

The Courts of BC

Handouts for Students



**The Law Courts
Education Society
of B.C.**

▶▶ Handouts for Students

You can use these handouts as class notes for your students. It is recommended that the students read them prior to each lesson. You will find the PDF files under “Handouts for Students” on the website www.courtsofbc.ca. They include the following:

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▶▶ Getting Started**Types of Courts**

Do you know what types of courts operate in British Columbia? Trial? Appeal? Or Both?

Did you say both? Good answer. Yes, here in BC, we have two trial courts and one appeal court.

Depending upon the type of case, trials are held in either the Provincial Court of BC or the Supreme Court of BC. The judges in these courts hear evidence from each side and decide in favour of one. These are called trial courts.

After a decision, one of the parties may be unhappy with the outcome and believe that the judge came to a wrong decision. Under certain conditions, that party may be able to go to the Court of Appeal for BC where three or five judges can either accept or reject the appeal.

The appeal process does not have to stop there. The Supreme Court of Canada can hear appeals from the Courts of Appeal in every province, including BC. The Supreme Court of Canada has the last word, though. All courts in Canada must follow the decisions of the highest court in the land.

Who runs the courts?

Both the federal and provincial governments are involved in BC's court system.

The Government of Canada appoints and pays the judges of the Supreme Court of BC, the Court of Appeal for BC and, of course, the Supreme Court of Canada.

The Government of British Columbia appoints and pays the Provincial Court judges and the Masters of the Supreme Court of BC, the people who decide on pre-trial matters. It also pays for and administers all three BC courts through the Court Services Branch.

This branch enables BC courts to run smoothly. Its employees keep the court registry of documents, supply all the support services required to run the courts, escort prisoners to court, keep prisoners in custody while in court and maintain courthouse security. The Court Services Branch also provides for and maintains courthouse facilities.

Want to learn more?

This is just a start. Court processes can be fascinating and very different from what you may have seen on television or in movies. You can learn more about the individual courts, civil and criminal law, judicial independence and access to the courts at www.courtsofbc.ca.

▶▶ Access to the Courts**An Open Society Means Open Courts**

Open courts mean that we can see first hand how our rights as citizens are protected. They also remind us that justice comes first before any individual special interests.

As a citizen, you have the right to visit courts and observe them in action. With very few exceptions, all courts are open to the public. You are welcome to sit in a reserved space called the public gallery and watch what happens. You can pass a very interesting day this way and learn a lot about how our society operates.

You can even represent yourself in court. Most people, though, prefer to be represented by a lawyer, especially if the matter is serious. It is probably a better idea to do your learning from the gallery than in front of a judge.

As a citizen, you have the right to visit courts and observe them in action. With very few exceptions, all courts are open to the public.

The Exceptions

In certain cases, a court may be closed. This happens most often to protect the rights of children. For instance, if a young child is giving evidence in a sexual assault case, the judge can restrict access to the courtroom for that part of the trial.

Sometimes, the trial judge orders a ban on publication. This means that members of the news media are not allowed to report on some aspects of the trial. For example, the identity of an undercover police officer might need to be protected, so newspapers or radio stations wouldn't be able to report the name of the officer.

Even with a publication ban, the public is still entitled to watch the case in the courtroom. This is an entirely open process.

▶▶ Judicial Independence

If you only remember one thing about our justice system, remember this: Even though our governments pay for everything, our courts and judges are independent of government. No government can tell a court or judge how to decide a case.

If you only remember one thing about our justice system, remember this: Even though our governments pay for everything, our courts and judges are independent of government. No government can tell a court or judge how to decide a case.

Judicial independence is the cornerstone of our justice system. Judicial independence means that judges are free to make their decisions without interference or influence from any source, including elected officials like Members of the Legislature or Members of Parliament. Even the Prime Minister of Canada cannot influence a court decision.

Judges have a responsibility to listen to both sides of the case and then to make impartial, fair decisions based on the evidence and the law.

