

Starting a Family Claim

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This Guidebook provides an outline of how to start or respond to a family law proceeding in the Supreme Court of British Columbia. If you are representing yourself, it is your responsibility to learn the rules and procedures that apply to what you are doing. The rules and procedures are set out in the Supreme Court Family Rules and Practice Directions issued by the court.

NOTE: This Guidebook does not provide legal advice and must not be used as a substitute for the advice that a lawyer may provide. This Guidebook provides general information to help people with matters in the BC Supreme Court.

Family claims in Supreme Court, including claims for divorce, are started with either a Notice of Family Claim or Notice of Joint Family Claim.

Joint and Uncontested Family Claims

If you and your ex have agreed on all legal issues such as child support, parenting arrangement and property division, you can file a Joint Family Claim. The benefit of a joint application is that the process moves along a bit quicker. You can use the **Online Divorce Assistant** to complete the required documentation or simply fill out the **Notice of Joint Family Claim**.



DIY Tools

If you are filing for a Joint Divorce, you can use the **Online Divorce Assistant** through the BC Government.

Either party can file a Notice of Family Claim whether the other agrees to or not. If the respondent does not reply within the required time frame, then the application is uncontested and will proceed without the respondent's involvement.



Find the Form

To start a family claim, including for divorce, complete the **Notice of Family Claim** or Notice of Joint Family Claim.

You usually do not have to go to court for uncontested or joint divorce applications. This is sometimes called a “desk order divorce”. Once you have filed your documents with the court, the court clerks and then a judge will look over everything. If you have filled everything out correctly and no information is missing, then a judge can grant you a divorce without you having to go to court.

If you made mistakes in the documents, the court clerk will reject them and send them back to you to fix. Once the court clerk has accepted all the documents, they will send them to the judge for review. If the judge has any concerns, they will not grant a divorce order until you have resolved the problems.

A judge will not grant a divorce unless they are satisfied that any children of the relationship are properly cared for. If you have children, you will need to fill out a **Child Support Affidavit** and indicate what arrangements have been made for their support. Usually this means one party paying the other child support according to the Child Support Guidelines. There are times when you can pay less than the guidelines amount of child support and still be granted a divorce, but you must convince the judge you fit one of the allowed **exceptions**.



DIY Tools

Do your own uncontested divorce, Legal Aid BC provides a step by step guide to doing your own divorce



Learn More

Desk order divorce: The do-it-yourself divorce process, Dial-a-Law

Contested Family Claim

If the respondent replies and disagrees with aspects of the application, then you are in a contested family proceeding. You can continue to negotiate and work out an agreement while court proceedings continue. Contested family proceedings can be as simple or as complicated as the parties make them. They can take a long time, be very expensive, and extremely stressful for all involved, especially any children.

See [Steps for Contested Family Claims](#) for more information on the process.



Learn More

Legal Aid BC has prepared instructions for how to fill out the documents for family law claims in Supreme Court. You can read more on the [Legal](#)

[Aid BC website](#).

Filing Fees

Even if you are going to handle all aspects of your case yourself, there are costs to be paid for filing court documents. These are called filing fees. There may be other costs to pay as well, such as payments for Sheriff services and witness fees.



Read the Rules

See the [BC Supreme Court fees](#) for more information.

The vast majority of family law cases are settled before trial. At the very least parties are usually able to come to an agreement on most of the issues. If you cannot agree on some or all of the issues, you are in a contested family law case. A contested family law case that makes it all the way to trial would go through the following court processes:

1. The claimant starts the court action by filing a **Notice of Family Claim** at the courthouse.
2. The claimant has someone else over 19 personally **Serving** a filed copy of the Notice of Family Claim on the respondent.
3. The respondent files a **Response to Family Claim** (and possibly a Counterclaim) at the courthouse and serves it on the claimant.
4. The claimant files and serves a Response to Counterclaim if applicable.
5. The parties share information with each other (called **Discovery**) and exchange **Financial Statements**.
6. The parties schedule and attend a **Judicial Case Conference** (JCC) to try to resolve all or some of the issues.
7. If there are still issues outstanding after the JCC, a party may make an **Application** to the court, such as for interim support or exclusive possession of the family home and household goods. A judge may make an interim order.
8. The parties may question each other through **Examinations for Discovery** to make sure everyone knows what evidence will go in front of the judge. The parties may also participate in settlement meetings.
9. Any issues that the parties cannot agree on go before a judge at a **trial**. The judge makes a final order.

