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QB Rules Amended

Several amendments to the Court of Queen's Bench Rules, Manitoba Regulation 553/88 are now in force. Regulation [148/2009](#) amends rules 1.03 and 74.12(3) as well as forms 72F and 72L. Regulation [149/2009](#) amends rule [63](#), concerning stays of orders pending appeal.

Disclosure of Witness Lists

Canadian National Railway Company v. Huntingdon Real Estate Investment Trust, 2009 MBQB 232 deals with the court's jurisdiction to order pre-trial disclosure of a witness list. The court rejects the applicant's argument that the court has jurisdiction to order or direct the disclosure of witness names under Rules [1.04](#) (regarding expeditious determination) and [50.01\(1\)\(h\)](#) (concerning jurisdiction of pre-trial judges). On the issue of whether the court has inherent jurisdiction Justice Beard finds:

the court does not have the jurisdiction at common law, by statute, or under the court rules to either order or direct that a party disclose a witness list. While there is no rule or statute specifically prohibiting a court from ordering the disclosure of a witness list, such an order would be contrary to the spirit and intention of subrule 36.01(2), which sets out a more limited disclosure requirement. (para.38)....

That said, the authorities are clear that the inherent jurisdiction of the court is wide and can be exercised even where there are court rules in effect, unless the power to do so has been taken away. One could argue that to order the disclosure of a witness list is in addition to, rather than contrary to, the disclosure required in subrule 36.01(2), which does not expressly prohibit such disclosure, but if the court has the inherent jurisdiction to make the order, it should only be done in extraordinary circumstances. (para.40)

In this case, where the plaintiff had narrowed potential witnesses down to 23 from an original

list of 77, provided an indication of the information that each had, and given an estimate of the amount of time required for trial, extraordinary circumstances had not been established.

Serving Documents on Facebook

As reported by Shaunna Mireau in [Substitutional Service via Facebook in Alberta](#), a Canadian court has ordered (reportedly for the first time) that a statement of claim may be substitutionally served by posting notice of the action on the defendant's Facebook account. *Knott v. Sutherland* (5 February 2009), Edmonton 0803 02267 (Alta. Q.B.M.) is as yet unreported, but a copy of the decision, including the text of the notice, is found [here](#).

Upcoming CPD Programs: LSM

[Gathering and Preparing Evidence for Trial: 3rd Party Disclosure Applications](#) - Experienced civil and criminal practitioners and a judge will share their expertise on preparing for trials and on applications for disclosure of third party records. The program takes place October 30, 2009 from 1:00-4:00 p.m. at the Law Society classroom.

The 2009 Isaac Pitblado Lectures looks at the future of law in [Practising Law in the 21st Century: evolution or revolution](#). Keynote speakers include Professor Richard Susskind, OBE, author of *The End of Lawyers? Rethinking the Nature of Legal Services*, Jordan Furlong, editor of the *National* magazine and Dan Pinnington, practice advisor at LawPRO. The program takes place November 13 & 14, 2009 at the Fort Garry Hotel, Winnipeg.

The Law Society and Seminar Partners Inc. are co-sponsoring the program [Advanced Cross-examination Techniques](#), which takes place January 25, 2010 at the Delta Winnipeg. Acclaimed presenters Larry Pozner and Roger Dodd will cover leading questions, controlling witnesses, cross-examination sequences, loops and trilogies, and the chapter method of cross-examination in this intensive day long seminar.

Fall Conferences: CBA

The Canadian Bar Association is presenting the following out-of-town conferences which may be of interest to litigators:

[Hot Topics in Civil Litigation and Insurance Law](#) - October 23-24, 2009 at the Rimrock Resort Hotel in Banff, Alberta

[National Administrative Law and Labour and Employment Law CLE Conference](#) (Access and Independence: Restoring the Balance in Administrative Tribunals and Labour Boards), November 20-21, 2009 at the Fairmont Château Laurier Hotel, Ottawa, Ontario.

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