If a judge felt pressure from the government to decide the case in a particular way, that could be very unfair to anyone with a competing interest in the case. The rights of individual citizens would not be protected.

The judge has to feel free to make the right decision - the decision that is consistent with the facts and the law - even if the judge knows that the decision may be unpopular.

Even though they are independent, judges are still accountable for their decisions through the appeals process. Their decisions can be examined by a higher court.

Judges are also responsible to the courts. A judge would never refuse to hear a case because it was going to be difficult or unpopular, but occasionally a judge has to refuse to hear a case because she or he has some sort of prior connection with one of the parties, or some other conflict of interest.

Where the conflict is slight, the judge may disclose the connection to both parties and allow the lawyers in the case to raise any concerns they have with the judge continuing to hear the case. It's important that both parties feel confident that the judge will be impartial. For example, if the case involved the judge's neighbour, then the neighbour or the judge might feel uncomfortable with the judge hearing the case because they have a relationship outside the courtroom.

Judges may be appointed at any age. Federally appointed judges can serve until the age of 75. Provincial Court judges may work until the age of 70.

What is a Civil Case?

Whenever people interact with each other, there is potential for disagreement. Sometimes, these disagreements reach the court through civil cases. Individuals, businesses, and governments may all experience conflicts or disputes where one party says that they have suffered damage as a result of legally wrongful conduct committed by another party.

Examples of such cases include contract disputes, divorces, custody disputes, contested wills and estates, and personal injury claims.

How Are Civil Cases Started?

A civil case gets started when one party files court documents called pleadings. Then, the other party can file their own documents to present their position. Whoever starts this process is called the plaintiff, claimant or the petitioner. The party on the other side is called the defendant or the respondent. A style of cause shows who is suing and who is being sued. If your last name was Jones, for example, and you were suing someone named Smith, the case would be called Jones v. Smith. You would be the plaintiff and Smith would be the defendant.

You or Smith could decide to represent yourselves. Or, you could hire a lawyer to represent you in court.

How Are Civil Cases Decided?

Courts would try to help you and Smith find your own solution, but if that didn't work, then the court would decide the outcome of the case.

Civil cases are heard at all court levels. If your case involved a claim of \$25,000 or under, it could be brought to the Small Claims in the Provincial Court of BC. They generally cost less money and take less time than trials in Supreme Court.

If your case involved a larger claim, it could be heard by a judge or jury in the Supreme Court of BC. If you chose to have a jury, you would face eight jurors who are regular citizens charged by the court to make judicial decisions. Most Supreme Court civil cases are heard by a judge sitting alone.

Judges or juries will listen to both sides, weigh the evidence, and make a decision in favour of either you or Smith. The successful party is the one who can convince the court that their side of the case is more probable. This is called proving your case on the balance of probabilities. It is different from the type of proof required in a criminal case.

If a plaintiff is the successful party in a civil trial, the judge will award damages to the plaintiff. If the defendant is the successful party then the claim will be dismissed. In either case the judge may also decide to award "costs" to the successful party which is money to help cover part of their court expenses.

▶▶ Criminal Law**Innocent Until Proven Guilty**

In our system, an accused person is presumed to be innocent until proven guilty. To be proven guilty, the evidence presented by the Crown must establish beyond a reasonable doubt that the accused intended the criminal conduct and actually committed the alleged act.

With most serious criminal charges, the Provincial Court of BC holds a preliminary inquiry before the case can be heard in Supreme Court of BC. The Crown must prove that there is enough evidence to commit the accused to trial in Supreme Court. The accused does not have to present a defense at this time.

Crimes against Society

As Canadian citizens, we must all abide by a federal law called the “Criminal Code” which defines many different kinds of actions as crimes. Just a few examples include murder, manslaughter, criminal negligence causing death or bodily harm, assault, robbery or theft. If an offence is listed in the “Criminal Code,” it is considered a crime.

When police and prosecutors reasonably believe a person has broken a criminal law, they can charge that person with an offence. That person is called the accused.

