

## Personal Injury Actions –The Trial

The trial is what happens if the parties cannot agree to settle the dispute. The trial normally marks the end of the litigation process (barring appeal, of course).

Trials in BC can be conducted in a summary fashion by affidavit evidence or they can be done the long, formal way with witnesses, cross-examination and all the rest.

Regular trials in Canadian courts are similar to what you see on American or British TV. Unlike their American counterparts, however, Canadian lawyers wear robes, though not wigs like the British barristers. In Canada, trials can also be conducted with a jury or without.

Summary trials are where all of the evidence is presented in the form of affidavits. Summary trials are conducted in courtrooms just like regular trials but the courtrooms are called “chambers”, for reasons best known to legal historians.

In chambers, the lawyers do not wear robes but the male lawyers wear suit and tie and the ladies wear “appropriate garb” that has (to my admittedly limited knowledge) yet to be defined but does not include halter tops, T-shirts, shorts, mini skirts, go-go boots or the like.

Summary trials (or trial by affidavit) are appropriate where there are no issues that depend on credibility. For example, if one party says the light was green while the other one says it was red, that is not the kind of a case that is appropriate for a summary trial. The judge cannot decide which party is more likely to be telling the truth just by looking at their affidavits.

In a regular trial, the judge or the jury has to see the witnesses and hear their testimony in order to properly decide who is telling the truth and who isn't. However, if the trial involves the interpretation of a contract or a difference of opinion as to how much a particular injury is worth (the usual situation in a personal injury trial that is conducted summarily), those are issues that are appropriate for a summary trial.

While the forms of the two types of trials are different, the one thing they have in common is that the end result of both is a final judgment.