert reports | 246 | R |
| Trial – evidence – compelling attendance | 247 | R |
| Trial – evidence – medical report | 246 | R |
| Trial – evidence – medical report - practitioner | 246 | R |
| Trial – evidence – medical report v. expert report | 246 | R |
| Trial – witness – summons to witness – failing to comply - consequences | 247 | R |
| Witness – compelling attendance at trial | 247 | R |
| Adverse party – witness | 247 | R |
| Witness – adverse party | 247 | R |
| Compelling attendance at trial – witness in custody | 247 | R |
| Document – failure to prove at trial | 248 | L |
| Evidence admissible with leave (list) | 247 | R |
| Expert witness – testifying at trial – leave (no report served) | 248 | L |
| Leave – evidence admissible at trial (list of) | 247 | R |
| Trial – evidence – admissible with leave (list) | 247 | R |
| Trial – evidence – calling adverse party | 247 | R |
| Trial – evidence – failure to prove fact or document | 248 | L |
| Failure to prove fact or document – trial | 248 | L |
| Trial – failure to prove fact or document | 248 | L |
| Witness in custody – compelling attendance | 247 | R |
| Examination in chief – circumstances where leading questions are permitted | 250 | L |
| Examination in chief – minimizing damaging evidence | 250 | L |
| Examination in chief – refreshing memory - notes | 250 | L |
| Examination in chief – omissions | 250 | L |
| Examination in chief – refreshing memory | 250 | L |
| Opening statement – no argument | 249 | R |
| Opening statement – overview | 249 | L |
| Opening statement – outline of issues and evidence | 249 | R |
| Trial – examination in chief (see EXAMINATION IN CHIEF) | 250 | L |
| Cross-examination – adverse party | 251 | R |
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