Although the accused certainly may have harmed one or more individuals personally, our justice system considers a crime to be an offence against the state itself, therefore the charge would read: Regina (which is Latin for Queen, our official Head of State) versus the name of the person charged. For example, if someone with the last name Smith was charged with murder, Smith would be the accused and the charge would read Regina v. Smith.

The government hires lawyers to act on behalf of everyone living in our community and society who, in a sense, have all been harmed by the crime. These lawyers are called Crown counsel or prosecutors. The accused has the right to have his or her own lawyer. They are called defence counsel. Each type of lawyer can present evidence at a criminal trial and also make arguments on appeals.

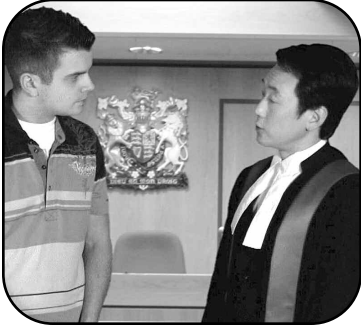
At Trial

In a criminal trial the judge or the jury decides whether or not the accused is guilty. The jury has twelve members and must decide unanimously to convict before the accused can be found guilty. If there is a jury, they make the decision. The judge makes rulings on the law and explains how the law applies to the facts of the case. The judge in jury trials does not make the decision.

Once a case goes to trial, the accused cannot decide to settle with the other side as in civil disputes. Only the Crown counsel has the power to drop the case.

As well, the witnesses to the crime are compelled to come to court to give evidence (or testify) even if they have changed their minds about testifying. For example, in an assault case between husband and wife, the injured party may not want to testify. However, if the charge has been laid, it is up to the Crown to decide whether or not to go ahead.

▶ Provincial Court of BC



Welcome.

You may already know that BC has three different types of courts. Let's find out more about the Provincial Court of BC and the types of cases it handles.

The majority of BC's court cases are heard in the Provincial Court. This is a busy and wide-ranging court. About 145 Provincial Court judges hear approximately 130,000 civil and criminal cases each year in 88 different locations across the province. A Provincial Court operates somewhere near where you live.

What Does this Court Do?

The Provincial Court has a broader jurisdiction than some other provincial courts in Canada. While its criminal caseload comprises the bulk of the Court's work, the Court has jurisdiction in family law, child protection law and civil law. The scope of the Court's jurisdiction is expanding. The most significant evolution has been in the increase in the monetary limit in Small Claims Court from \$10,000 to \$25,000. The scope of the court's work is such that its judges are the personification of justice for the vast majority of British Columbians.

Any contact you have with the courts will likely occur first in the Provincial Court. You could appear as a witness or a party to an action or maybe even as an accused in a criminal case.

Civil Cases

In civil and family matters, it is not always necessary, though, for a judge to decide an issue. Many parties can work things out for themselves through the mediation-based alternatives available in this court. As in Supreme Court, a civil case can be settled at anytime during the proceedings by the parties themselves.

Criminal Cases

Criminal cases heard in Provincial Court may take the form of guilty pleas, preliminary inquiries, applications or trials before a judge only. There are no jury trials in this court.

Generally, the offences tried in this court are found in the Criminal Code, the Youth Criminal Justice Act and the Controlled Drug and Substances Act. The judges are often called upon to decide complex legal issues including Charter of Rights and Freedoms challenges, dangerous offender proceedings, mental competency hearings, drug conspiracy trials and criminal organization trials.



Appeals

Sometimes, a Provincial Court Judge may make a decision that one party feels is wrong. That decision could be appealed. The Supreme Court of BC will hear any appeals of small claims and family cases, along with appeals of summary convictions or offences under the Criminal Code that are considered less serious.

Indictable matters such as robbery or aggravated assault or other more serious criminal offences originally heard in Provincial Court can be appealed to the Court of Appeal for BC.

