

Starting an Action by Notice of Civil Claim

This guidebook will give you some instructions on how to start an action by notice of civil claim in the BC Supreme Court. It contains information about choosing the correct court, the time limits that apply to your case, and how to prepare, file, and serve your court documents.

Should this case go to court?

Before you decide to start a court case, there are several things that you should think about:

- ✦ The majority of cases settle before trial.
- ✦ If you think your case can be settled, you may want to consider alternatives before you begin your lawsuit. These options are discussed in the guidebook, *Alternatives to Going to Court*. In brief, some of these alternatives are:
 - negotiation (e.g., an exchange of letters between the parties);
 - mediation; and
 - arbitration.
- ✦ Taking a case to court can be an expensive and slow way of solving your problem. When considering alternatives, consider the cost and time of taking your case to court, as opposed to the cost and time of an alternative solution.

You might want to get legal advice to answer these questions. It is important to remember that if you sue and lose, you could be ordered by the court to pay the costs of the other parties, which could be very significant.

Even if you win and are entitled to costs from the other parties, those costs will likely be far less than the money you will spend on your case, especially with respect to reimbursement of legal fees. And remember that “winning” your case in court is only another step in resolving your legal dispute – you still have to enforce your judgment against the other party.

Choosing a court

Civil cases (called claims, lawsuits or actions) can be started in either the Provincial Court or the Supreme Court of British Columbia. You will find important information that will help you choose the right court in the guidebook, *Overview of the Civil Litigation Process*.

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.

Provincial Court

If your claim is for \$25,000 or less, you can likely start your claim in Provincial Court. The division of the Provincial Court that hears civil claims is referred to as Small Claims Court and the procedures and forms are much easier to use. To find out more about the Small Claims Court, go to its website at: www.SmallClaimsBC.ca.

Supreme Court

The BC Supreme Court deals with almost all types of cases except:

- Cases where a law says that the matter must go to a special government agency or tribunal. These include residential tenancy complaints, workers' compensation matters and labour relations. For in-depth information about tribunals and how they work, go to: A Guide to Administrative Law in BC at: www.AdminLawBC.ca.
- Cases where the federal government has control. These include tax matters, immigration matters, and patents and trademarks. The Federal Court deals with these matters. Its website is: www.fct-cf.gc.ca/index_e.html.

Important time limits

Time limits are important in legal claims in two ways: you must start your action within a certain period of time (limitation periods) and you must be aware of time limits that apply to court procedure (procedural time limits).

Limitation periods

The first thing you need to think about are limitation periods. Limitation periods set limits on how long you can wait before you start a case. For example, you must start an action for damages arising from a motor vehicle accident within 2 years of the date of the accident. 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/) 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 your limitation period is not clear to you, you should consult a lawyer. If your limitation period expires before you file a claim, your opportunity to file the claim may be lost.

Procedural time limits

There are numerous procedural time limits that will affect your case. Some of these time limits are set out in the forms and others are set out in the Rules of Court. 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) of the date you received the claim. 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.

Starting your proceeding

There are three ways to start a proceeding in the British Columbia Supreme Court: an action, a petition proceeding and a requisition proceeding.

An action: Is started with a form called a *notice of civil claim*. This is the most common form of a lawsuit between two or more parties. It covers cases such as financial debt, motor vehicle accidents, construction disputes, wrongful termination of employment, malpractice, and numerous other types of cases.

A petition proceeding: In very general terms, covers matters such as wills and estates, guardianship, adoption, bankruptcy, and foreclosure. It is very important to read the full text of Rule 2-1 to understand the particular actions that must be commenced by petition. Further information on petition proceedings is covered in Rule 16-1.

A requisition proceeding: Covers a very limited scope of matters where an order may be obtained from the court without notice to the other party. Information on requisition proceedings is in Rule 17-1 (and the guidebook, *Requisitions*).

If in doubt about which type of proceeding to file you should get legal advice to answer this key question. The next question to answer is: which registry do you file the documents in?

Generally, claims are started in the registry most convenient to the person starting the claim. If you live in Langley, but start the claim in Vancouver, you are going to be travelling to Vancouver to file your documents and attend court hearings. A court in New Westminster or Chilliwack might be more convenient for you. A list of registries can be found at the courthouse library or www.courts.gov.bc.ca (Court Locations and Contacts).

Who should be part of the proceeding?

