

Orders

Orders Basics

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Orders Basics

At the end of a hearing or a trial, a judge will make their order. This is where the judge says what is to be done. For example, the judge may order the defendant to pay money. Or the judge may order that the case be dismissed.

The judge's order takes effect as soon as it is said. However, the order also needs to be "entered". It is the job of the parties to agree to the order and submit it for filing at the registry. This means that it is extremely important that you listen carefully, and write down what a judge says at the end of a hearing.



Key Terms

"**Entered**" means that a document has to be filed with the Court stating what was ordered



Read the Rules

Rule 13-1 Orders

Types of Orders

Before you start a lawsuit, you should have a clear idea of what, exactly, you will be asking the court to order. In general, you will be asking the court to order someone

to do (or stop doing) something. You should have the terms of your draft order in mind right from the start.

The most common types of orders are:

- Orders made after an application to the court, before trial (a chambers application)
- Orders made after a trial
- Consent orders, where the parties agree on the terms of the order without actually having to appear before a judge or master of the court

The order you are seeking should be set out in the “Relief Sought” section of your Notice of Civil Claim, Counterclaim, Petition, or Application.

Orders After Court Applications

You may make an application to the court to ask for an order to resolve issues that come up before the trial of your case. These kinds of applications are generally called “chambers proceedings” and they do not result in a final decision on your case. See **Chambers Applications**. For example, you might want to make an application in chambers to get an order for the other party to produce certain documents for you to inspect.

The parties, not the judge or master, are responsible for preparing the written order and getting it signed by the judge or master, as well as by the parties who appeared at the hearing.

You can do this in one of three ways:

1. You can prepare a draft order (**Form 35**) before the hearing, setting out the terms of the order that you are asking the court to make.

Before the hearing, take the order to the registry to be “vetted”. This means that the registry staff will have a look at it to make sure it is in the proper form. The registry staff will make a note on the order that it has been vetted.

If you are successful in your application to the court, you can ask the judge or master who heard the application to sign the order. The court clerk will hand up the order to the judge or master and, if it is accurate and has been vetted, the judge or master

will sign it at that time. In these situations, you don't need to get the other parties to sign your draft order.

2. If you don't have a draft order in Form 35, but the court orders what you were asking for in your application, show the judge or master where your application asks for that order.

In some cases, the judge or master may initial your application (Rule 13-1(4)). You can file that initialed document in the court registry and it has the same effect as a formal court order. This saves you the steps of drafting the order and getting signatures from the other parties.

3. If the judge or master does not sign the order in chambers, one of the parties must draft the order (**Form 35**). Any party can draft the order. Usually, the party who won the application will draft the order, but if one party has a lawyer, that lawyer might agree to draft the order. In some cases, the court might rely on **Rule 13-1(15)** and ask the registry to draft the order.

As a final step, you file the signed order in the court registry.

The process of the registry filing the order may take some time. This is because the registry staff has to check the order you submitted against the notes of the court clerk.



Find the Form

Form 35 Order made after application

Orders After Trial

After trial, one of the parties (usually the party who won) will draft the order for the judge to sign. These orders are drafted using **Form 48** and it records what the judge decided in your case.



Find the Form

Form 48 Order after trial

Consent Orders

Parties sometimes agree on an outcome to the dispute without going to court. In some cases you will want an order from the court even though you have agreed on the terms of the order. In such cases, you file a requisition (**Form 17**) and a draft of the order that you are asking the court to approve. This draft order is in **Form 34**. More information is set out in **Rule 13-1(10)**.



Find the Form

Form 34 Consent Order

If there is a problem with your order, the registry might ask you to redraft your order or to appear in court and explain your case. If your order is approved, the registry will return it to you, stamped and ready to be enforced.

A consent order is not complete until each party affected by the order indicates their consent. If a party is represented by a lawyer, the lawyer can sign the consent order. If a party is not represented by a lawyer, the litigant can consent in writing, or orally at the court hearing.

Other Orders

You may need to prepare other orders:

- An order for costs and an order to settle a bill of costs are described in **Costs**
- A default judgment, given when the other party does not respond to your notice of civil claim, is described in **Default Judgment**.
- You may want to get an order from a court in another jurisdiction (e.g., other parts of Canada or another country) registered in a BC court so you can

enforce the order. In such cases, you need to use **Form 77. Rule 19-3** and the ***Court Order Enforcement Act*** give you information about foreign judgments. Dealing with foreign jurisdictions is complicated and you should seek assistance from a lawyer. You may also need to consult a lawyer in the foreign jurisdiction.

Writing Orders

An order needs to be prepared when the court hearing is complete (in chambers or trial) and the court has made an order. The order is the document, filed in the court registry, which sets out the decision of the judge or master. **Rule 13-1** details how orders should be prepared.

It is very important to prepare the order with the exact terms that the judge stated or the court registry will not accept the order.

