

# Defending an Action Started by a Notice of Civil Claim

This guidebook (along with the guidebook *Starting an Action by Notice of Civil Claim*) will assist you in defending a lawsuit started against you in the Supreme Court of British Columbia. When you have been served with a notice of civil claim, you might find it helpful to talk to a lawyer about what you need to do. Defending a lawsuit is complicated and time-consuming and the consequences of doing things late or incorrectly may be serious.

## How to defend yourself

A notice of civil claim is a document that starts a lawsuit against you. The person who started the action is called the plaintiff and you are called the defendant.

Generally, you must be personally served with the notice of civil claim. Personal service usually means that someone (normally a process server) will have personally handed you the document or will have left the document with an adult at your home or work. However, if a person has difficulty serving you, the rules provide for other ways for you to be served. If the claim is against a company, the company may be served through its registered office or its officers.

There is additional information on service of documents (including information about alternative ways for you to be served) in the guidebook, *Starting an Action by Notice of Civil Claim*). Once you have been served, procedural time limits relating to your lawsuit begin to run.

## Important time limits

Time limits are important in legal claims in two ways. First, they set limits on how long someone can wait before they start a lawsuit. Second, time limits apply to court procedures (procedural time limits).

### Limitation periods

The first thing you need to think about is limitation periods. Limitation periods set limits on how long the plaintiff can wait before starting a lawsuit. For example, the plaintiff must start an action for damages arising from a motor vehicle accident within 2 years of the date of the accident.

This Guidebook provides general information about civil, non-family claims in the Supreme Court of BC. It does not explain the law. Legal advice must come from a lawyer, who can tell you why you should do something in your lawsuit or whether you should take certain actions. Anyone else, such as court registry staff, non-lawyer advocates, other helpers, and this guidebook can only give you legal information about how to do something, such as following certain court procedures.

Standards are in effect for the filing of all Supreme Court civil and Supreme Court family documents, except divorce and probate. When you submit your completed documents, registry staff will check to make sure they meet the minimum standards before accepting them for filing. It is your responsibility to include all other information required by the court and ensure it is correct.

For information about how to get help with your case, see the last page of this document.

Here are some other things you need to know about limitation periods:

- ✦ Different types of cases have different limitation periods.
- ✦ The *Limitation Act* (a copy of this Act can found in the courthouse library or online at [www.bclaws.ca](http://www.bclaws.ca)) sets out the different limitation periods for different types of cases.
- ✦ Most limitation periods vary from 2 to 6 years and start from the date that:
  - the event you want to sue about happened; or
  - the date you found out about your possible claim.
- ✦ If the person who has started the case against you has not done so within the limitation period, you can use that as a defence to the lawsuit.

### Procedural time limits

There are numerous procedural time limits that will affect your case. These time limits exist to make sure that cases proceed in a timely way. To not follow or ignore them can result in costs or judgment against you.

Some of these time limits are set out in the forms and others are set out in the Supreme Court Civil Rules. For example, if you are being sued, you must deliver your response to the notice of civil claim within 21 days (if you live in Canada); otherwise the plaintiff may proceed to get judgment against you without the court hearing your side of the story.

Make sure you understand the time limits that apply in every step of the litigation process so you do not miss important deadlines.

## Responding to a notice of civil claim

The first thing you need to do is to file a response (Form 2), which tells the plaintiff that you are going to defend the claim against you. A copy of a response

to civil claim is included in this guidebook. It also provides the plaintiff with your address for service so he or she can mail, e-mail, fax or hand deliver documents to you.

You will need to prepare, file and serve a response to civil claim within 21 days (if you live in Canada):

Time Limit	If you live (and were served):
Within 21 days of service	within Canada
Within 35 days of service	in the United States
Within 49 days of service	anywhere else in the world

When you calculate the number of days you have to file a response, you do not include the day you were served.

### Failing to file a response to a notice of civil claim

If you have been served with a notice of civil claim and do not file a response, the plaintiff can go to court to ask for a default judgment requiring you to pay the amount the plaintiff seeks (see Rule 3-8). Once this happens, you no longer have the opportunity to tell the court why you should not have to pay that amount.

### Late filing of a response

If you wish to defend yourself but have filed your response late, the registry will still accept it for filing. When you file the response, ask the registry to check to see if a default judgment has been granted against you. If a default judgment has been granted, you can make an application to the court to ask for the default judgment to be set aside. For more information about bringing an application to court, see the guidebook, *Applications to Court*.