More Learning

Let's look at the four main categories of cases heard in Provincial Court:

- [Criminal and Youth](#)
- [Family](#)
- [Small Claims](#) (the name for civil cases in the Provincial Court)
- [Traffic and Bylaws](#)

Criminal and Youth Matters

About 99% of all criminal cases in BC begin and end in Provincial Court. A much smaller number of criminal cases are heard in the Supreme Court. It is the Supreme Court that hears all the jury trials. Provincial Court judges sit alone, never with a jury. The Provincial Court hears *all* criminal matters, except murder committed by adults, and a few obscure offences, such as “alarming her majesty” and treason.

Adults

The court hears trials of crimes such as theft under \$5000 which is the formal name for shoplifting. It also hear trials for mischief, simple assaults and more serious crimes like aggravated sexual assault or kidnapping where the accused chooses to have his or her trial in this court. If the accused is proven guilty or pleads guilty, then the court does sentencing hearings

If the accused person is charged with a more serious crime such as manslaughter, break and enter or kidnapping, the accused has the right to choose to have a trial in Provincial Court or Supreme Court.

This is called an election. If the accused elects to have a trial in Supreme Court, then the Provincial Court conducts the preliminary inquiry to see if the Crown has enough evidence to hold a full trial.

In murder cases involving adult accused, the judge conducts a preliminary inquiry to decide if there is enough evidence to justify holding the full trial in Supreme Court.

The accused may want to have a trial in Supreme Court because they want a jury to hear their case, or they may believe the chance to have a preliminary inquiry will help them learn more about the case against them.

Youth

The Provincial Court hears virtually all criminal cases involving youth from ages 12 to 17, and that includes a charge of murder. Children under 12 cannot be charged with a criminal offence. However, if it is believed that a child under 12 may have committed a serious crime, the Family Court in Provincial Court can conduct a hearing to consider the child's safety and well being and whether they are being cared for appropriately.

Family Matters

The Provincial Court of BC hears about half of all family matters in the province. Family Court helps families solve problems when children have been neglected or abused or when there are issues arising from a family breakup.

If a case deals with divorce, adoptions or the division of family property it would be heard in Supreme Court.

If a case involves the custody and guardianship of, or access to, or child support of children of separated parents, the case can be heard in either trial court.

If it involves child protection – where the state alleges children have been neglected or abused - then the case is only heard in Provincial Court.

Very few family cases go to trial. The large majority of family disputes get resolved by an agreement between the parties that is developed with the help of lawyers and encouraged by court resources such as parenting education courses, meetings with Family Justice Counsellors and mediation services.

This Court is Different

Small Claims Court uses simple rules and plain language so that people can represent themselves and save money. (Everyone is welcome, though, to have a lawyer if they choose.)

The fees for filing a claim are less expensive, there are mandatory and simple procedures for trying to settle the claim without a trial and, should a trial occur, it will be shorter and simpler.

There are no civil juries in the Provincial Court, including Small Claims.

Small Claims Matters

The Small Claims Court deals with civil cases that have a claim for \$25,000 or less in damages.

The name “Small Claims” fits for some of the cases, but can be kind of misleading in others. It applies to all Provincial Court civil cases, whether for minor amounts like \$200 or claims where the plaintiff is claiming up to \$25,000 in damages which isn’t exactly a small claim for most people.

Civil Cases

With a few exceptions, the Provincial Court hears most kinds of civil disputes, such as claims for debt or damages, construction disputes, personal injury claims, recovery of personal property or enforcement of agreements or contracts involving personal property or services.

You can sue for damages regarding the purchase or sale of a piece of land in Provincial Court if the dispute is about aspects of the sale which you claim to be a breach of the sale contract. But, you would need to go to the Supreme Court if you were seeking a change in the title to the land.

Claims such as builders’ liens, bankruptcy, wills and estates, libel or slander, or suing the federal government all have to be heard by a Supreme Court judge.

Citizens can sue the provincial government in either the Provincial Court of BC or the Supreme Court of BC.

