

RULE 33 – COURT APPOINTED EXPERTS

Appointment by court

- (1) On application, or on its own initiative, the court may, at any time, appoint one or more independent experts to inquire into and report on any question of fact or opinion relevant to an issue in the proceeding.
- (2) The selection of the expert may be agreed upon by the parties, but where they cannot agree, selection shall be made by the court.

Directions to expert

- (3) The court, after consultation with the parties, shall settle the question to be submitted to the expert and shall give the expert appropriate directions.

Duty of expert

- (4) It is the duty of a court appointed expert to assist the court on matters within his or her expertise. A court appointed expert is not an advocate and their primary duty is to the court.

Contents of order appointing expert

- (5) The order appointing an expert shall contain the directions to the expert and the court may make such further orders as it considers necessary to enable the expert to carry out the directions, including, on application by a party, an order for
 - (a) inspection of property under Rule 30 (5), or
 - (b) the examination with respect to the physical or mental condition of a party under Rule 30 (1).

Remuneration of expert

- (6) The remuneration of the expert shall be fixed by the court, and may include a fee for the report required under subrule (8) and an appropriate sum for each day that the expert's attendance in court is required.

Security for remuneration

- (7) The court may make an order for security for the remuneration of the expert, without prejudice to either party's right to costs.

Report

- (8) The expert shall prepare a report and send it to the registry, with a copy to the parties or to their lawyers, within such time as the court directs.

Report filed as evidence

- (9) The report shall be entered as evidence at the trial of the action, unless the trial judge orders otherwise.

Further reports

- (10) The court may direct the expert to make a further or supplementary report, and subrules (8) and (9) apply to that report.

Cross-examination of expert

- (11) Any party may require the attendance of the expert at the trial for cross-examination by any of the parties.