## Completing your response

A notice of civil claim sets out certain information that you need to know. The document will tell you:

- The style of proceeding and registry file number. The style of proceeding is how the court registry identifies your file (it includes the court file number, the name of the registry, the level of court and the names of the parties). You must include the style of proceeding on every document you prepare in the lawsuit;
- The location of the registry where all subsequent documents must be filed;
- The name and address of the person or lawyer who filed the document;
- The service address for the plaintiff;
- How long you have to reply to the document before default judgment can be taken against you.

When you begin preparing your response to civil claim, refer to Rule 3-3(2). Your response must be in Form 2, which has three key parts. In Part 1:

- indicate which facts (referenced by paragraph number in the notice of claim) are admitted, which are denied, and which are outside of your knowledge;
- for all facts denied, set out your own version of those facts; and
- set out any additional material facts that you believe relate to the matters raised by the plaintiff.

Remember that you must set out the facts that support your defence to the claim made against you. This is not the same thing as setting out the evidence. Evidence is information that can prove the facts that you claim happened. For example if paragraph 1 of the notice of claim states that it was raining on the

day of the accident, and you believe it was not, you would simply deny the allegation in paragraph 1 and state that the weather was clear on the date of the accident. You would not attach weather reports or indicate which witnesses could testify about the weather on that day.

In Part 2, you must indicate whether you consent to any of the relief requested by the plaintiff, what relief you oppose and what relief you take no position on.

In Part 3, you must summarize the legal basis behind your opposition to the relief requested by the plaintiff. You should specify any rules, regulations or legislation that you are relying on. The legal basis can be stated “in the alternative”. This means, for example, that you could state that by law, you owed no duty to the plaintiff to protect him from injury but, in the alternative, even if you did owe a duty to the plaintiff, you acted reasonably and did not breach your duty to the plaintiff.

The response to the notice of claim is critical to your defence. Once you admit something in your response, it is very difficult to withdraw that admission later on. You will want to make sure you get it right. Think about talking to a lawyer at this point to make sure your response is correct and complete.

## Do you have a counterclaim?

A counterclaim (Rule 3-4; Form 3) is a document setting out any claim you might have against the plaintiff or another party related to the lawsuit started by the plaintiff. For example, if the plaintiff is suing you for money owing on a piece of dry cleaning equipment that you purchased from him, your counterclaim against the plaintiff may be for the damage caused to your customers’ clothing by the malfunctioning equipment.

It is possible that the counterclaim raises questions between yourself and a person other than the plaintiff. In that case, you may join that other person as a party against whom the counterclaim is brought (see Rule 3-4(2)). In this example, you may want to sue the company that manufactured the equipment in addition to the person who sold it to you.

The counterclaim contains the same information as a notice of civil claim, so if you are preparing one, see the guidebook, *Starting an Action by Notice of Civil Claim* for information that must be included in this document.

The counterclaim may be attached to your response, or it may be prepared and filed separately, but it must be in Form 3 and it must be served within the time allowed for the response.

Preparing and filing a counterclaim is a complicated procedure. It turns you into a plaintiff for part of the lawsuit and you will then have to take all the steps required of a plaintiff. It changes the style of proceedings by adding the plaintiff as a defendant by counterclaim. See the style of proceeding below:

	No. 12345
	Vancouver Registry
IN THE SUPREME COURT OF BRITISH COLUMBIA	
BETWEEN:	JOE SMITH and FRANK JONES
	PLAINTIFFS
AND:	XYZ HOLDINGS LTD., FRED
	JOHNSON AND MARY BROWN
	DEFENDANTS
AND:	JOE SMITH AND FRANK JONES
	DEFENDANTS BY COUNTERCLAIM

## Third Party Claims

If you believe that another party (called, the “third party”) is partly responsible for the claim being made against you, you can file a third party claim under Rule 3-5. For example, in the dry-cleaning scenario,

if you are the dry-cleaner and you’re being sued for ruining a customer’s expensive suit, you might want to file a third party claim against the manufacturer of the dry cleaning machine, alleging that the machine was defective.

A third party claim must be filed in Form 5 within 42 days after being served with the notice of civil claim or a counterclaim. After that, it can only be filed with leave (permission) of court, which can be obtained by filing an application (see the guidebook, *Applications to Court*).

## Filing your documents

Once your documents are completed, it is time to file them. You will need:

- the original for the court registry;
- one copy for your file; and
- one copy for each of the plaintiffs.

There is a filing fee for filing a response. You can call the court registry to confirm the current fee or check Schedule 1 to Appendix C of the Rules.

The registry will stamp each document with the date it was filed. The original documents will be placed in the court file. The registry will return the copies to you to deliver to the plaintiff. You should bring along an extra copy of all your documents so the registry can stamp and return a copy for your file.