You can sue the federal government in the Supreme Court or in another court called the Federal Court. If someone named Jones was suing the government, the case would be called Jones versus Her Majesty the Queen. The Queen is the head of state in Canada, so her name is used to represent the government side in provincial or federal cases.

Procedures

A large majority of cases settle without a trial, and can be settled at any time during the proceedings.

In every case that is disputed by the respondent, Small Claims Court holds a settlement conference with a judge or a mediation session with a court-appointed mediator who is not a judge. If the parties are unable to agree on a resolution, and the case has to go to trial, then there may be a pre-trial conference so that everyone is clear in advance about the legal issues and how the trial will proceed.

Pilot Program

To become even more efficient, a Small Claims Court pilot program started in Vancouver in January 2008 for all cases filed after November 26, 2007. The pilot will replace the settlement conferences with four new streams.

The first is a **summary hearing** for final determination by a judge of financial debt claims such as credit card debt, loans or overdrafts.

The second is a **simplified trial** for claims under \$5000 which will be heard by an experienced lawyer who is also a Justice of the Peace. In Vancouver, these will happen in 'night court,' likely to be held one evening a week from 5:00-9:00 p.m. for one hour. In Richmond, these simplified trials will be held during the day.

The third is **mediation** for claims between \$5000 and \$25,000. Mediators will be assigned by the BC Dispute Resolution Practicum Society, and mediation sessions will be set for two hours at 9:00 am and 1:00 pm. daily.

The fourth is a **one-half hour trial conference** for cases which do not settle in mediation. At this conference, a judge could make orders on any number of trial matters such as length of trial, trial procedure and expert reports. The trial itself would follow the conference.

Traffic and Bylaw Matters

The most informal proceedings in Provincial Court involve traffic and bylaw matters. You can act as your own lawyer to dispute a traffic ticket for infractions like running a red light, speeding, or for parking violations. You can also dispute by-law offences such as walking a dog without a leash.

Judicial Justices of the Peace will hear those cases. They are judicial officers of the court who also hear applications for search warrants and for bail.

Looking Ahead

The volume of civil cases in Provincial Court is currently about half that of the Supreme Court, but that may increase if the monetary level for claims is increased to \$50,000 as existing legislation would permit.

Protocols

Judges are addressed as ‘Your Honour’ inside the courtroom. Outside court, they are addressed as Judge, followed by their surname, for example, Judge Smith.

The judges of this court wear black and red robes, the traditional court attire for a Provincial Court judge. People’s lives are affected in significant ways in court, so the formal attire reflects the seriousness of the court proceedings. Lawyers don’t wear robes in Provincial Court, although they do in the Supreme Court.

Members of the public do not have to wear anything special, but if you own business-like clothing, it’s a good idea to wear it when you come to court. This is a way to show the judge that you respect the court process and that you understand that a court is a more formal setting.

The Judges hear cases in the courtrooms from 9:30 a.m. to 12:00 noon and from 1:30 to 4:30 p.m. Monday to Friday. It’s a really important legal principle called “the Open Courts Principle” that court proceedings are open to the public and anyone has a right to attend. It’s an important way for the Courts to be accountable to the members of the community. The registry for filing documents is open from 9:00 am to 4:00 p.m.

The Provincial Court has a website which offers lots of information for the public. It will help you to learn more about the court in general, or give you more specific information such as how to start a small claims action or appear as a witness or litigant. Go to www.provincialcourt.bc.ca.

You can learn more about the B.C. court system by exploring the additional resources here on the Law Courts Education Society’s website www.lawcourtsed.ca. If you’re curious about the Supreme Court and the B.C. Court of Appeal, there are videos at www.courtsofbc.ca to help you understand how those two courts also work. And, teachers and students should check out our teacher’s guide and student handouts.

▶▶ Supreme Court of BC



Welcome.

Let's find out more about the Supreme Court of BC and the types of cases it handles.

The Supreme Court of British Columbia is one of two trial courts for the province.

It hears both civil and criminal cases, as well as some appeals from the Provincial Court.

