



CASSANDRA SUTTER



LAURA WARNER

CAN AN ORIGINATING APPLICATION BE AMENDED?

In Alberta, actions started by Originating Application are governed by Rules 3.8 to 3.14 (with the judicial review rules starting at Rule 3.15). There are no specific rules about when an originating application can be amended. That is different from actions started by Statement of Claim. Amendments for those actions are governed by Rules 3.62 to 3.67.

Rule 3.12 says that the Court can apply “Statement of Claim Rules” to actions started by Originating Application.

A colleague was recently advised that a litigant who needs to amend their Originating Application has two options: file a new Originating Application or apply to a Master under Rule 3.12 for an order authorizing the filing of the amendment.

I understand that Court clerks will reject amendments that do not comply with this direction, whether the application is returnable in Masters’ or Justice chambers.

The direction is somewhat curious, given that pleadings do not close in an Originating Application like they do in an action started by Statement of Claim. Nonetheless, the Court is likely trying to prevent unnecessary, multiple amendments, or last minute amendments which cause delays.