

# Applications to Court

This guidebook contains an overview of the procedure for applications, set out in Part 8 of the rules. In addition Rule 22-1 provides general rules on what are known as “chambers proceedings” and Rule 22-2 provides the rules on any affidavits that may be submitted with applications. Applications are used to ask the court to make an order to resolve issues that come up in your case before the trial of the lawsuit. However, depending on the type of application you make, an application can also result in a final decision in your case. For example, an application for summary judgment may result in a final decision.

## What are chambers proceedings?

The term “chambers” is used to describe a type of hearing that is different from a full trial where evidence is given through witnesses. Chambers proceedings differ from trials in these ways:

- evidence is generally presented in the form of affidavits (instead of by witnesses);
- lawyers and the judge do not wear robes; and
- they can be scheduled for any day on which the court sits in chambers; trial dates have to be reserved with the trial scheduling division of the registry.

In proceedings that start with a notice of civil claim, applications usually deal with procedural issues that

come up as your case proceeds through the steps leading to trial. For example, you may believe another party has documents he or she hasn’t produced or you may be having trouble getting another party to show up at an examination for discovery. In this case, you can apply to the court for an order that the party produce documents or show up at an examination for discovery. These are practical problems that can come up in moving your case forward and they are often the subject of applications.

All applications are heard “in chambers.” This does not mean that they are heard in the judge’s “chambers” or office — they are still heard in open court and the hearings are audio taped.

If your action is under Rule 15-1 for Fast Track Litigation, you are not allowed to make an application unless a case planning conference or a trial management conference has been held (subject to the exceptions listed in Rule 15-1(8)).

## Should you make an application?

If you think you have a problem in your case that could be resolved by a court order and you have been unable to agree with the other party on how to resolve it, you may have to make an application to court.

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.

Because you will have to appear before a judge or master in court, you will want to make sure that:

- ✦ you know that the problem you're trying to solve is one that can be resolved by an application;
- ✦ you understand the law and the rules governing your application;
- ✦ you have followed all the rules and met all the deadlines governing applications;
- ✦ you have all the correct documents; and
- ✦ you are prepared to argue your application before a judge or a master.

A lawyer can help you determine whether you need to file an application. A lawyer can also find the law that applies to your problem and complete the proper forms. Remember that preparing for and attending at a chambers application will cost you time and money. First, try to resolve the problem without resorting to a court application.

## What rules apply?

There are several rules governing applications and you will need to understand how each of them applies to your case:

- ✦ **Rule 8-1:** sets out what documents need to be prepared and delivered to the other parties and the time limits that apply.
- ✦ **Rule 8-2:** explains where the application should be heard.
- ✦ **Rule 8-3:** describes how you can get a court order if everyone consents to it.
- ✦ **Rule 8-4:** describes how to make an application when you do not need to notify the other parties.
- ✦ **Rule 8-5:** tells you how to make an “urgent” application, where you don't have to give notice to the other party. If the judge at a case planning conference makes an order that an application can be made by written submissions, Rule 8-6 tells you how to do that.

- ✦ **Rule 8-1(21.1):** tells you how to reset an application that has been adjourned without a new date set for it to be heard (i.e., adjourned generally).
- ✦ **Rule 22-1:** sets out what happens generally in chambers proceedings.
- ✦ **Rule 22-2:** explains how affidavits must be prepared and filed with the court.
- ✦ **Rule 23-6:** sets out what masters can deal with and how to appeal a master's decision.

## Who can make a decision in the application?

Both judges and masters hear applications; however, in most cases a master will hear your application.

When preparing the documents for your application, you must state whether your application is within the jurisdiction of (in other words, can be heard by) a judge or master. In general, a master cannot hear an application that results in a final order (one that ends the case). This means that you would not appear before a master for a summary trial. Make sure that you know whether your application needs to be heard by a judge. If you appear before a master who cannot hear your application, you will be forced to reschedule your hearing. The registry staff may be able to help you determine whether a judge or a master should hear your application.