Did you know that trials in this court usually take longer before coming to trial and last for many more days than trials in the Provincial Court? This court has a different jurisdiction than the Provincial Court. It hears only certain types of cases, as determined by legislation passed by the Government of BC.

Civil Cases

Supreme Court judges hear cases involving civil matters such as bankruptcy, personal injury claims and contract disputes, as well as judicial reviews of administrative tribunals like the Worker's Compensation Board. Cases of libel, slander and malicious prosecution are also heard in this court.

The judges also make orders about divorce matters such as the division of family assets and custody of the children. You may find it interesting to know that someone without legal training may be able to do their own divorce and can be guided through the process by self-help kits found on the Legal Services Society website www.lss.bc.ca.

The Process

Typically, to start a civil claim, a plaintiff or petitioner files a Writ and Statement of Claim or a Petition. The defendant or respondent must then reply in order to dispute the case.

Parties in court proceedings are usually represented by a lawyer, but if you ever wish to represent yourself, you can go to the BC Supreme Court Self-Help Information Centre in Vancouver where you can get the information you need to prepare for court.

Court documents from the plaintiff and the defendant must be filed at the court registry. The registry staff reviews the documents to make sure they are in the correct form.

If you are claiming monetary damages over \$25,000, you usually file a civil claim in the Supreme Court. If the amount is \$25,000 or less, you would normally start the case in Small Claims Division of the Provincial Court.



Decisions and Settlements

Sometimes, civil trials, such as personal injury claims, are held before a judge and jury. A jury in a civil trial has only eight members and they do not have to reach a unanimous decision, as long as 75% (or six out of eight jurors) agree on the result after at least three hours of deliberation. The jury can also make decisions on the amount of damages awarded in a case.

Perhaps one of the most important things to know is that many civil cases are settled before going to trial. The parties to the lawsuit can agree at any time to settle their dispute without going to court. A court case can be lengthy and expensive, so a settlement can work well for both parties. Settlements can also take place during the trial.

Criminal cases

The Supreme Court judges also hear serious criminal matters such as contempt of court, murder, manslaughter, aggravated assault, bank robbery and major drug cases.

Once a person is charged with these crimes, the case will go to trial. The accused cannot decide to settle as in civil disputes. Only the Crown counsel has the power to drop the case.

The witnesses to the crime are compelled to come to court to testify (give evidence) even if they have changed their minds about proceeding. For example, in an assault case between husband and wife, the injured party may not want to testify. However, if the charge has been laid, it is up to Crown whether to go ahead or not.

Preliminary Inquiry

In most criminal cases, a preliminary inquiry is held in Provincial Court before the case is heard in Supreme Court. At this time, the accused does not have to present any evidence. The Crown must prove that there is enough evidence to commit the accused to trial in Supreme Court.

Judges and Juries

If the case proceeds to the Supreme Court, the accused may be able to choose if he or she is tried by a judge alone or by a judge and jury.

For murder, skyjacking, and several other serious offences, a judge and twelve-person jury hears the trial in Supreme Court unless the accused and the Crown counsel agree to a trial by judge only. For example, in one case, where the accused were charged with over 300 counts of murder, the parties agreed not to have a jury.

A civil jury has 8 jurors and a criminal jury has 12 jurors.



How the Supreme Court Works

It is important to note that Supreme Court orders cannot be altered by the Provincial Court. Only the Court of Appeal for BC or the Supreme Court of Canada can modify or overturn the decisions of the Supreme Court of BC.

Let's look at how the Supreme Court works.

Judges and Masters

The Supreme Court Act passed by the Government of BC specifies that there will be 86 judges plus the Chief Judge and Assistant Chief Judge. As well, there are always a number of supernumerary or half time judges.

The Supreme Court judges sit in eight judicial districts, traveling around the province on circuit through the year.

The court also employs Supreme Court Masters who deal primarily with pre-trial matters in chambers. Masters are addressed as Master before their surname (Master White) outside of court and as 'Your Honour' in court.