Interim Orders

There could be additional steps if a party applies for interim orders (temporary orders) to deal with issues that cannot wait until trial such as protecting property or sorting out care for the children. See **Chambers Applications** for more.

Varying Orders or Agreements

In family law actions, some things are never truly 'final'. Orders and agreements regarding child support may be changed if the parties' incomes change. Parenting arrangement order may be changed when family dynamics and the needs of the child change. The court always has the authority to change a previous decision if the change is in the best interests of the children. The parties can agree to change the order or one party can apply to court to argue why the order should be changed. Failing to reach agreement can result in parties *and their children* being dragged in and out of court for years.



Learn More

[When can you change an order?](#) Legal Aid BC

Serving Documents

There are a lot of documents that need to be exchanged between the parties in a divorce proceeding. Serving documents is the process of giving another party a document filed with the court, according to the Rules. It is important to follow the rules and timelines for service or it could cause delay and other issues with your application.

Different documents require different types of service. The documents that start a family claim or divorce proceedings must usually be served “personally”, meaning the document must be physically left with the person you are serving. Other documents can be served by “ordinary” service which can mean simply mailing the document or emailing it if an email was provided as an address for service. Read the rules to see what kind of service is required, how to prove service, and when service is deemed completed so that you do not miss important deadlines.



Read the Rules

[Rule 6-2 Ordinary Service](#)

[Rule 6-3 Personal Service](#)



Learn More

See [Serve Supreme Court Documents](#) from Legal Aid BC for a list of which documents require personal service and which only require ordinary service.

Serving the Notice of Family Claim

Once you have filed the Notice of Family Claim, you must serve it on the opposing party, personally. Personal service means that someone has to physically leave the

documents with the person they are serving. The person who personally serves the other party must be someone over the age of 19 and cannot be a party to the action.

The person who serves the opposing party will complete an **Affidavit of Personal Service Form F15**. This provides proof to the court that the person was given notice of the court case.

If you cannot serve the person personally because they do not have an address or any other reason, you can make an application to the court for alternative service.



Read the Rules

Rule 4-1(2) Service of Notice of Family Claim and **Rule 6-3 Personal Service**



Key Terms

To **serve** someone means to officially give them documents, according to the rules, in a way that can be proven to the court. Different documents require different types of service. Be sure to read the rules.



Learn More

For more information on service, see **Serve Supreme Court documents, Legal Aid BC.**



Find the Form

Notice of Family Claim

Affidavit of Personal Service Form F15

Responding to a Family Claim

After the Claimant has served the Notice of Family Claim, the Respondent has 30 days to file a **Response to Family Claim.**



Find the Form

Response to Family Claim



Read the Rules

Rule 4-3 Responding to a Notice of Family Claim

If you and the Claimant have worked out all the issues and have come to an agreement, you may decide not to file a response to allow the claim move forward uncontested. However if you disagree with any aspect of the claim, it is important to file a Response to Family Claim if you do not want orders made against you or in your absence. **If someone serves you with court documents, do not ignore them. Take steps immediately.**

Counterclaim

The Respondent may also want to file a **Counterclaim** within 30 days of being served the Notice of Family Claim A counterclaim is a claim in which the Respondent seeks orders against the Claimant.



Key Terms

A **counterclaim** is a claim made by the Respondent to raise legal issues that the claimant did not raise in their Notice of Family Claim.



Find the Form

Counterclaim Form F5

If you receive a Counterclaim, you have 30 days to file a **Response to Counterclaim**.

**Find the Form****Response to Counterclaim Form F6****Read the Rules****Rule 4-4 Counterclaim**

Financial Statements

If your claim involves child support, spousal support, or the division of family property (including assets and debts or the sale of a home), and the application is contested (meaning your ex is disputing it) you will need to complete a **F8 Financial Statement**.

**Find the Form****F8 Financial Statement**

A financial statement includes information about your income, assets, debts, and budget. You should start working on your Financial Statement right away as it will help you understand your financial picture.

**Read the Rules****Part 5 – Financial Disclosure****Learn More****Complete a Supreme Court Financial Statement (Form F8)**, Legal Aid BC