If you can’t afford the filing fee, you can file an application with the court to have the fee waived. This is called an application for indigent status (see Rule 20-5 and Form 79 and 80). (You can find information about filing a requisition (Form 17) in the guidebook, *Requisitions*.)

The documents can be filed with some court registries by fax (see Rule 23-2). If you plan to file by fax, refer to the Fax Filing Rules on the court’s website at [www.courts.gov.bc.ca](http://www.courts.gov.bc.ca). The locations where you can fax files are listed there.

Court registry staff are extremely helpful and may be able to point out any small errors in the form of the document before you file it, but remember that they cannot give you legal advice – you will have to talk to a lawyer about legal issues in your case. When you submit your completed documents, court registry staff will check to make sure they meet the minimum standards before accepting them for filing. You are responsible for including all other information required by the court and ensuring that it is correct.

## Serving your documents

Once you have filed your response with the registry, you need to serve it on the plaintiff.

You do not need to personally serve the plaintiff with your response to civil claim or with your counterclaim. Ordinary (not personal) service means that you do not need to personally deliver the document to the person or to their home or place of business. Instead, you may serve the documents:

- by regular mail to the address for service listed on the notice of civil claim;
- by fax, if a fax number is listed; or
- by email, if an email address is listed.

Include an extra copy of the cover letter and ask the plaintiff to acknowledge receipt on the copy of the letter and return it to you. Keep the copy of the letter in your file with the acknowledgement of receipt in case you need it in the future. If the other party does not acknowledge receipt of the document, you will need to file an affidavit of service setting out how, when and where you served the document. For further information about the service of documents, see Rules 4-1 to 4-7.

## Get Help With Your Case

Before you start your claim, you should think about resolving your case without going to court (see the guidebook, *Alternatives to Going to Court*). If you do not have a lawyer, you will have to learn about the court system, the law that relates to your case, what you and the other side need to prove, and the possible legal arguments for your case. You will also need to know about the court rules and the court forms that must be used when you bring a dispute to court.

### Legal Information Online

All *Guidebooks for Representing Yourself in BC Supreme Court Civil Matters*, along with additional information, videos and resources for Supreme Court family and civil cases are available on the Justice Education Society website: [www.SupremeCourtBC.ca](http://www.SupremeCourtBC.ca).

Clicklaw gives you information about many areas of law and free services to help you solve your legal problems: [www.Clicklaw.bc.ca](http://www.Clicklaw.bc.ca).

The Supreme Court of BC's website has information for people who are representing themselves in court: [www.Courts.gov.bc.ca/supreme\\_court/self-represented\\_litigants/](http://www.Courts.gov.bc.ca/supreme_court/self-represented_litigants/)

### Legal information services

The Vancouver Justice Access Centre's, Self-help and Information Services includes legal information, education and referral services for Supreme Court family and civil cases. It is located at 290 - 800 Hornby Street in Vancouver (open Monday to Friday): [www.SupremeCourtSelfHelp.bc.ca](http://www.SupremeCourtSelfHelp.bc.ca).

For information about other Justice Access Centre services in Vancouver and Nanaimo, see: [www.JusticeAccessCentre.bc.ca](http://www.JusticeAccessCentre.bc.ca).

### Legal advice

You may be eligible for free (pro bono) legal advice. Access ProBono Society of BC's website gives you information about the legal assistance that is available to you: [www.AccessProBono.ca](http://www.AccessProBono.ca).

### Legislation

BC Legislation (statutes), regulations, and Rules of Court can be found at: [www.BCLaws.ca](http://www.BCLaws.ca).

### Court rules and forms

Supreme Court forms can be completed in 3 ways:

1. Completed online and filed at: [www.CourtServicesOnline.gov.bc.ca](http://www.CourtServicesOnline.gov.bc.ca)
2. Completed online, printed and filed at the registry
3. Printed, completed manually and filed at the registry

Court forms that can be completed online are available at: [www.ag.gov.bc.ca/courts/other/supreme/2010SupRules/info/index\\_civil.htm](http://www.ag.gov.bc.ca/courts/other/supreme/2010SupRules/info/index_civil.htm)

Printable court forms are available at: [www.SupremeCourtBC.ca/civil/forms](http://www.SupremeCourtBC.ca/civil/forms)

### Common legal terms

You can find out the meaning of legal terms at: [www.SupremeCourtBC.ca/glossary](http://www.SupremeCourtBC.ca/glossary)

### Family law

For information about family law claims, see: [www.FamilyLaw.LSS.bc.ca](http://www.FamilyLaw.LSS.bc.ca).

