

Do's and Don'ts of Chambers

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For:

Alberta Civil Trial Lawyers Association

Weapons in Chambers

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Court of Queen's Bench of Alberta
601 5 Street SW
Calgary, AB T2P 5P7*

Do's and Don'ts of Chambers – Feedback from a Master

Andrew R. Robertson, Q.C., Master in Chambers

The Questioning Itself

1. Make Your Questions Clear.
2. Make Your Undertaking Requests Clear.
3. Identify the Documents Clearly on the Record.
4. (a) Premature Objections.
(b) Crippling objections based on relevance.

The Application Form

5. Use the Application Form.
6. Read rule 6.3(2)(d). When you get back to the office you might wonder why this was important, you will look it up, and then you might remember why it is.

The Brief

7. File the Transcript.
8. Make Our Job Easy.
9. If You Are Filing a Brief, Reproduce the Application behind “Tab 1” to Your Brief.
10. If You are Filing a Brief, Attach the Critical Documents as “Tabs 2 and 3”.
11. Choose a Colour for your Brief – different from the other litigants’ colours.

The Oral Argument

12. Give Opposing Counsel Copies of your Cases the Day Before, or at 10:00 a.m.
13. Highlight the Relevant Passages in Your Case Law.
14. Bring Extra Copies of Affidavits.
15. Dress appropriately.

16. Do not be late.
17. When your case is called, come up and address the Master, not the podium.
18. When your case is called, look at the time and write it down.
19. Introduce the other counsel.
20. Let us know if service is in order. We don't need to know all the details if it is. We only need to know the details if it is not.
21. Try to have a chat in the hall before chambers starts if you can.
22. Start by telling the master what you are looking for and what rule you are relying on.
23. Don't Expect the Master to Understand the Case.
24. Don't Mix Up Your Good Arguments with Bad Ones.
25. Listen to our questions and answer them, or at least give it a go.
26. Don't ask for things your client is not entitled to based on clear law. For example:

(a) **There is no entitlement to contract-rate interest in Alberta after judgment.** After judgment, interest runs at the prescribed rate under the *Judgment Interest Act: Avco Financial Services Canada Ltd v Kilbreath*, 1996 CanLII 10520 (Veit, J.) and *National Trust Co v Conroy*, 1995 CanLII 9043 (Waller, M.C.). Different provinces have different rules. There is a long constitutional and historical reason why.

(b) **Interest does not compound unless the agreement or the statute says it does.** The *Judgment Interest Act* does not say it compounds. Therefore, it does not. But note that if interest is actually paid monthly, the effect is to compound it.

(c) **Awards of costs do not include GST if the claimant (whoever is actually getting the costs) is entitled to an input tax credit:** Rule 10.48(2). In practical terms, this usually means that an individual who is awarded costs gets the Schedule C amount plus GST, but the corporate litigant does not.

(d) **Judgment cannot properly be granted in any currency other than Canadian dollars.** Aside from the obvious problems the clerk would have making a pro rata distribution of garnished funds if there is more than one judgment creditor, legislation actually says this: *Currency Act*, RSC 1985, c. C-52, section 12:

All public accounts established or maintained in Canada shall be in the currency of Canada, and any reference to money or monetary value in any indictment or other legal proceedings shall be stated in the currency of Canada.

Kenny, J. discussed when the conversion should be done, in *Alpine Canada Alpin v Non-Marine Underwriters*, 1999 ABQB 454.

27. Do Not Speak with Great Fervour and Determination.
28. Know When to Stop Talking.
29. Be Prepared to Speak to Costs.
30. Rule 7.4.