

Publisher's Note
2018 — Release 80
Previous release was 2018-79

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Busby

Manitoba Queen's Bench Rules
Annotated

Publisher's Note

This work provides easy access to the Rules and case annotations and includes the Queen's Bench and Court of Appeal Rules of Practice and Procedure for both civil and criminal matters. The work provides commentary explaining the rules and annotations of all the decisions that interpret the civil rules. Commentary and other secondary resources include Tariffs, forms, practice directions, and Table of Rules Concordance.

What's New in this Update

In this release, the author has updated and added annotation to the Manitoba *Queen's Bench Rules*. Case annotations have also been updated to include Court of Appeal updates. Updates to the Court Notices and Directives and to the Interest Rate table have also been made. This release also includes a new Year in Review. The CD which accompanies this looseleaf has also been updated to reflect updated checklists and fillable forms.

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Highlights

Rule 20.03 Summary Judgment—Genuine Issue—Contracts—Other Issues

Berscheid v. Federated Co-operatives et al, 2018 MBCA 27, 2018 CarswellMan 86 (Man. C.A.), *per* Steel J.A.

The plaintiff claimed damages for losses sustained to his cattle herd after feeding it product supplied by the defendant. While causation was admitted, very serious issues remained as to the extent and quantum of damages. Complexity in and of itself will not necessarily preclude summary judgment; but cases which are factually complex, with conflicting evidence from a number of witnesses, and a voluminous record are not generally well suited to determination on a summary basis.

Rule 25.11(c) Pleadings—Striking Out or Expunging Documents—Abuse of Process—Jurisdiction—Other issues

Highwood Congregation of Jehovah's Witnesses (Judicial Committee) v. Wall, 2018 SCC 26, 2018 CarswellAlta 1044, 2018 CarswellAlta 1045 (S.C.C.)

[*Editor's note*: This case did not arise under this rule but it is noted here for ease of reference.]

Courts will consider only those issues that are justiciable. The ecclesiastical issues raised by the Applicant are not justiciable. Justiciability relates to whether the subject matter of a dispute is appropriate for a court to decide. There is no single set of rules delineating the scope of justiciability. The court should ask whether it has the institutional capacity and legitimacy to adjudicate the matter.

Rule 30.02(1) Discovery of Documents—Scope of Documentary Discovery—Financial Information

Berscheid v. Federated Co-operatives et al, 2018 MBCA 27, 2018 CarswellMan 86 (Man. C.A.), *per* Steel J.A.

The plaintiff claimed damages for losses sustained to his cattle herd after feeding it product supplied by the defendant. While causation was admitted, very serious issues remained as to the extent and quantum of damages. The court ordered that the plaintiff produce documents related to his costs notwithstanding his concerns that disclosure could result in his competitors gaining access to information. The threshold for discovery is very low. Historical performance is relevant to quantifying business losses.