## Preparing for an application

A large part of preparing for an application is preparing the evidence that will be considered by the judge or master in deciding whether to grant the order requested in the application. All the evidence in chambers is presented to the court by affidavit. For this reason, you must document and keep organized everything you do to try to resolve the procedural issues you may have with the other party.

Keep copies of all your request letters (including fax confirmations and/or delivery slips) and make notes of telephone calls you've made. These documents may form part of the affidavit you prepare for your application.

One of the most useful things you can do to prepare yourself to appear before the court on an application is to spend some time watching chambers hearings so you understand how applications are presented in court. In larger centres, chambers hearings are held every day or on set days throughout the week. You can contact the registry to find out when chambers hearings are scheduled in your location. Courtrooms, while in session, are open to the public and you are welcome to attend to observe the proceedings.

There are several documents you need to be familiar with when you begin to prepare your chambers application. Copies of these documents are attached to this guidebook and can be found at the websites set out at the beginning of the guidebook. They are described below.

### **Complete the Notice of Application**

You begin an application by preparing, filing, and delivering a notice of application to the other parties (Form 32). If you prepare and deliver the notice of application, you are the applicant. If you receive a notice of application from another party, you are the application respondent.

A notice of application must be in Form 32. It must not exceed 10 pages (other than any draft order you attach) and must set out the following information:

1. The top section of the notice of application sets out whom you are serving with the documents, the address of the court where the application will be heard, and the date and time of the hearing. Before preparing the application, discuss the date of the hearing with the other party to choose a date when you are both available. If you set a date for the hearing when the other party is not available, you will both have to appear in court when the other party applies to adjourn the hearing. This is an unnecessary waste of time and costs. However, if you cannot agree on a date, you can choose a date to put in the notice of hearing. If you expect the hearing to take more than 2 hours, the court registry will fix the date and time of hearing.
2. In almost all cases, your application should be heard in the courthouse where the notice of civil claim was filed. If you want to have the application heard somewhere else, see Rule 8-2 for information about changing the place of the hearing.
3. Part 1 of the notice of application requires you to set out the order you are asking the court to make. This information should be set out in numbered paragraphs. The notice of application should clearly state the order you want because you will use this to draft your order. Remember that you can ask for more than one thing in your application. For example, you may want to get further documents and an order requiring a party to attend an examination for discovery. However, each thing you are asking for should be set out in a separate paragraph. You can also attach a draft of the order you are seeking.
4. Part 2 of the notice of application asks you to set out the factual basis of your application. You need to set out, in numbered paragraphs, a brief summary of the facts supporting the application.
5. In Part 3 of the notice of application, you must set out the legal basis of the application, including the rule or enactment (i.e., regulation or statute) that gives the court the power to make the order you are seeking. If you see a lawyer before preparing your notice of application, this is something you should ask about. For example, if you are the plaintiff

and you want to add someone as a party to the action after the case has already been started, then you would make reference to Rule 6-2, which gives the court the power to add parties.

If there is no rule that deals with the order you want the court to make, you need to rely on the inherent jurisdiction of the court. The inherent jurisdiction of the court is the power that judges have over and above the Rules to make orders to do justice between the parties. If you are relying on this power, you should say that in the notice of application.

Remember that masters have limited jurisdiction. If you require the court to make an order under its inherent jurisdiction, the matter may have to be heard by a judge.

6. Part 4 of the notice of application requires you to list the affidavits and any other material that you are going to rely on in making your application. You can also rely on other documents such as pleadings, answers to interrogatories, or examination for discovery excerpts.
7. You are required to set out in the notice of application how long you think your application will take to be heard. In this estimate, you must take into account the time you think it will take the other side to respond to your submissions in court. It is important to be as accurate as possible in giving this time estimate to the court.
8. If your application will take longer than 2 hours, you must also submit written submissions, which include a summary of your argument, and an explanation of how the case law and legislation supports your position.
9. You must complete the data collection information in the appendix to the form.

## Prepare the affidavits

Any evidence (material that tends to prove something) that you wish the court to consider in the application must be set out in affidavits. Both applicants and respondents will probably prepare and deliver affidavits.