Learn More



The book, *Supreme Court Chambers Orders* (published by the Continuing Legal Education Society of BC), is available in the courthouse library. It is a useful resource to help you draft your court order.

The parties, not the court, are usually responsible for preparing the order. Any party can prepare the order, but usually it is the successful party. This means that if you prepared the application and the court granted you the order, you will prepare the order and send it to the other parties to have it signed. On the other hand, if you prepared the application but the court did not grant your order, the other party should prepare the order and send it to you to be signed.

Listen carefully to the judge or master when they make the order, and take notes of the terms as accurately as possible. If the judge or master says something you do not understand, ask them to clarify it right away. If there is something in your application that hasn't been covered, bring it to the attention of the judge or master. The court clerk also takes notes of the order made and you can request a copy of these notes from the registry if you are not certain about what was ordered.

When drafting your order, keep in mind two basic principles: the order should accurately reflect the court's decision and it should speak for itself. In other words, the order should be understood without having to refer to any other documents.

Using the correct form for the order you are drafting, start with the style of proceeding at the top. The style of proceeding is the information that identifies your case within the court system with the court file number and names of the parties. It is the same on all your court documents.

The order also sets out:

- The name of the master or judge who heard the application or trial
- The date of the hearing
- The place of the hearing
- The names of the lawyers or other representatives who appeared at the hearing
- The names of other parties, such as those acting on their own behalf (e.g., the defendant in person)
- Who was served with the application, or if the matter proceeded without notice or by consent
- If the judgment was reserved for a later date

In a written order, the judge is named: "The Honourable Justice (last name)". If you are not sure how to spell the judge or master's name, you can find a list of the names of the judges [here](#).

You must set out, in numbered paragraphs, exactly what the judge, master, or registrar ordered after the hearing of the application or at the end of the trial. Deal with only one matter in each paragraph. Those matters might be the decision about the relief granted, any directions (such as deadlines or specific items) for carrying out the decision, and the disposition (who gets what) of costs.

For example, the judge may have ordered that the defendant must pay you the sum of \$32,000 as the balance owing under a contract for the sale of a piece of machinery, with interest from the date of default on 21 March 2005, payable within 4 weeks. You may also have been awarded full costs of the trial. In that case, your order would say something like the following:

1. The defendant will pay the sum of \$32,000 to the plaintiff as the balance owing under a contract for purchase and sale, dated February 3, 2004, for a bulldozer with serial number 123456
2. The defendant will pay interest on the amount of \$32,000 to the plaintiff at the rate set under the *Court Order Interest Act* from the date of default under the contract, March 21, 2005, to the date of payment
3. The amount of \$32,000, plus interest, is payable to the plaintiff within 4 weeks of the date of this court order
4. The plaintiff is entitled to the costs of the trial

When you have prepared your draft order, take it to the court registry where a registry clerk will review the order to approve the format. Then the other parties who appeared at the hearing or trial must sign the order.

Settling the Terms of Your Order

After a hearing or trial, send your draft order to the other parties for their signatures. All parties who appeared at the hearing need to sign the order. You do not need signatures if the judge or master signed the draft order at the end of the hearing. Nor do you need the signature of any party who does not consent but did not appear at the hearing (see **Rule 13-1(1)(c)**).

The parties' signatures confirm that they agree that how you have drafted the order accurately expresses what the court said. If you are the unsuccessful party, signing the order does not mean that you agree with what the court has ordered. If you suspect that the other party may refuse or delay signing the order (thus delaying the filing of the order), you may ask at the hearing to waive the requirement that the other party must approve the form of the order.

If You Can't Agree

If the parties cannot agree on the terms of the order, the order can be settled by a registrar (**Rule 13- 1(11)**). Transcripts of the original court hearing are not required, but the registrar will need a copy of the court clerk's notes. In some cases, the judge may direct the order to be provided to them for approval. In other cases, the judge may direct the registrar to draw up and enter the order (**Rule 13- 1(15)**).

Registry Approval

When you have the signatures you need, or if the judge or master signed your draft order, take it to the court registry. The registry staff will then compare the order with the notes taken by the court clerk to make sure that the order accurately states what was ordered. This process is called entering an order. The registry stamps the order and sends you a copy of the entered order. This is the document you will use to enforce your judgment.

If you and the other party cannot agree on what was said in court, you may need to book a hearing before the registrar to clarify the terms of the order, using **Form 49** (see **Rule 13-1(12)**). The registrar may decide that the matter must go back to the judge or master who heard it initially.



Find The Form

Form 49 Appointment

Amending an Order

Mistakes happen. You may have made a mistake in drafting the order. For example, the order may contain an incorrect address or an error in calculation. You may need to redraft the order to correct the error. **Rule 13-1(17)** allows the court, at any time, to correct a clerical error.