A critical part of planning your case is deciding who you want to make your case against and who might be on your side of the case. When you start an action with a notice of civil claim, you are called the plaintiff and the person you are suing is called the defendant.

The plaintiff(s) and defendant(s) are called the parties to the action. Parties to a claim may be many different types of entities, such as:

- a person;
- a partnership;
- a company;
- a Crown corporation (i.e., BC Transit or ICBC);
- a trade union;
- a city; or
- a province.

There can be more than one person or business as either the plaintiff or the defendant. Make sure you have the correct (and full) names of every person who will be named in the documents. You will also need each party's address (which cannot be a post office box). Check the rules for specific information about suing different types of parties. If there is more than one plaintiff, all of them must consent to being part of the action.

Consider getting legal advice to make sure the correct parties are included in the document because if you chose the wrong parties, it will cost you time and money to change the documents later.

Preparing your documents

Once you have decided on the type of document to use, the parties, and the registry location, it is time to prepare your document. Copies of the documents are included at the end of this guide. You can also get copies from any court registry or download them from the website addresses at the end of this guide.

Style of proceeding

Begin by preparing a style of proceeding. This is the part at the top of the document that identifies it 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.

Here is an example of a completed style of proceeding on a notice of claim.

	No. 12345
	Vancouver Registry
IN THE SUPREME COURT OF BRITISH COLUMBIA	
BETWEEN:	JOE SMITH and MARY SMITH
	PLAINTIFFS
AND:	FRED BROWN AND BROWN
	BUILDING CONTRACTORS
	DEFENDANTS

The number in the top right hand corner will be stamped on by the court registry when you present your document for filing. That registry number is the identifying number for your case.

Review the document carefully to make sure you have all the information you need to complete it. For all documents, you need to set out the facts carefully and clearly. Be concise and specific. Do not give your opinion about the case. You will need to do research on the laws that apply to your case to understand what you need to prove at trial.

Notice of civil claim

Prepare a notice of civil claim (Form 1) when you have all the information that you need to start an action in court. It contains all the information that you want the judge to consider.

The content that must be included in the notice of civil claim is set out in Rule 3-1. The notice of civil claim sets out the basis of your claim, including:

- ♦ a concise statement of the material facts giving rise to the claim;
- ♦ the relief sought by the plaintiff against each named defendant; and
- ♦ a concise summary of the legal basis for the relief sought.

Filing your documents

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

- ♦ one copy for the court registry;
- ♦ one copy for your file;
- ♦ one copy for each of the defendants; and
- ♦ the appropriate number of copies for affidavits of service (see below), if required.

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. 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.

You will need to pay the applicable registry filing fees. The fees are listed in Schedule 1 of Appendix C to the Rules. You can call the court registry to confirm the current fees or check Schedule 1 to Appendix C to the Rules at the website addresses noted at the end of this guide.

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 Forms 79 and 80). (You can find information about filing a requisition (Form 17) in the guidebook, *Requisitions*.)

Once you have paid the filing fees or have an order from the court waiving the fees, the registry:

- opens a file;
- gives your case a registry file number (this is the permanent identification number for your case that is stamped at the top of your document);
- stamps and returns the copies of the document to you.

Serving your documents

Once your documents are filed, you must serve the defendants with a stamped copy of the notice of civil claim to notify them that you have started a proceeding against them (see Rules 4-1 to 4-6). Serving a document has a special meaning which is set out in the rules. The procedures are described below.

You can serve documents yourself or have someone else do this for you. A process server is a professional document server and if you anticipate having trouble reaching a party, you might consider using a process server. Process servers can be found in the telephone book.

Personal service of notice of civil claim

Rule 4-3 tells you how to serve a notice of civil claim. In brief, those documents must be personally served on the other party, as follows:

Individuals: leave a copy of the document with him or her.

Corporations: leave a copy of the document with the president, chair, or other chief officer of the corporation.

Other corporations: leave a copy of the document with the manager, cashier, superintendent, treasurer, secretary, clerk or agent of the corporation or any branch or agency of the corporation in BC;

Cities and municipalities: leave a copy with the city clerk or municipal clerk;

Unincorporated associations: by leaving a copy of the document with any officer of the association;

Trade unions: by leaving a copy of the document with any officer of the trade union or with a business agent;

Government bodies: by following the rules that explain how to serve that body (check the government website or the courthouse library for more complete information).

