



5 year rolling administrative dismissal date

Rule 48 after January 1, 2017

LAWPRO reminds lawyers that on a rolling basis beginning January 1, 2017, matters commenced on or after January 1, 2012 will be automatically dismissed five years after they were commenced. Remember, the courts will dismiss actions without sending notices of any type to parties or their lawyers. Update internal firm systems to tickle all relevant Rule 48 dismissal dates on all files. Please be proactive and keep your files moving along. Consider using LAWPRO's Rule 48 Transition Toolkit (practicepro.ca/Rule48), which provides advice and tools lawyers and law firms can use to lessen the risk of a claim under Rule 48.

Reminder for defence lawyers

Defence lawyers are reminded that based on a plain reading, Rule 48.14 also applies to third party actions. Defendants who have commenced a third party action should tickle relevant Rule 48.14 dates.

Recent case answers Rule 48.14 questions

In a recent case, *Daniels v. Grizzell*, 2016 ONSC 7351, Associate Chief Justice Marrocco provided some comments that clarify the interpretation of Rule 48.14 and give clear answers to a number of the more common questions LAWPRO has received from Ontario lawyers. The clarifications provided are as follows:

1. Where a consent timetable is submitted to the Registrar at least 30 days from the dismissal date, a draft order must also be included [para. 5].
2. If a party brings a motion before the Rule 48.14 dismissal date, the matter shall not be dismissed for delay until the motion is heard, even if the matter is heard after the dismissal date [para. 7].
3. A Rule 48.14 dismissal for delay by the Registrar shall not contain a costs order [para. 8].
4. Rule 24.05.1(1), which provides that a party can seek costs on a matter dismissed

for delay, does not apply to a matter dismissed under Rule 48.14 [para. 9].

5. Rule 48.14 does not apply to case managed actions [para. 10] (e.g., class actions).
6. Rule 48.14 does not apply to matters on the Commercial List [para. 10].
7. Rule 48.14 applies to proceedings commenced as an action [para. 11]. Estates and other matters commenced by application are not subject to the Rule, while those commenced by action are.
8. Rule 48.14 does not apply to applications that are converted to actions [para. 11].
9. Rule 48.14 does not apply to actions that are stayed [para. 12].

Referencing the plainly stated points in the endorsement, paragraph 13 notes that Rule 48.14 is intended to keep court information current (i.e., remove inactive matters from court lists) and that it should not be interpreted in a way that makes it a trap for the unwary. ■

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