This guidebook is part of a series:

## Guidebooks for Representing Yourself in Supreme Court Civil Matters.

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This Guidebook was prepared by David Mossop, Q.C., Community Legal Assistance Society – [www.CLASBC.net](http://www.CLASBC.net).

# NOTES

## Form 2

1

(Rule 3-3 (1) )

*[Style of Proceeding]*

### RESPONSE TO CIVIL CLAIM

*[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*

**Filed by:** .....[party(ies)]..... (the “defendant(s)”)

#### Part 1: RESPONSE TO NOTICE OF CIVIL CLAIM FACTS

2

##### Division 1 – Defendant’s(s’) Response to Facts

*[Indicate, for each paragraph in Part 1 of the notice of civil claim, whether the fact(s) alleged in that paragraph is(are) admitted, denied or outside the knowledge of the defendant(s).]*

- 1 The facts alleged in paragraph(s) .....[list paragraph numbers]..... of Part 1 of the notice of civil claim are admitted.
- 2 The facts alleged in paragraph(s) .....[list paragraph numbers]..... of Part 1 of the notice of civil claim are denied.
- 3 The facts alleged in paragraph(s) .....[list paragraph numbers]..... of Part 1 of the notice of civil claim are outside the knowledge of the defendant(s).

##### Division 2 – Defendant’s(s’) Version of Facts

3

*[Using numbered paragraphs, set out the defendant’s(s’) version of the facts alleged in those paragraphs of the notice of civil claim that are listed above in paragraph 2 of Division 1 of this Part.]*

- 1
- 2

##### Division 3 – Additional Facts

4

*[If additional material facts are relevant to the matters raised by the notice of civil claim, set out, in numbered paragraphs, a concise statement of those additional material facts.]*

- 1
- 2

#### Part 2: RESPONSE TO RELIEF SOUGHT

*[Indicate, for each paragraph in Part 2 of the notice of civil claim, whether the defendant(s) consent(s) to, oppose(s) or take(s) no position on the granting of that relief.]*

5

- 1 The defendant(s) consent(s) to the granting of the relief sought in paragraphs .....[list paragraph numbers]..... of Part 2 of the notice of civil claim.

6

- 2 The defendant(s) oppose(s) the granting of the relief sought in paragraphs .....[list paragraph numbers]..... of Part 2 of the notice of civil claim.

7

- 3 The defendant(s) take(s) no position on the granting of the relief sought in paragraphs .....[list paragraph numbers]..... of Part 2 of the notice of civil claim.

**Part 3: LEGAL BASIS**

**8**

*[Using numbered paragraphs, set out a concise summary of the legal bases on which the defendant(s) oppose(s) the relief sought by the plaintiff(s) and specify any rule or other enactment relied on. The legal bases for opposing the plaintiff's(s') relief may be set out in the alternative.]*

1

2

**9**

Defendant's(s') address for service: *[Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]*

Fax number address for service (if any):

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# NOTES

Court forms are available at: [www.ag.gov.bc.ca/courts/other/supreme/2010SupRules/info/index\\_civil.htm](http://www.ag.gov.bc.ca/courts/other/supreme/2010SupRules/info/index_civil.htm). They can be completed online and filed electronically using Court Services Online: [www.courtservicesonline.gov.bc.ca](http://www.courtservicesonline.gov.bc.ca). They can also be printed and completed manually; or completed online, printed and filed.

## **File this form in the court registry and serve it on the plaintiff.**

1. The style of proceeding is the part at the top of the document that identifies your case within the court system. You will use the style of proceeding on every one of your documents, whether they are filed in the court registry or not. Insert the court number, the location of the registry (e.g., Vancouver), as it is part of your style of proceeding. Write in the names of the plaintiff and defendant in capital letters (not addresses) in the style of proceeding.
  2. This is where you respond to the facts that the plaintiff has set out in the notice of civil claim. There are facts that you may agree with (e.g., the date that the plaintiff fell down your stairs); disagree with (e.g., that your stairs were unsafe); or you don't know (e.g., that it was – 5 degrees Celsius on the day of the accident).
  3. State your own version of the facts here. Give details of the items that you disagree with in part 2 of the previous section.
  4. State other facts that are important to your case that were not raised by the plaintiff (e.g., that the plaintiff climbed over a locked gate to get into your yard).
  5. With respect to the orders that the plaintiff is asking the court to make, set out which ones (if any) you agree to.
  6. With respect to the orders that the plaintiff is asking the court to make, set out which ones you don't agree with.
  7. With respect to the orders that the plaintiff is asking the court to make, set out which ones (if any) you don't take a position on (e.g., are satisfied with whatever the court orders on that issue).
  8. Set out the legal basis of your claim, including the Court Rules, legislation, and case law that support your claim (e.g., the plaintiff trespassed on your property and is not entitled to damages for personal injury according to *Brown v. Smith*, 2009 BCSC 200).
  9. Set out your name. Your address must be a physical location (not just a post office box) where documents can be delivered.
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# NOTES