More information about how to serve a corporation whose chief place of business is outside BC can be found in Rule 4-3(2)(b)(iv). Rule 4-3(2) also tells you how to serve documents on the Attorney General of BC, an infant, or a mentally incompetent person. It is important to serve the other party properly. If it is not done correctly, the court may not allow you to proceed against the other party.

Ordinary service of other documents

Rule 4-2 tells you how to serve other documents in your court case (other than the notice of civil claim). In general you can serve other documents in your court case by:

- leaving the document at the person's address for delivery;
- mailing the document by ordinary mail to the person's address for service;
- sending the document by fax (see the provisions of Rule 4-2(5), which say when the document can be faxed, depending on its length); or
- sending it by email.

How to prove that the documents were served

It is important to be able to prove that the party you are suing has been served with the notice of civil claim. Otherwise, the party could deny that he or she had any knowledge of the claim against him or her. Information on proving service can be found in Rule 4-6.

If the other party responds to your notice of civil claim by filing a reply to your claim, that proves that he or she was properly served with your court documents. In all other situations, you can prove that you served the documents properly by filing an affidavit of personal service in Form 15.

If other court documents were served by ordinary service, you can prove that they were served by filing an affidavit of ordinary service in Form 16. You can also file a requisition in Form 17 to which is attached a written acknowledgement of receipt, signed by the party or lawyer on whom the document was served.

When do you have to serve the court documents?

You must serve the notice of civil claim within 12 months of when it was filed in the court registry. If it is not served within 12 months, it will expire and that could be a very serious matter if a limitation period is involved, including the loss of your ability to bring your case to court. So, you could file your notice of civil claim on March 1, 2010 and serve it anytime before March 1, 2011. You might want to delay serving the notice of civil claim as soon as it is filed if, for example, you are close to negotiating a settlement of your claim.

If you cannot serve your notice of civil claim within 12 months, you must apply to the court to extend the time before the notice of civil claim expires.

If you have problems serving a document

There will be times when you have difficulty personally serving a notice of civil claim. The defendant or respondent may be avoiding you or you

may not be able to find them after making a diligent search. In this situation, you can get a court order giving you permission to use an alternate method of service. Rule 4-4 sets out the information that you need to consider.

NOTE: These options are not available if you are trying to serve documents in a family law case.

You can get a court order for substituted service, which means that you may be able to mail the document to the person's last known address, leave it at their home, leave it with another adult at that address, or publish an advertisement in the newspaper (with Form 10).

When you apply to the court for an alternate method of service, you must prepare an affidavit stating:

- when, how, and where you tried to serve the person, what happened and how many times you tried to serve the document;
- what happened when you tried to serve the person (the following are some examples of the things that might happen):
 - there was no answer when you knocked on the door;
 - someone appeared to be at home when you knocked, but wouldn't come to the door; or
 - the house looked deserted.

If the court grants an order for an alternate method of service, you must serve a copy of the entered order permitting that alternate method with the document you are serving, unless the alternate method of service is by newspaper advertisement (Rule 4-4(2)).

Service outside of British Columbia

If one of the defendants lives outside of British Columbia, Rule 4-5 states that you need to include in your notice of civil claim an endorsement (Form 11), which specifies the circumstances under which service is permitted.

The circumstances under which service outside of BC is allowed are outlined in s. 10 of the *Court Jurisdiction and Proceedings Transfer Act* (a copy of this Act can be found in the courthouse library or on line at www.bclaws.ca). In general, you must show that there is a real and substantial connection between BC and the facts of the case. A typical example would be if you were involved in a motor vehicle accident in BC and the defendant resides outside of the province.

Response to your proceeding

Once a defendant has been properly served, he or she has a certain amount of time to respond. The time varies according to the defendant's residence. A defendant who lives in Canada must file and serve a response within 21 days. A longer period is allowed if the defendant lives outside Canada.

The defendant must file and serve on you a response in Form 2. It must contain an address for receiving future documents in the lawsuit. Once the response is delivered to you, most documents can be mailed or faxed to the address provided by the defendant and do not have to be personally served.

How to defend yourself in an action started with a notice of civil claim is fully described in the guidebook, *Defending an Action Started by a Notice of Civil Claim*.

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.

Clicklaw gives you information about many areas of law and free services to help you solve your legal problems: 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/

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.

