

## **RULE 18 – SUMMARY JUDGMENT**

### **Application for summary judgment**

- (1) In an action in which an appearance has been entered, or in an action referred to in Rule 17(13) or in a family law proceeding that is not an uncontested divorce proceeding within the meaning of Rule 63(1), the plaintiff, on the ground that there is no defence to the whole or part of a claim, or no defence except as to amount, may apply to the court for judgment on an affidavit setting out the facts verifying the claim or part of the claim and stating that the deponent knows of no fact which would constitute a defence to the claim or part of the claim except as to amount.

### **Order for summary judgment**

- (2) On the hearing of an application under subrule (1), the court may exercise any of its powers under Rule 50(9) and may:
  - (a) grant judgment for the plaintiff on the whole or part of the claim and may impose terms on the plaintiff, including a stay of execution of any judgment, until the determination of a defendant's counterclaim or third party proceeding;
  - (b) allow the defendant to defend the whole or part of the claim either unconditionally or on terms relating to the giving of security, time, the mode of trial or otherwise, and may give directions under Rules 42(46) and (53) for the hearing of evidence at trial;
  - (c) with the consent of all parties, dispose of the action finally in a summary way, with or without pleadings;
  - (d) award costs; or
  - (e) grant any other order it thinks just.

### **Continuing proceedings after summary judgment**

- (3) Where a plaintiff obtains judgment under subrule (2), the plaintiff may continue the action in respect of any remaining part of the claim, any other claim or against any other defendant.

### **Summary judgment on counterclaim or third party proceeding**

- (4) This rule applies to a counterclaim or third party proceeding.

### **Setting aside or varying summary judgment**

- (5) A judgment given against a party who does not attend at the hearing of an application under this rule may be set aside or varied by the court.

### **Summary judgment for defendant**

- (6) In an action in which an appearance has been entered, the defendant may, on the ground there is no merit in the whole or part of the claim, apply to the court for judgment on an affidavit setting out the facts verifying the defendant's contention that there is no merit in the whole or part of the claim and stating that the deponent knows of no facts which would substantiate the whole or part of the claim.

### **Order for summary judgment for defendant**

- (7) On the hearing of an application under subrule (6) the court may:
  - (a) dismiss the action; or
  - (b) make any order referred to in subrule (2).