

## Case Naming Guidelines

### Notes for the CCC Conference Call

Prepared by Ruth Rintoul, June 12, 2008

The following items are listed on the Agenda prepared by Frédéric for the June 12 conference call, under "Case naming appendix". I have provided some notes on each item and incorporated responses from several e-mails.

Agenda item 7.1: non-standard examples. I believe this topic was raised by Louise Hamel, specifically in relation to the federal **Secretary of State for Multiculturalism and Citizenship**. In an e-mail dated May 21/08 I responded:

"I believe the correct short Case Name should be: Canada (Multiculturalism and Citizenship). Under Rule 23 - Core Government Entity (under Omitted Terms), the following is provided: Redundant designations such as "Minister of", "Department of", "Minister responsible for", "Minister of State for" or "Secretary of State for" are omitted from the parentheses (ex. 99, 101-102).

I believe our goals are simplicity and brevity, so long as no important information is lost from the name.

In effect, we are saying in our short case name for a government entity: "the defendant in this case is the government entity which is responsible for a certain core activity: for example, the environment, transportation, immigration, multiculturalism, and so on".

The government entity could be a full government ministry, or a minister responsible for a second or third portfolio, or a Secretary of State, an Office, a Bureau. The responsible entity may change every few years depending on changes in government or in policy. Lawyers filing documents in registries may use a variety of names. So in our short case name we propose to focus on the part of the party's name which describes the core activity, as in the Employment Standards examples below.

<u>Director</u> of Employment Standards	British Columbia (Employment Standards)
Employment Standards <u>Officer</u>	British Columbia (Employment Standards)
Employment Standards <u>Branch</u>	British Columbia (Employment Standards)
<u>Minister</u> responsible for Employment Standards	British Columbia (Employment Standards)
Ministry of Labour and Citizens' Services, Employment Standards Branch	British Columbia (Employment Standards)

We propose an exception for administrative tribunals, which would keep their full name.

Exception: (administrative tribunal)	
Employment Standards Tribunal	British Columbia (Employment Standards Tribunal)

Our recommendation in Rule 23 to treat terms such as “Minister of”, “Department of” and “Secretary of State for”, “Director of”, “Office of” as redundant is beneficial for government re-organizations. For example, when a Secretariat becomes a Department, our short name stays the same. In Nova Scotia the **Seniors Secretariat** became the **Department of Seniors**. Our short case name **Nova Scotia (Seniors)** covers both of them.

There will be exceptions of course, when the stripped-down name or core name doesn’t make any sense and can’t stand alone.

Agenda item 7.2: divisions of organizations (Rule 15). The concern was that the wording of the Rule was unclear or over-complicated. Again, the goal is simplicity and brevity. If the Division name can stand on its own, we use the Division name alone. Perhaps we should re-word the Rule as follows:

## 15. Division of an Organization or Corporation

Except as noted below, where the full style of cause includes the name of a division of an organization, refer only to the **division name** where the name of the division can *stand alone* and be understood without reference to the name of the parent organization (ex. 49). Where the division name cannot stand alone, refer only to the **parent organization** without including the division name (ex. 47, 48)

**Exception:** If the organization is a worker’s union, see Rule 20 - Worker’s Union.

Agenda item 7.3: groups (Rule 21). This was a concern expressed by Michele Lesage from SOQUIJ and it is a valid concern. When only a group of residents or a group of employees is acting in a case, we should not use a short case name that implies that all residents or all employees are acting together in the court proceeding. The examples would be revised to add “Group of” as below. Am I correct that we don’t need “All” Tenants in ex. 92? Or should we add it.

	<i>Party named in the full style of cause</i>	<i>Party named in the case name</i>
92	All tenants of the residential complex at 400 Devonshire Avenue	Tenants of 400 Devonshire Avenue
93	A Group of concerned residents of Thames and Mersey Avenues	<u>Group of</u> Residents of Thames and Mersey Avenues

	<i>Party named in the full style of cause</i>	<i>Party named in the case name</i>
94	A Group of Employees of Dairy Farms Inc.	<u>Group of</u> Employees of Dairy Farms Inc.

