

The rules committee of the Federal Court of Appeal and the Federal Court, pursuant to section 46<sup>a</sup> of the *Federal Courts Act*<sup>b</sup>, hereby makes the annexed *Rules Amending the Federal Courts Rules*.

Ottawa, October, 2005

John D. Richard  
Chief Justice of the  
Federal Court of Appeal

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<sup>a</sup> S.C. 2002, c. 8, s. 44

<sup>b</sup> S.C. 2002, c. 8, s. 14

Whereas, pursuant to paragraph 46(4)(a)<sup>a</sup> of the *Federal Courts Act*<sup>b</sup>, a copy of the proposed *Rules Amending the Federal Courts Rules*, substantially in the annexed form, was published in the *Canada Gazette*, Part I, on May 21, 2005 and interested persons were invited to make representations with respect to the proposed Rules;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Justice, pursuant to section 46<sup>c</sup>, of the *Federal Courts Act*<sup>b</sup>, hereby approves the annexed *Rules Amending the Federal Courts Rules*, made by the rules committee of the Federal Court of Appeal and the Federal Court.

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<sup>a</sup> S.C. 1990, c. 8, s. 14(4)

<sup>b</sup> S.C. 2002, c. 8, s. 14

<sup>c</sup> S.C. 2002, c. 8, s. 44

(SOR/DORS)

RULES AMENDING THE FEDERAL COURTS RULES

AMENDMENTS

**1. Rule 420 of the *Federal Courts Rules*<sup>1</sup> is replaced by the following:**

Consequences of  
failure to  
accept  
plaintiff's  
offer

**420.** (1) Unless otherwise ordered by the Court and subject to subsection (3), where a plaintiff makes a written offer to settle and obtains a judgment as favourable or more favourable than the terms of the offer to settle, the plaintiff is entitled to party-and-party costs to the date of service of the offer and costs calculated at double that rate, but not double disbursements, after that date.

Consequences of  
failure to  
accept  
defendant's  
offer

(2) Unless otherwise ordered by the Court and subject to subsection (3), where a defendant makes a written offer to settle,

(a) if the plaintiff obtains a judgment less favourable than the terms of the offer to settle, the plaintiff is entitled to party-and-party costs to the date of service of the offer and the defendant shall be entitled to costs calculated at double that rate, but not double disbursements, from that date to the date of judgment; or

(b) if the plaintiff fails to obtain judgment, the defendant is entitled to party-and-party costs to the date of the service of the offer and to costs calculated at double that rate, but not double disbursements, from that date to the date of judgment.

Conditions

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<sup>1</sup> SOR/98-106; SOR/2004-283

(3) Subsections (1) and (2) do not apply unless the offer to settle

(a) is made at least 14 days before the commencement of the hearing or trial; and

(b) is not withdrawn and does not expire before the commencement of the hearing or trial.

Offers without costs

**420.1** (1) In circumstances where a written offer to settle does not provide for the settlement of the issue of costs, if a party requests the Court to consider rule 420, the Court, in ascertaining whether the judgment granted is more or less favourable than the offer to settle, shall not have regard to costs awarded in the judgment or that would otherwise be awarded.

Application to court

(2) For greater certainty, if a written offer to settle that does not provide for the settlement of the issue of costs is accepted, a party to the offer may apply to the Court for an order determining costs.

**2. Subsection 455(1) of the Rules is replaced by the following:**

Order for other person to attend

**455.** (1) If, on a motion under rule 449, it is brought to the notice of the Court that a person other than the judgment debtor has or claims to have an interest in the debt sought to be attached, the Court may order the person to attend before the Court and state the nature of his or her interest.

COMING INTO FORCE

**3. These Rules come into force on the day on which they are registered.**