For information about other Justice Access Centre services in Vancouver and Nanaimo, see: 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.

Legislation

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

Court rules and forms

Supreme Court Rules can be found at:

- www.BCLaws.ca/EPLibraries/bclaws_new/document/ID/freeside/168_2009_00
- For additional information about the new court rules: www.ag.gov.bc.ca/new-rules/

Court forms are available at:

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

Common legal terms

You can find out the meaning of legal terms at this multilingual website: www.LegalGlossary.ca.

Family law

For information about family law claims, see: www.FamilyLaw.LSS.bc.ca.

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NOTES

1

Form 1

(Rule 3-1 (1))

No.

..... Registry

In the Supreme Court of British Columbia

Between

Plaintiff(s)

and

Defendant(s)

NOTICE OF CIVIL CLAIM

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

This action has been started by the plaintiff(s) for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

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

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiff(s),

- (a) if you reside anywhere in Canada, within 21 days after the date on which a copy of the filed notice of civil claim was served on you,
- (b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed notice of civil claim was served on you,
- (c) if you reside elsewhere, within 49 days after the date on which a copy of the filed notice of civil claim was served on you, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

Claim of the Plaintiff(s)

Part 1: STATEMENT OF FACTS

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

2

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

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

3

1

2

Part 3: LEGAL BASIS

[Using numbered paragraphs, set out a concise summary of the legal bases on which the plaintiff(s) 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.]

4

1

2

Plaintiff'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.]*

5

Fax number address for service (if any):

E-mail address for service (if any):

Place of trial:

The address of the registry is:

Date:[dd/mm/yyy].....

Signature of

[] plaintiff [] lawyer for plaintiff(s)

.....[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.

Appendix

6 [The following information is provided for data collection purposes only and is of no legal effect.]

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

7 **Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:**

8 [Check one box below for the case type that best describes this case.]

A personal injury arising out of:

a motor vehicle accident

medical malpractice

another cause

A dispute concerning:

contaminated sites

construction defects

real property (real estate)

personal property

the provision of goods or services or other general commercial matters

investment losses

the lending of money

an employment relationship

a will or other issues concerning the probate of an estate

a matter not listed here

9

Part 3: THIS CLAIM INVOLVES:

[Check all boxes below that apply to this case]

a class action

maritime law

aboriginal law

constitutional law

conflict of laws

none of the above

do not know

10

Part 4:

[If an enactment is being relied on, specify. Do not list more than 3 enactments.]

NOTES

Court forms are available at: 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. They can also be printed and completed manually; or completed online, printed and filed.

File this form in the court registry and personally serve it on the defendant.

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. 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), 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. “Material facts” are the facts that relate to your claim. Set out your story.
 3. “Relief sought” is a summary of what orders you are asking the court to make (e.g., that the defendant pay \$27,000, the balance owing under the contract for purchase of my boat; that the defendant pay \$35,000 for failing to return my car pursuant to our rental agreement).
 4. 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.).
 5. Set out your name. Your address must be a physical location (not just a post office box) where documents can be delivered.
 6. This data appendix has no legal effect. You are required to fill it out, however, as the collection of data is essential for continued improvement of the civil justice system.
 7. Indicate, in one or two short sentences, the essence of your claim. For example, “This claim involves a slip and fall in a grocery store, resulting in a broken hip.”
 8. Check only one box. There may be more than one box that applies to your case, but just do your best to check the box that you believe BEST describes your case. For example, if your case involves the purchase of a diamond ring, check the box labelled, “the provision of goods or services or other general commercial matters.” If your case arose because you gave a diamond ring to your friend for safekeeping and he lost or damaged it, check the box labelled, “personal property.” (Note that “personal property” generally means all property other than lands or buildings.)
 9. Check ALL the boxes that best describe your case. If you believe that none of them apply, check “none of the above.” If you are not sure if any apply, check “do not know.” Note that “conflict of laws” concerns matters that have ties to the laws of different provinces or countries (e.g., a contract between a BC and an American, concerning a Mexican company).
 10. List any laws (e.g., Acts or regulations), that you are relying on to support your case. For example, if your case involves contesting the amount of compensation received in an expropriation, you would list *The Expropriation Act*. Do not list more than 3 enactments.
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NOTES

Form 2

(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

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

[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

[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.]

