New Changes to the Provincial Court Process in Alberta

February 26, 2019

On January 1, 2019, an amendment to the Alberta *Provincial Court Act*, RSA 2000, c P-31 (the "*Act*") came into effect which provides the Lieutenant Governor in Council the authority to increase the monetary jurisdiction of the Provincial Court of Alberta from $50,000 to $100,000. Accompanying that amendment were two new regulations: the *Provincial Court Civil Procedure Regulation*, AR 176/2018 (the "*Procedure Regulation*") and the *Provincial Court Civil Forms Regulation*, AR 179/2018 (the "*Forms Regulation*"). It appears that, for now, the monetary jurisdiction of the Provincial Court in Alberta remains at $50,000, but these two regulations made several other notable changes to the Provincial Court process in Alberta.

In particular, after a dispute note is filed, the Court must now direct the matter to one of the following: (a) mediation; (b) pre-trial conference, (c) simplified trial, or (d) a trial. Alternatively, if all parties consent, they may participate in a binding judicial dispute resolution of the matter pursuant to section 64.1 of the *Act* and section 23 of the *Procedure Regulation*. The new simplified trial process, detailed in Part 8 of the *Procedure Regulation*, is reserved for less complex matters. That process requires parties to file and serve trial statements 14 days prior to the trial date which include, among other things, a summary of the facts and evidence the party intends to present to the Court, a list of witnesses and summaries of the evidence those witnesses are expected to provide, and copies of all relevant records. It is unclear, though, how the simplified trial process will differ from the normal trial process once the trial commences.

The *Forms Regulation* introduced additional prescribed forms for use in Provincial Court, including forms for an Application, Affidavit, Notice to Attend as a Witness, and Third Party Claim. The *Forms Regulation* also revised the previous prescribed forms for Civil Claims and Dispute Notes. Prior to January 1, 2019, the general practice when filing a civil claim or dispute note was to attach, as a Schedule to the prescribed form, a more detailed summary of the party's claim or defence. The new prescribed forms appear to eliminate, or at least try to limit, this practice. In particular, the forms direct that a party should not attach any additional material or evidence when filing the claim or defence, and the electronic versions of these forms provide ample space to input information. There are also specified prescribed forms depending on what type of claim is being filed, for example, a debt claim vs a wrongful dismissal claim. The Provincial Court clerks were directed to observe a reasonable grace period where they would continue to accept forms presented in the prior formats, but our understanding is that

the grace period ends as of March 1, and the requirement for the new prescribed forms will be strictly enforced after that date.

These new regulations stand to impact the decision as to whether to commence a claim in Provincial Court instead of Queen's Bench in Alberta. It is yet to be seen whether the monetary jurisdiction of the Provincial Court will ever increase to $100,000, but if the new simplified trial process is successful in resolving matters more quickly and in a more cost-effective manner, then that might be the next step.

By

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