



New Rules of Civil Procedure 2013

In June 2013, the current *Rules of the Supreme Court* will be replaced by new *Rules of Civil Procedure* ("CPR"). The primary objective of the CPR is to secure the just, speedy, and inexpensive determination of court proceedings and applications.

Under the *Supreme Court Act* ("Act") a Rules Committee is established. The Rules Committee is headed by the Chief Justice and has authority to make rules of court for the purpose of giving effect to the Act, and for regulating and prescribing the practice and procedure of the Court in all matters, whether civil or criminal, and whether within its original or appellate jurisdiction. It is the Rules Committee that will promulgate the CPR.

The current *Rules* were promulgated in 1978 and were based on the *English Rules of Civil Procedure 1976*. The CPR has been influenced by progressive features of the court rules of other Commonwealth jurisdictions, most notably those of New Zealand.

The CPR will bring wide ranging improvements to the civil litigation process in The Bahamas. The changes include:

- **Elimination of Unnecessary Documents:** The CPR eliminates the Memorandum of Appearance. Once a defendant is served with a claim, the defendant should simply proceed to file a defence, and need only file an appearance if he intends to challenge jurisdiction. A defendant who does not oppose a plaintiff's claim, but wishes to be heard on any ancillary matter, may, without filing a defence, file and serve an appearance stating those matters.
- **Generally Indorsed Writ:** The generally indorsed writ will be a thing of the past. All actions will be commenced by the filing of a detailed statement of claim.
- **Application for Leave to Serve Outside of the Jurisdiction:** A plaintiff may serve outside of The Bahamas without first applying for leave from the Court.
- **More Particularity in Defence:** A defendant is no longer permitted to make a general denial in his defence. Where the defendant denies an allegation, (a) he must state his reasons for doing so; and (b) if he intends to put forward a different version of events from that given by the plaintiff, he must state his own version.
- **Fixed date Hearings:** Once an application is filed at the Registry of the Supreme Court, the Court will fix a date for the first hearing of the claim.
- **Case Management:** Case management will come immediately after the close of



pleadings, and the Court will fix a date for a case management conference not less than 4 weeks and not more than 12 weeks after the defence is filed.

- **Assessment of Costs:** The Court will have discretion as to: (a) whether costs are payable by one party to another; (b) when to assess costs; (c) the amount of those costs; and (d) when they are to be paid. Attention will be had to proportionality and reasonableness. Summary assessment of costs by the presiding Judge will be customary. If costs are not summarily assessed, there will continue to be a detailed assessment by the Registrar.
- **Enforcement of Costs Orders:** Orders for costs must be paid within 14 days of the date upon which they become due. Significantly, cost orders will be enforced upon their pronouncement by either staying the action until payment of the costs (in the case of an unsuccessful plaintiff) or striking out a defence (in the case of an unsuccessful defendant).

The CPR is expected to come into force in June 2013.

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