

Canadian Rules. However, on a reading of Part 74 of the Civil Procedure Rules, 2002, especially the provisions dealing with the dispensing of mediation, those provisions do not make it a process that must be followed.

4. I agree with Mr. Hylton that the implication of **CPR 15.4(2)** is that an application for summary judgment may proceed without awaiting mediation and before a Case Management Conference. He referred to **CPR 15.4(5)** which provides that "The court may exercise its [summary judgment] powers without such notice at any case management conference."
5. I am reinforced in this view by the provisions of **CPR 15.6(1), (2)** and especially **(3)**, which read:

15.6 (1) On hearing an application for summary judgment the court may

- (a) give summary judgment on any issue of fact or law whether or not such judgment will bring the proceedings to an end;**
- (b) strike out or dismiss the claim in whole or in part;**
- (c) dismiss the application;**
- (d) make a conditional order; or**
- (e) make such order as may seem fit.**

(2) Where summary judgment is given on a claim, the court may stay execution of that judgment until after the trial of any ancillary claim made by the defendant against whom summary judgment is given.

that that ought not to await mediation. Matters must be dealt with expeditiously and so as to save judicial time. The application for summary judgment saves time and costs.

9. For these reasons, I dismiss the preliminary objection and allow the summary judgment application to proceed on the date set. Costs to the Defendant to be taxed if not agreed. Leave to appeal granted.

JUDGE