## Form 3

1

(Rule 3-4 (1) )

*[Style of Proceeding]*

*[Add the following to the style of proceeding to identify each person, not named as party in the notice of civil claim, against whom the counterclaim is brought.]*

and

Defendant(s) by way of counterclaim

### COUNTERCLAIM

*[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*

2

**Filed by:** .....[party(ies)].....

3

**To:** .....[name(s) of party(ies) against whom the counterclaim is brought].....

This action has been brought by the plaintiff(s) against the defendant(s) for the relief set out in the notice of civil claim filed in this action.

TAKE NOTICE that the defendant(s) .....[state name(s)]..... claim(s) against you for the relief set out in Part 2 below.

IF YOU INTEND TO RESPOND to the claim made against you in this counterclaim, or if you have a set-off or counterclaim that you wish to have taken into account at the trial, YOU MUST FILE a response to counterclaim in Form 4 in the above-named registry of this court within the time for response to counterclaim described below and SERVE a copy of the filed response to counterclaim on the address for service of the defendant(s) bringing this counterclaim.

YOU OR YOUR LAWYER may file the response to counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to counterclaim within the time for response to counterclaim described below.

#### **Time for response to counterclaim**

A response to counterclaim must be filed and served on the defendant(s) bringing this counterclaim,

- (a) if you were served with the counterclaim anywhere in Canada, within 21 days after that service,
- (b) if you were served with the counterclaim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the counterclaim anywhere else, within 49 days after that service, or
- (d) if the time for response to counterclaim has been set by order of the court, within that time.

Claim of the Defendant(s) Bringing the Counterclaim

**4 Part 1: STATEMENT OF FACTS**

*[Using numbered paragraphs, set out a concise statement of the material facts giving rise to the counterclaim.]*

- 1
- 2

*[If any party sues or is sued in a representative capacity, identify the party and describe the representative capacity.]*

**Part 2: RELIEF SOUGHT**

**5** *[Using numbered paragraphs, set out the relief sought and indicate against which party(ies) that relief is sought. Relief may be sought in the alternative.]*

- 1
- 2

**Part 3: LEGAL BASIS**

**6** *[Using numbered paragraphs, set out a concise summary of the legal bases on which the defendant(s) bringing this counterclaim intend(s) to rely in support of the relief sought and specify any rule or other enactment relied on. The legal bases for the relief sought may be set out in the alternative.]*

- 1
- 2

**7** Address for service of the defendant(s) bringing this counterclaim: *[Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]*

Fax number address for service (if any):

E-mail address for service (if any):

The address of the registry is:

Date: .....[dd/mmm/yyyy].....

.....  
Signature of

[ ] filing party [ ] lawyer for filing party(ies)

.....[*type or print name*].....

Rule 7-1 (1) of the Supreme Court Civil Rules states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial, and

(b) serve the list on all parties of record.

# NOTES

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Court forms are available at: [http://www.ag.gov.bc.ca/courts/other/supreme/2010SupRules/info/index\\_civil.htm](http://www.ag.gov.bc.ca/courts/other/supreme/2010SupRules/info/index_civil.htm).

They can be completed online and filed electronically using Court Services Online:  
[www.courtservicesonline.gov.bc.ca](http://www.courtservicesonline.gov.bc.ca).

They can also be printed and completed manually; or completed online, printed and filed.

## **File this form in the court registry and serve it on all parties of record.**

1. The style of proceeding is the part at the top of the document that identifies your case within the court system. You will use the style of proceeding on every one of your documents, whether they are filed in the court registry or not. Insert the court number, the location of the registry (e.g., Vancouver), as it is part of your style of proceeding. Write in the names of the plaintiff and defendant in capital letters (not addresses) in the style of proceeding.
  2. Put your name here.
  3. Put the names of the others that you are bringing the action (counterclaim) against.
  4. “Material facts” are the facts that relate to your claim. Set out your story.
  5. “Relief sought” is a summary of what orders you are asking the court to make (e.g., that the plaintiff pay \$3,500 in damages for the cost of repairing my car).
  6. Set out the legal basis of your claim, including the Court Rules, legislation, and case law that support your claim (e.g., the defendant’s stairs were rotten and unsafe contrary to *The Occupiers’ Liability Act*, s. 3; calculation of damages in a wrongful dismissal case as described in *Brown v. Smith*, 2009 BCSC 200, etc.).
  7. Your address must be a physical location (not just a post office box) where documents can be delivered.
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# NOTES

## Form 5

1

(Rule 3-5 (3) )

*[Style of Proceeding]*

*[Add the following to the style of proceeding.]*

and

Third Party(ies)

### THIRD PARTY NOTICE

*[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*

2

**Filed by:** .....[party(ies)]..... (the "claiming party(ies)")

3

**To:** .....[name(s) of third party(ies)].....

THIS ACTION has been brought by the plaintiff(s) against the defendant(s) for the relief set out in the notice of civil claim filed in this action.