Before preparing your affidavits, consider:

- what facts your affidavit should contain to persuade the court to make the order you are asking for;
- who is the best person to swear the affidavit; that is, who has the most direct knowledge of the facts you are setting out; and
- how you want to present the information in the affidavit.

The affidavits should include only evidence that relates specifically to the application in question. You should attach as exhibits to the affidavit any documents you have relating to the subject matter of your application, such as letters, courier slips, or fax records. See Rule 22-2(8) for further information on how to attach exhibits.

If you are asking the court to make a final order in your application, the person who swears any affidavit supporting your application must have direct knowledge of the facts contained in the affidavit. In other words, the person swearing the affidavit should not give evidence about facts that someone else told him or her. Information heard from someone else is called hearsay and the court does not allow this kind of evidence in applications for final orders (see Rule 22-(12) and (13)).

If you are asking the court to make an order that is not final in nature (in other words, an interlocutory order), then the person swearing the affidavit can include statements that someone else has informed them of, as long as the source of the information is also given. However, it is generally preferable if you can get an affidavit from a person who has the most direct knowledge of the information.

If you are the respondent and you want to respond to evidence in an affidavit filed by an applicant, you should prepare an affidavit setting out your response.

For further information about preparing affidavits, see the guidebook, *A Guide to Preparing Your Affidavit*.

## Prepare the application record

You must prepare an application record only when the other party opposes the application you are making and has filed an application response. The applicant must provide an application record to the court registry, no later than 4 p.m. on the business day that is one full business day before the hearing date. A business day means a day on which the court registries are open for business. The application record must be in a ring binder or other type of secure binding.

The application record must contain, in sequentially numbered pages (or separated by tabs), the following documents, in this order:

1. a title page with the style of proceeding and the names of the lawyers, if any, for the applicant and the application respondents;
2. an index;
3. a copy of the filed notice of application;
4. a copy of each filed application response;
5. a copy of every filed affidavit and pleading, and of every other document other than a written argument, that will be relied on at the hearing; and
6. If it is a summary trial, a copy of each filed pleading.

The application record may contain:

1. a draft of the proposed order;
2. a written argument, if the application is estimated to take more than 2 hours;
3. a list of authorities; and
4. a draft bill of costs.

The application record must not contain:

1. affidavits of service;
2. legal authorities (e.g., copies of case law, legislation, legal articles, etc.); or
3. any other documents unless the other parties consent.

Unless the court orders otherwise, the applicant must retrieve the application record at the end of the hearing (or the following business day if the hearing was adjourned). A business day means a day on which the court registries are open for business.

## Serving your documents

You must serve these documents on all parties of record, and on every other person who may be affected by the orders sought:

- a copy of the filed notice of application;
- a copy of each of the filed affidavits and documents that have not already been served on that person;
- if the application is brought in a summary trial, any notice that you are required to give under Rule 9-7(9).

You must serve the filed notice of application and all other filed affidavits and documents at least 8 business days before the date set for the hearing of the application. If the hearing is a summary trial, the documents must be served at least 12 business days before the date set for hearing (Rule 8-1(7)). A business day means a day on which the court registries are open for business.

There is a special procedure for urgent applications, which allows you to bring an application on less notice than you would normally require. For example, if the legal dispute is about a piece of your machinery that the defendant is about to sell, you could make an application to court, on short notice, asking the court to stop the sale.

A short notice application may be made by requisition in Form 17, without notice to the other party. The full procedure is described in Rule 8-5.

## Prepare the Response

If you intend to respond to an application by another party, you must complete an application response in Form 33 upon receipt of the notice of application, and deliver it to the applicant. The application response tells the court and the other parties how you intend to respond to the application.

If you wish to respond to a notice of application, you must do the following within 5 business days (days on which the court registries are open for business) after service, or in the case of an application in a summary trial, within 8 business days after service:

- ✦ file an application response;
- ✦ file the original of every affidavit, and of every other document, that
  - is to be referred to by the responding person at the hearing, and
  - has not already been filed in the proceeding;
- ✦ serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
  - a copy of the filed application response;
  - a copy of each of the filed affidavits and documents, referred to in the application response under Rule 8-1(10)(b)(ii) (that you intend to refer to at the hearing), that has not already been served on that person;
  - if the application is brought in a summary trial, any notice that the application respondent is required to give under Rule 9-7(10).