There are no witnesses in chambers, as all evidence is filed by using a written document called an affidavit. This affidavit sets out the evidence and is sworn to by the person who is giving that evidence. Chambers matters are much shorter than trials and usually last a few minutes to a few hours.

(If you ever have to prepare for a chambers hearing in a family law matter, go to www.courtstips.ca to understand the process and to see what judges expect in your application.)

Trials

In most cases, the judge or master will only make an interim order and will not give the final judgment in the case. A final decision will be made by a Supreme Court judge at trial.

To come to a decision, the court considers the evidence presented in a case, along with statute law, the Rules of Court, regulations and case law. It is very important that judges and masters follow the law as set out in previously decided cases.

Rules of Court govern the conduct of the case from filing the initial court documents to the conclusion of the case. For example, there is a rule of court that determines the order in which evidence may be presented at a trial.

Regulations set out practical information and procedures in relation to statute law. For example, the regulations will set out the fees payable for filing documents to get a case started.

There are ways to speed up the litigation process. For example, you may want to consider a “fast track” trial under Rule 66, which takes less than a year to complete. Or, you could consider “expedited litigation” under Rule 68 if your claim is under \$100,000.

Protocols

When you have an opportunity to address a judge in Supreme Court, you would say Mister or Madame Justice (last name) outside the courtroom and My Lord or My Lady inside the courtroom. If you write to a judge, you would address your letter to The Honourable Chief Justice (last name), Madam Justice (last name), or Mister Justice (last name).

You should be aware that the Supreme Court is a formal court where the judge, Crown counsel, defence counsel and the court clerk wear special court attire. Fortunately, nobody has to wear white curly wigs anymore.

Judges wear black robes for most trials and red and black robes for criminal jury trials. All the lawyers are required to wear black robes at trial. If you are in court, you should dress appropriately and conduct yourself in a courteous and respectful manner.

When the judge or master enters or leaves the courtroom, a court clerk will say ‘Order in court.’ At that time, everyone in the courtroom must stand.

Sometimes, you will see people bowing to the judge as they enter or leave the courtroom. These are lawyers who are officers of the court, and they are showing a sign of respect to the judge.

If you or any member of the public wants to see a trial or court proceeding, the courts are open for that purpose. You must stand when asked to do so, but you do not need to bow.

The judges of the Supreme Court of BC hear cases in court Monday to Friday from 10am to 12:30pm and from 2pm to 4pm.

The Supreme Court of BC Self-Help Information website has several guidebooks that give information about the court, the terms used, trials, and how to gather and use evidence and court procedure.

Link to Supreme Court of BC Self-Help Information www.supremecourtselfhelp.bc.ca

Find out more about this court by visiting its website. Reasons for judgment from previous cases are regularly posted on the court’s website.

Link to the Supreme Court www.courts.gov.bc.ca

▶▶ Court of Appeal for BC

Welcome.

Are you ready to learn more about the Court of Appeal for BC and the types of cases it hears?

As the name suggests, this court hears appeals from previously decided cases.

These appeals come from cases heard in the Provincial Court of BC and the Supreme Court of BC and cases heard by administrative tribunals such as the Worker's Compensation Board. An appeal may be made if someone is unhappy with the result or judgment in their case.

In the Court of Appeal, you typically see three or five judges sitting together on the bench to hear appeals. Five judges are required if the court is being asked to overturn one of its own previous decisions. Otherwise, only three judges hear the appeal.

The Court of Appeal hears both civil and criminal cases. You can find out more about the differences between civil and criminal law by looking at your notes on these topics.

In criminal cases, anyone convicted of a crime can appeal the conviction itself. However, to appeal sentencing, the court must grant the party leave to appeal.