TAKE NOTICE that the claiming party(ies) claim(s) against you for the relief set out in Part 2 below.

IF YOU INTEND TO RESPOND TO this claim against you, or if you have a set-off or counterclaim that you wish to have taken into account at the trial, YOU MUST FILE a response to third party notice in Form 6 in the above-named registry of this court within the time for response to third party notice provided for below and SERVE a copy of the filed response to third party notice on the claiming party's(ies') address for service.

YOU OR YOUR LAWYER may file the response to third party notice.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to third party notice within the time for response to third party notice described below.

#### **Time for response to third party notice**

A response to third party notice must be filed and served on the claiming party(ies),

- (a) if you were served with the third party notice anywhere in Canada, within 21 days after that service,
- (b) if you were served with the third party notice anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the third party notice anywhere else, within 49 days after that service, or
- (d) if the time for response to third party notice has been set by order of the court, within that time.

Claim of the Claiming Party(ies)

4

**Part 1: STATEMENT OF FACTS**

*[Using numbered paragraphs, set out a concise statement of the material facts giving rise to the claiming party's(ies') third party claim.]*

1

2

*[If any party sues or is sued in a representative capacity, identify the party and describe the representative capacity.]*

5

**Part 2: RELIEF SOUGHT**

*[Using numbered paragraphs, set out the relief sought against the third party(ies). Relief may be sought in the alternative.]*

1

2

6

**Part 3: LEGAL BASIS**

*[Using numbered paragraphs, set out a concise summary of the legal bases on which the claiming party(ies) intend(s) to rely in support of the relief sought and specify any rule or other enactment relied on. The legal bases for the relief sought may be set out in the alternative.]*

1

2

7

Address for service of claiming party(ies): *[Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]*

Fax number address for service (if any):

E-mail address for service (if any):

The address of the registry is:

Date: .....[dd/mmm/yyyy].....

.....

Signature of

[ ] filing party [ ] lawyer for filing party(ies)

.....[type or print name].....

Rule 7-1 (1) of the Supreme Court Civil Rules states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial, and

(b) serve the list on all parties of record.

# NOTES

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Court forms are available at:

[http://www.ag.gov.bc.ca/courts/other/supreme/2010SupRules/info/index\\_civil.htm](http://www.ag.gov.bc.ca/courts/other/supreme/2010SupRules/info/index_civil.htm).

They can be completed online and filed electronically using Court Services Online:

[www.courtservicesonline.gov.bc.ca](http://www.courtservicesonline.gov.bc.ca).

They can also be printed and completed manually; or completed online, printed and filed.

## **File this form in the court registry and serve it all parties of record.**

1. The style of proceeding is the part at the top of the document that identifies your case within the court system. You will use the style of proceeding on every one of your documents, whether they are filed in the court registry or not. Insert the court number, the location of the registry (e.g., Vancouver), as it is part of your style of proceeding. Write in the names of the plaintiff and defendant in capital letters (not addresses) in the style of proceeding.
  2. Put your name here.
  3. Put the names of the others that you are bringing the third party claim against.
  4. Material facts” are the facts that relate to your claim. Set out your story.
  5. “Relief sought” is a summary of what orders you are asking the court to make (e.g., that the third party pay \$35,000 for failing to return my car pursuant to our rental agreement).
  6. Set out the legal basis of your claim, including the Court Rules, legislation, and case law that support your claim (e.g., the third party’s stairs were rotten and unsafe contrary to *The Occupiers’ Liability Act*, s. 3; calculation of damages in a wrongful dismissal case as described in *Brown v. Smith*, 2009 BCSC 200, etc.).
  7. Set out your name. Your address must be a physical location (not just a post office box) where documents can be delivered.
-

**NOTES**

**Form 79**

**(Rule 20-5 (3) )**

No. \_\_\_\_\_  
Registry \_\_\_\_\_

**1**

*In the Supreme Court of British Columbia*

Between

Plaintiff(s)

and

Defendant(s)