Your application response must be in Form 33 and cannot exceed 10 pages. It must contain the following information:

- ✦ In Part 1, which, if any, orders requested do you consent to.
- ✦ In Part 2, which orders do you do oppose being granted.

- ✦ In Part 3, which orders do you take no position on (neither consent, nor oppose)
- ✦ In Part 4, you summarize the factual basis for your opposition to the application.
- ✦ In Part 5, you summarize the legal basis for your opposition to the application, including any statute or regulation relied upon.
- ✦ In Part 6, you set out the affidavits or other material that you will be relying on at the hearing of the application.
- ✦ Your estimate of time the application will take for hearing.

It is important to deliver a response if you want to receive notice of when the court will hear the application. If you do not, then the applicant can proceed to schedule the application for a hearing without providing you any further notice of the hearing date.

## Responding to the response

An applicant may respond to any document that the application responded has served by filing and serving responding affidavits no later than 4:00 p.m. on the business day that is one full business day before the date set for hearing. A business day means a day on which the court registries are open for business.

## Resetting an adjourned application

If the application gets adjourned and a new hearing date is not scheduled, Rule 21.1(1) tells how the applicant can reschedule the hearing. The applicant files a requisition (Form 17), setting out the date and time of the new hearing and serves a copy of the filed requisition on the application respondents at least 2 business days before the date set for the hearing. A business day means a day on which the court registries are open for business.

If the applicant does not reset the application for hearing within a reasonable time after an application respondent has asked the applicant to do so, the applicant respondent may apply to the court for directions on how to proceed, using a requisition in Form 17, and with 2 business days notice to the applicant (see Rule 8-2(22)). A business day means a day on which the court registries are open for business.

## At the hearing

At the chambers hearing, both parties will have an opportunity to present their cases to the judge or master:

1. Applicant's opening – the applicant explains the disputed issue and his or her position to the judge.
2. Respondent's opening – the application respondent explains his or her position to the judge.
3. Applicant's argument – the applicant submits documents and affidavits in support of his or her case, including the case authorities and the statutes that are relevant to the case (you should have copies of the case authorities and statutes available for the other party and the judge). You should request costs in the event that your application succeeds.
4. The application respondent's argument is presented in the same way.
5. If the chambers hearing is scheduled for 2 hours or more, written submissions are provided to the court. These include a summary of your argument, including an explanation of how the case law and legislation supports your position.

The judge or master normally gives judgment right away. In some cases where the hearing is over 2 hours and the issues are complex, judgment may be

reserved (delayed) and provided in writing at a later date.

When you are presenting your position on an application to the court, the following general principles may assist your presentation:

- First, for each issue, tell the court what order you are seeking.
- Second, outline the facts necessary to support your application.
- Third, set out the law on the subject.
- Fourth, explain how the law applies to the facts of your case.
- Fifth, indicate that the application of the law to the facts of your case requires the court to issue the order requested.
- Try not to switch back and forth between facts and law.

Stand when you are making your presentation to the judge. Address a male judge as "My Lord" and address a female judge as "My Lady." If you are appearing before a master, address both male and female masters as "Your Honour." Court clerks are addressed as "Mr. or Madam Registrar."

## After the hearing

When the hearing has completed and the court has made an order, the order needs to be prepared. The order is the document that is signed and entered with the court and sets out the decision of the judge or master. Review Rule 13-1 for more detailed information about preparing your order. The guidebook, *Drafting Court Orders*, gives you advice on how to prepare an order.

Generally speaking, the parties, not the court, are responsible for preparing the order. Any party can prepare the order, but usually the successful party does so.

This means that if you prepare the notice of application and the court grants you the order that you requested, you will prepare the order and send

it to the other parties who attended the application to have it signed. If, on the other hand, you prepared the notice of application but the court did not grant you your order, the respondent should prepare the order and send it to you to be signed.

Listen carefully to the judge or master when he or she makes 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, while all parties are present in the courtroom. If there is something in your notice of 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 uncertain about what was ordered by the judge or master.