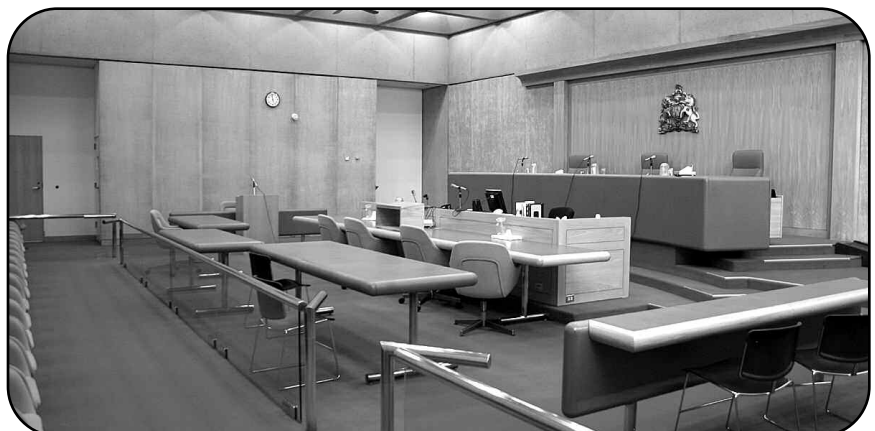
In civil cases, any final order of the Supreme Court can be appealed. However, if the civil case comes from the Small Claims division, it can only be appealed to the Supreme Court of BC and cannot proceed to the Court of Appeal.

No New Evidence

If you are the party bringing the appeal before the court, you are called the appellant. The party who argues against the appeal being granted is called the respondent.

An appeal case involves only judges and lawyers and the proceedings are typically held in open courtrooms.

Perhaps the most important thing to know is that this court only decides whether or not the trial decision was correct in law. The judges are not fact finders. Except in very rare cases, no witnesses appear in this court to give evidence.



Instead, judges review the written record of the original trial called the transcript and then determine whether there were any errors made in applying the law.

A rare exception to this practice occurred one time in a murder case where one of the jurors had an affair with one of the accused. At the end of the trial, the accused were found not guilty. Evidence of the affair was never heard in the trial court, so that evidence had to be presented after the Crown appealed the case. One justice of the Court of Appeal heard the new evidence, and it became part of the transcript that the full court was asked to examine.

The Final Word

You should know that other BC courts are bound by the decisions of this court. These courts must follow the law set out by the Court of Appeal for BC.

Appeals do not have to end here in BC, though. If someone is unhappy with the Court of Appeal decision, they may be able to appeal to the Supreme Court of Canada.

In most cases, a panel of three judges needs to grant leave or permission to appeal the case to this court. Leave to appeal is granted based on the court's assessment of the public importance of the legal issues raised in the case. For instance leave may be granted if the case raised a constitutional issue. In criminal cases where the provincial court of appeal decision has one dissenting judge, an appeal to the Supreme Court of Canada may be brought as of right which means it does not need to have leave.

All decisions made by the Supreme Court of Canada are final.

How the Court of Appeal Works

The Court of Appeal judges sit regularly at the Law Courts in Vancouver and Victoria and, from time to time, in Kamloops, Kelowna, and Prince George.

The judges of Court of Appeal are also judges of the Yukon Court of Appeal which sits once a year in [Whitehorse](#). Yukon appeals are heard in Vancouver.

Vancouver is the central registry for the Court of Appeal. So, if you were going to file an appeal this is where you would get started.

There are 14 regular full time judges plus the Chief Justice who heads the Court of Appeal. There are also semi-retired judges who sit at least half-time as supernumerary judges.

The judges are addressed as Mister or Madam Justice outside the courtroom and as My Lord or My Lady inside the courtroom. As this is a more formal court, the judges and the lawyers wear black robes.

You may have seen or visited Courtroom 50 which is the Heritage courtroom in Vancouver. It brings a little of the past into the more modern building and reminds us of the long history that has built our justice system.

Find out more about this court by visiting its website. You may want to read the reasons for judgment which are posted there for recent decisions.

Link to the Court of Appeal
www.courts.gov.bc.ca

Link to Supreme Court of Canada
www.scc-csc.gc.ca