**ORDER FOR INDIGENT STATUS**

*[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*

*[Complete the form in accordance with the instructions found in the bracketed italicized wording and then remove all bracketed italicized wording so that it does not appear in the form when the form is filed.]*

**2**

BEFORE THE HONOURABLE \_\_\_\_\_ )  
\_\_\_\_\_)  
 BEFORE MASTER \_\_\_\_\_ )  
\_\_\_\_\_) *[dd/mmm/yyyy]*

**3**

ON THE APPLICATION of \_\_\_\_\_  
\_\_\_\_\_) *[name]*  
\_\_\_\_\_ and on hearing  
*[add, if applicable, coming on before me on]* \_\_\_\_\_ *[dd/mmm/yyyy]*  
\_\_\_\_\_ and \_\_\_\_\_  
*[name of party/lawyer]* \_\_\_\_\_ *[name of party/lawyer]*

[Select whichever one of the 4 following provisions is correct, complete the selected provision and remove the provisions that have not been selected so that they do not appear in the form when the form is filed.]

**4**  THIS COURT ORDERS that no fee is payable by \_\_\_\_\_  
[name of person]

to the government under Schedule 1 of Appendix C of the Supreme Court Rules in relation to this proceeding:

[add the following if applicable:]

subject to the following:

**5** \_\_\_\_\_  
[set out any conditions on this order]

**6**  THIS COURT ORDERS that no fee is payable by \_\_\_\_\_  
[name of person]

to the government under Schedule 1 of Appendix C of the Supreme Court Rules in relation to the following part(s) of this proceeding:

\_\_\_\_\_  
[describe part(s)]

[add the following if applicable:]

subject to the following:

\_\_\_\_\_  
[set out any conditions on this order]

THIS COURT ORDERS that no fee is payable by \_\_\_\_\_  
[name of person]

to the government under Schedule 1 of Appendix C of the Supreme Court Rules in relation to this proceeding during the following period(s):

\_\_\_\_\_  
[describe period(s)]

[add the following if applicable:]

subject to the following:

---

*[set out any conditions on this order]*

THIS COURT ORDERS that no fee is payable by \_\_\_\_\_  
*[name of person]*

to the government under Schedule 1 of Appendix C of the Supreme Court Rules in relation to the following steps in this proceeding:

---

*[describe step(s)]*

*[add the following if applicable:]*  
subject to the following:

---

*[set out any conditions on this order]*

By the Court.

---

Registrar

---

## NOTES

Court forms are available at:

[www.ag.gov.bc.ca/courts/other/supreme/2010SupRules/info/index\\_civil.htm](http://www.ag.gov.bc.ca/courts/other/supreme/2010SupRules/info/index_civil.htm).

They can be completed online and filed electronically using Court Services Online:

[www.courtservicesonline.gov.bc.ca](http://www.courtservicesonline.gov.bc.ca).

They can also be printed and completed manually; or completed online, printed and filed.

### **File this form in the court registry.**

1. The style of proceeding is the part at the top of your document that identifies your case within the court system. You will use the style of proceeding on every one of your documents, whether they are filed in the court registry or not. The court registry will insert the registry number, which you must use on all your documents. Insert the location of the registry (e.g., Vancouver). Write in the names of the plaintiff and defendant in capital letters (not addresses).
  2. Put the name of the judge or master who heard this application and insert the date that application was heard.
  3. Put your name here, and the date.
  4. Put your name here.
  5. Add any exceptions that the judge ordered. For example, "No fee is payable in relation to the filing of any documents in this proceeding."
  6. Set out any conditions that the judge made on the order. For example, "The applicant must pay court fees if his employment resumes during the course of this litigation."
-

# NOTES

## Form 80

(Rule 20-5 (3) )

1

This is the .....[1st/2nd/3rd/etc.]..... affidavit  
of .....[name]..... in this case  
and was made on .....[dd/mmm/yyyy].....

2

*[Style of Proceeding]*

### **AFFIDAVIT IN SUPPORT OF INDIGENT APPLICATION**

*[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*

3

I, .....[name]....., of.....[address]....., .....[occupation]....., SWEAR (OR AFFIRM)  
THAT:

4

1 I am the .....[party]..... in this proceeding.

2 I make this affidavit in support of my application for an order that I be declared indigent with respect to the payment of fees set out in Schedule 1 of Appendix C of the Supreme Court Civil Rules.

3 I am ..... years old.

5

4 I have the following dependants: *[List all the dependants in the household.]*

.....  
.....  
.....