Agenda item 7.4: Entity representing a party (Rule 28). Anne Van Iderstine suggested that there was a danger that staff would overlook this section. She suggested we incorporate these provisions throughout the Rules. I have reviewed this option briefly and it seems perfectly feasible.

Agenda item 7.5, Officer or body appointed under an act (Rule 25). Michael Cowle rightly pointed out that we say “include the name of the Act” in the short case name and then we ignore this Rule in the examples. As we spent more time on the document, the mantra of “simplicity and brevity” seemed to suggest that we follow the lead of the governments and create common names where none exist. This brings up the utility of the provincial lists once again. A further discussion on these lists is at the end of this document.

Agenda item 7.6, Criminal proceedings – informant (Rule 27). A suggestion from Michael Cowle respecting private prosecutions, that we indicate after the surname that the party is an Informant (démonciateur / dénonciatrice). I don’t see a problem, and we can easily add an example.

Agenda item 7.7, Municipal government body (Rule 17.1). I believe the issue is how to determine if an entity is provincial or municipal. It is true that the same function can be a provincial responsibility in one province and a municipal responsibility in another province. It is understood that court staff don’t have the time to research the legislation, and the judgment itself may not be clear. The provincial lists are an option, discussed further below.

Agenda item 7.8, First nation chief and councillors (Rules 18 and 18.1, example 76). I think the issue is how to establish the correct name for an aboriginal community. Here was my response to this comment:

With respect to Example 76, the style of cause says “Treaty Six Grand Chief Danny Bradshaw”. We must omit “Grand Chief Danny Bradshaw” from the short Case Name because he is acting for the First Nation, not personally. That leaves “Treaty Six”. Searching the Aboriginal Canada Portal for “Treaty Six” is not helpful, but a Google search leads directly to their website, and the official name “Confederacy of Treaty Six First Nations”. There are hundreds of First Nation names. It would be possible to compile a list of the ones that have appeared regularly in the caselaw in the past 10 years. Also, the provincial lists could contain the principal First Nations located in that province. I included the First Nations of Nova Scotia in the Nova Scotia Toolkit.

See further discussion below.

## **The Preparation & Maintenance of Provincial Lists (also federal and territorial)**

Ruth Rintoul, June 12, 2008

1. It is suggested that if court staff and other persons involved in case-naming had access to detailed lists of local entities and the correct short Case Name for each one, it would save time and promote consistency in the names.
2. Case-naming staff generally don't have time to research the names found in styles of cause. How can these lists be prepared and how can they be maintained and updated?
3. As you know, there are 2 lists on the Canadian Citation Committee website at this time (Federal and Alberta) that I prepared some time ago. The website versions have not been updated, although significant internal work has been done on both lists since they were first posted. My plan is to revise both of them when we have finalized the changes to the Case Naming Guidelines.
4. On behalf of the Canadian Citation Committee I received funding from the Nova Scotia Law Foundation to prepare a list for Nova Scotia. It is called the Nova Scotia Case Naming Toolkit. It contains about 600 entities. In addition to core government bodies and tribunals it includes school boards, post-secondary colleges, municipalities, police services, aboriginal communities, correctional bodies, etc. In addition, I prepared a document outlining the procedures used in compiling the Toolkit. Draft copies of both documents were submitted to the Foundation in April 2008. Any changes in policy resulting from the present discussions of the Canadian Citation Committee will be incorporated into the draft Toolkit. Final versions will be submitted and posted on the internet.
5. There are a number of ways that such a list could be maintained. Ideally, a local person would take over the maintenance. Several levels of work could be undertaken.
  - 5.1 The simplest approach is to add new entities to the list, or make other changes, only when new entity names appear in the newly released judgments and these entities are not on the list.
  - 5.2 Another approach would be to team up with staff who update the online government directories, and request notification of additions and changes to the names of departments and branches and government corporations.
  - 5.3 Another approach would be to generally monitor new legislation, including new regulations and new Orders-in-Council, to catch the creation of new entities, changes in name, and changes in status (for example, a change from non-incorporated status to corporate status (crown corporations / departmental corporations). Perhaps there are staff in legislative libraries or other offices who carry out this work already, who could assist.