- 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.
- 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.
- 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):

NOTES

Court forms are available at: 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. 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.
-

NOTES

Form 10

(Rule 4-4 (3))

[Style of Proceeding]

1

ADVERTISEMENT

2

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

To:[party(ies)].....

3, 4

TAKE NOTICE THAT on[dd/mm/yyyy]..... an order was made for service on you of a[document]..... issued from the[location]..... Registry of the Supreme Court of British Columbia in proceeding number[registry number]..... by way of this advertisement.

5

In the proceeding, the[plaintiff/petitioner]..... claim(s) the following relief against you:[describe the relief claimed]..... .

You must file a responding pleading/response to petition within the period required under the Supreme Court Civil Rules failing which further proceedings, including judgment, may be taken against you without notice to you.

You may obtain, from the[location]..... Registry, at[address]....., a copy of the[document]..... and the order providing for service by this advertisement.

6

This advertisement is placed by[party(ies)]..... whose address for service is[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.]..... .

NOTES

Court forms are available at: 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.

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

A copy of the advertisement may be attached as an exhibit to the affidavit filed in support to an application for substituted service or it may be attached as a schedule to an order but the form itself is usually not filed in the court registry.

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. 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), 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. Write in the person's name that will be served substitutionally by an advertisement.
 3. Describe the document that you are serving (e.g., a notice of civil claim).
 4. Insert the location/name of the registry where the action is filed, and its full mailing address.
 5. Describe the nature of the lawsuit (e.g., \$27,000 for non-payment of the money owing under a contract for the purchase of laundromat located 123 Main Street, in Smithers, B.C.).
 6. Write your name. Your address must be a physical location (not just a post office box) where documents can be delivered.
-

NOTES

Form 11

(Rule 4-5 (2))

1 ENDORSEMENT ON ORIGINATING PLEADING OR PETITION FOR SERVICE OUTSIDE BRITISH COLUMBIA

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

2 The[party(ies)].....,[name(s) of party(ies)]....., claim(s) the right to serve this pleading/petition on the[party(ies)].....,[name(s) of party(ies)]....., outside British Columbia on the ground that[state the circumstances, enumerated in section 10 of the Court Jurisdiction and Proceedings Transfer Act, on which the plaintiff/petitioner relies]..... .

NOTES

Court forms are available at: 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.

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

1. This endorsement must be included in a notice of civil claim or petition where the party being served is outside British Columbia. It should be typed right on the document. Insert it at the end of your document.
 2. Set out the reason that you are serving the document outside BC. Your reason must be one of the items specified in s. 10 of the *Court Jurisdiction and Proceedings Transfer Act* (e.g., the proceeding concerns the administration of the estate of Joe Brown, who owns a house at 456 Main Street, Kelowna, BC).
-

NOTES

Form 15

(Rule 4-6 (1))

[Style of Proceeding]

1

AFFIDAVIT OF PERSONAL SERVICE

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

2

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

3

On[*dd/mmm/yyyy*]....., at[*time of day*]....., I served[*name of person served*].....
with the[*type of document*]..... in this proceeding, a copy of which is attached to this affidavit and
marked as Exhibit A, by handing it to and leaving it with that person.

4

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

NOTES

Court forms are available at: 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.

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

This document must be filed in the court registry; it is not served on anyone.

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. The person who personally served the document might not be one of the parties, so this information must be completed.
 3. Describe the document that you served (e.g., a notice of civil claim) and attach a copy to your affidavit as an exhibit.
 4. Your document must be sworn or affirmed before a lawyer, a notary public, or a designated court official at the court registry.
-

NOTES

Form 16

(Rule 4-6 (1))

[Style of Proceeding]

1

AFFIDAVIT OF ORDINARY SERVICE

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

2

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

3

On*[dd/mmm/yyyy]*....., at*[time of day]*....., I served*[name of person served]*..... with
the*[type of document]*..... in this proceeding, a copy of which is attached to this affidavit and
marked as Exhibit A, by

leaving the document at*[the party's address for service]*.....

mailing the document by ordinary mail to*[the party's address for service]*.....

faxing the document to*[fax number]*..... together with a fax cover sheet

e-mailing the document to*[e-mail address]*.....

4

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]*....

NOTES

Court forms are available at: 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.

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

This document must be filed in the court registry; it is not served on anyone.

