

## **RULE 55 – INTERPLEADER**

### **Entitlement to relief by way of interpleader**

- (1) Where a person (in this rule called the "applicant") is sued or expects to be sued in respect of property in the person's possession or under the person's control or in respect of the proceeds from a disposition of the property, or receives a claim in respect of the property or proceeds by or from 2 or more persons (in this rule called the "claimants") making adverse claims and the applicant claims no beneficial interest in the property, the applicant may apply to the court for relief by way of interpleader.

### **Claim to real or personal property taken by sheriff**

- (2) A person who makes a claim to or in respect of property taken or intended to be taken by a sheriff in the execution of any process, or to the proceeds from a disposition of the property, shall deliver to the sheriff written notice of the person's claim and the person's address for delivery.

### **Sheriff to deliver notice**

- (3) On receipt of a notice of claim, a sheriff shall promptly deliver a copy to the person who caused the process to issue, and that person shall, within 7 days after receiving the copy, deliver to the sheriff a written notice stating whether that person admits or disputes the claim.

### **Where claim admitted**

- (4) On receipt of a notice admitting a claim, a sheriff shall release any property the claim to which is admitted, and the court may restrain the bringing of a proceeding against the sheriff for or in respect of having taken possession of the property and, unless the court otherwise orders, a person who admits a claim is only liable to the sheriff for any costs, fees and expenses incurred by the sheriff before receipt of the notice admitting the claim.

### **Sheriff may apply for interpleader relief**

- (5) On receipt of a notice disputing a claim or on the failure of the person who caused the process to issue to give the sheriff the notice within the time required by subrule (3), the sheriff may apply for interpleader relief.

### **Mode of application**

- (6) An application for interpleader relief shall be made by petition, unless it is made in a proceeding already commenced, in which case it may be made by notice of application.

## **Affidavit**

- (7) An application for interpleader relief shall be supported by an affidavit stating the names and addresses of the claimants of whom the applicant has knowledge and that the applicant
- (a) claims no beneficial interest in the property in dispute, other than for costs, fees or expenses,
  - (b) does not collude with any claimant of the property, and
  - (c) is willing to deliver the property to the court or to dispose of it as the court may direct.

## **Application for interpleader relief**

- (8) An application for interpleader relief may be made without notice, and the court may deal with the matter summarily or may give directions for service.

## **Powers of court on hearing application**

- (9) On the hearing of an application for interpleader relief the court may
- (a) order a claimant to be made a party in a proceeding already commenced in substitution for or in addition to the applicant,
  - (b) order an issue between the claimants to be stated and tried and may direct which claimant is to be plaintiff and which defendant,
  - (c) on the request of the applicant or a claimant, determine the rights of the claimants summarily,
  - (d) if a claimant fails to attend, or attends and fails or refuses to comply with an order made in the proceeding, make an order declaring the claimant be forever barred from prosecuting the claim against the applicant, without affecting the rights of the claimants as between themselves,
  - (e) stay any further step in a proceeding,
  - (f) where there are interpleader applications pending in several proceedings, make an order that shall be binding on all the parties to the various proceedings,
  - (g) order the costs of the applicant to be paid out of the property or proceeds,
  - (h) declare that the liability of the applicant with respect to the property or the proceeds is extinguished, and
  - (i) make any other order it thinks just.