6

5 The following persons contribute to my household expenses: *[List all in the household who contribute to expenses.]*

6 I am  employed  unemployed.

7

7 Attached as Exhibit A is *[Check whichever one of the following boxes is correct and attach the required exhibit.]*

a financial statement that accurately sets out the monthly income, expenses and assets of my household.

proof that I receive benefits under the *Employment and Assistance Act* or the *Employment and Assistance for Persons with Disabilities Act*.

8 Attached as Exhibit B is an accurate description of my educational and employment history.

9 Attached as Exhibit C is an accurate description of my workplace skills.

10 Attached as Exhibit D is a copy of the document I wish to file or with which I wish to proceed.

**8** SWORN (OR AFFIRMED) BEFORE ME )  
at ..... , British Columbia )  
on .....[dd/mmm/yyyy]..... ) .....  
 )  
..... )  
A commissioner for taking affidavits )  
for British Columbia )  
.....[print name or affix stamp of commissioner].....

**9** This is Exhibit A referred to in the affidavit of  
....., sworn (or affirmed)  
before me on .....[dd/mmm/yyyy].....  
.....  
A commissioner for taking affidavits for  
British Columbia

**10** **FINANCIAL STATEMENT**

**ESTIMATED NET MONTHLY INCOME**

[Attach proof – i.e. most recent pay stubs or payment advice, etc., if available.]

Estimated net monthly income from all sources:

Employment \$.....  
Pension \$.....  
Dividends \$.....  
Interest \$.....  
Other \$.....

TOTAL (Estimated net monthly income) \$.....

ESTIMATED MONTHLY EXPENSES

[Attach receipts for the following, if available.]

Estimated monthly expenses related to housing	\$.....
Estimated monthly expenses related to transportation	\$.....
Estimated monthly expenses related to household expenses	\$.....
Estimated monthly expenses related to medical and dental expenses	\$.....
Estimated monthly expenses, not included in above, related to dependent children	\$.....
Estimated monthly debt payments [specify].....	\$.....
Estimate of other monthly expenses [specify].....	\$.....

TOTAL (Estimated monthly expenses) \$.....

ASSETS

[Specify assets and set out their estimated value.]

.....	\$.....
.....	\$.....
.....	\$.....
.....	\$.....
.....	\$.....
.....	\$.....

TOTAL (Estimated asset values) \$.....

This is Exhibit B referred to in the affidavit of  
....., sworn (or affirmed)  
before me on .....[dd/mmm/yyyy].....

.....

A commissioner for taking affidavits for  
British Columbia

EDUCATIONAL AND EMPLOYMENT HISTORY

[Set out details of education and employment history.]

1 Highest level of education attained and date completed:

.....  
.....  
.....

2 Employment history:

Employer	Dates	Position
.....	.....	.....
.....	.....	.....
.....	.....	.....

This is Exhibit C referred to in the affidavit of  
....., sworn (or affirmed)  
before me on .....[dd/mmm/yyyy].....

.....

A commissioner for taking affidavits for  
British Columbia

WORKPLACE SKILLS

[specify]

.....  
.....  
.....

# NOTES

---

Court forms are available at:

[http://www.ag.gov.bc.ca/courts/other/supreme/2010SupRules/info/index\\_civil.htm](http://www.ag.gov.bc.ca/courts/other/supreme/2010SupRules/info/index_civil.htm)

They can be completed online and filed electronically using Court Services Online:

[www.courtservicesonline.gov.bc.ca](http://www.courtservicesonline.gov.bc.ca)

They can also be printed and completed manually; or completed online, printed and filed.

## **File this form in the court registry.**

1. Indicate which affidavit this is, your name, and the date you swore the affidavit.
  2. The style of proceeding is the part at the top of the document that identifies your case within the court system. You will use the style of proceeding on every one of your documents, whether they are filed in the court registry or not. Insert the court number, the location of the registry (e.g., Vancouver), as it is part of your style of proceeding. Write in the names of the plaintiff and defendant in capital letters (not addresses) in the style of proceeding.
  3. Put your name, address, and occupation here.
  4. State which party you are in this court case (e.g., the defendant; third party, etc.).
  5. Provide the names of those who are financially dependent on you (e.g., Mary Brown, my wife; Robert Brown, my son; Joe Brown, my father).
  6. Does anyone help with your household expenses? If so, list them.
  7. You must provide your financial statement or proof that you receive assistance from the government.
  8. The person whom you signed your affidavit in front of (i.e., a court registry person, notary public or lawyer) will complete this section.
  9. The person whom you signed your affidavit in front of (i.e., a court registry person, a notary public or lawyer) will complete this section.
  10. Complete this financial statement to the best of your ability. You must provide information in every section, with financial receipts, if possible (e.g., a pay stub; a rental agreement).
-