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. The person who served this document might not be one of the parties, so this information must be completed.
 3. Describe the document that you served (e.g., a notice of application) and attach a copy to your affidavit as an exhibit.
 4. Your document must be sworn or affirmed before a lawyer, a notary public, or a designated court official at the court registry.
-

NOTES

Form 17

(Rules 4-6 (1), 5-1 (4), 5-2 (4), 5-4 (1), 8-1 (21.1) and (22), 8-5 (2), 9-4 (1), 12-2 (6), 13-3 (25), 16-1 (16.1) and (17), 20-5 (3), 21-5 (4), 23-1 (9), 23-3 (10) and 23-5 (5))

1

[Style of Proceeding]

REQUISITION – GENERAL

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

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

2

Required:

This requisition is supported by the following:

[Include a description of supporting document(s). Each affidavit included on the list must be identified as follows: "Affidavit #.....[sequential number, if any, recorded in the top right hand corner of the affidavit]..... of[name]....., made[dd/mmm/yyyy].....".]

1

2

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

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

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

NOTES

Court forms are available at: 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.

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

File this form in the court registry. The Rules of Court will indicate if it must be served on the other parties.

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. Fill in what you are asking the court/court registry to do (e.g., search for an appearance; file a consent order; enter a default judgment, etc.).
-

NOTES

Form 17

No.....

.....Registry

In the Supreme Court of British Columbia

1

Between

Plaintiff(s)

and

Defendants(s)

Requisition – General

2

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

Required:

3

1. Application pursuant to Supreme Court Civil Rule 5-1 (3) to shorten the service period applicable to a notice of case planning conference.
2. Application pursuant to Supreme Court Civil Rule 5-2 (3) (a) exempting a person from attending a case planning conference.
3. Application pursuant to Supreme Court Civil Rule 5-2 (3) (b) respecting the method of attendance at a case planning conference.
4. Application pursuant to Supreme Court Civil Rule 12-2(4) for an order respecting the manner a person is to attend a trial management conference or exempting a person from attending a trial management conference.
5. Application pursuant to Supreme Court Civil Rule 23-5(4) for directions that an application be heard by way of telephone, video conference or other communication medium and the manner in which the application is to be conducted.

Term of order sought:

4

1. The notice of case planning conference must be served on the[name of party].....by[set out date]..... .
2. [name of lawyer or party]..... is exempted from attending the case planning conference in person and may attend by[set out method of attendance]... ..
3. [name of lawyer or party]..... may attend the case planning conference by[set out manner of attendance]..... .
4. [name of lawyer or party]..... may attend the trial management conference by[set out manner of attendance]..... .
or
.....[name of lawyer or party]..... is exempt from attending the trial management conference.

5

5. The application of[name of party]..... be heard by[set out method of hearing]..... . (If required) The application be heard in the following manner;[set out manner of hearing]..... .

6

This requisition is supported by the following: [include reasons why the order is sought]

Date:

.....

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

[type or print name]

7

Address of applicant:

Phone number: _____

8

Order granted []

or

Application denied []

Date:

Judge/Master of the Supreme Court

NOTES

Court forms are available at: 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.

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

Use this version of Form 17 when your application is made pursuant to Rule 5-1(4), 5-2(3)(a), 5-2(3)(b), 12-2(4), or 23-5(4). File this form in the court registry. The Rules of Court will indicate if it must be served on the other parties.

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. Your name goes here.
 3. Check the box that applies (i.e., what application you are making).
 4. Check off the order you are asking the court to make.
 5. Put your name here, and how the application will be decided (e.g., by a hearing in court, or without a court hearing).
 6. State why you are asking the court to make the order (e.g., I am requesting that I attend the case planning conference by telephone instead of in person because I will be away on vacation and not near the courthouse on the date set for the conference).
 7. Put your address here.
 8. The court will complete this section, depending on whether your application is granted or denied.
-

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.

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

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))

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

[Style of Proceeding]

AFFIDAVIT IN SUPPORT OF INDIGENT APPLICATION

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

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

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.

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

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

6 I am employed unemployed.

7 Attached as Exhibit A is a financial statement that accurately sets out the monthly income, expenses and
assets of my household.

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.

5 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]....

6

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

A commissioner for taking affidavits for British
Columbia

7

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:

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.

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. The person whom you signed your affidavit in front of (i.e., a court registry person, notary public or lawyer) will complete this section.
 6. 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.
 7. 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).
-