Prepare the order using Form 35. The guidebook, *Drafting Court Orders*, provides information about this step. The order must be typed. When preparing the order, keep in mind that orders are governed by two basic principles: they should accurately reflect the court's decision and they should speak for themselves. That is, they need to be understood without having to refer to any other documents.

The top part of an order includes:

- ✦ the name of the master or judge who heard the application;
- ✦ the court location and date the application was heard; and
- ✦ the names of the parties or their lawyers who appeared in court on the application.

If you are unsure of how to spell the judge or master's name, you can find a list of their names at the Supreme Court website: [www.courts.gov.bc.ca](http://www.courts.gov.bc.ca) (click on the Supreme Court page and then the link for judges and masters) or you can telephone the registry to ask. See the guidebook, Overview of the Civil Litigation Process for the correct way to set out the judge or master's name in the order.

The body of an order sets out in detail what the court has ordered. The paragraphs should be numbered. 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.

All parties who appeared at the application must sign the order. The order should be sent to everyone who appeared on the application. If you are the unsuccessful party, signing the order does not mean that you agree with what the court has ordered. The parties' signatures (under the sections that says, "Approved as to form") confirm that they agree that how you have drafted the order accurately expresses what the court said. Do not, however, sign an order that says, "approved as to form and content" as this indicates that you agree with the content. If the presiding judge or master signs or initials the order, it does not have to be approved by the parties.

If, for any reason, you suspect that the other party may refuse or delay his or her signature (thus delaying the filing of the order), you may ask the judge or master at the hearing to waive the requirement that the other side must approve the form of the order. When all signatures have been obtained, the order can be submitted for entry at the court registry. The registry staff will then compare the order with the notes taken by the clerk in chambers to make sure that the order accurately states what was ordered. If it does, the order is stamped. This process is called "entering an order".

If the parties cannot agree on the terms of the order, Rule 13-1(11) sets out a process in which the parties can appear before a registrar of the court to settle the terms of the order so that it can be entered.

If the judge orders exactly what was requested in the application, Rule 13-1(4) allows the judge to endorse the notice of application, which may then be filed as the order.

## 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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# 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].....

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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. 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.).
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# 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]

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Date: .....

.....

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

\_\_\_\_\_

[type or print name]

7

Address of applicant:

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Phone number: \_\_\_\_\_

8

Order granted [ ]

or

Application denied [ ]

Date: .....

\_\_\_\_\_  
Judge/Master of the Supreme Court

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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.

**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 32

(Rule 8-1 (4) )

1

*[Style of Proceeding]*

### NOTICE OF APPLICATION

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

**Name(s) of applicant(s):** .....

2

To: .....*[name(s) of party(ies) or person(s) affected]*.....

TAKE NOTICE that an application will be made by the applicant(s) to the presiding judge or master at the courthouse at .....*[address of registry in which the proceeding is being conducted]*..... on .....*[dd/mm/yyyy]*..... at .....*[time of day]*..... for the order(s) set out in Part 1 below.

#### Part 1: ORDER(S) SOUGHT

3

*[Using numbered paragraphs, set out the order(s) that will be sought at the application and indicate against which party(ies) the order(s) is(are) sought.]*

1

2

4

#### Part 2: FACTUAL BASIS

*[Using numbered paragraphs, set out a brief summary of the facts supporting the application.]*

1

2

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

5

#### Part 3: LEGAL BASIS

*[Using numbered paragraphs, specify any rule or other enactment relied on and provide a brief summary of any other legal arguments on which the applicant(s) intend(s) to rely in support of the orders sought. If appropriate, include citation of applicable cases.]*

1

2

6

**Part 4: MATERIAL TO BE RELIED ON**

[Using numbered paragraphs, list the affidavits served with the notice of application and any other affidavits and other documents already in the court file on which the applicant(s) will rely. 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

7

The applicant(s) estimate(s) that the application will take .....[time estimate]..... .

[Check the correct box.]

- This matter is within the jurisdiction of a master.
- This matter is not within the jurisdiction of a master.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
  - i. you intend to refer to at the hearing of this application, and
  - ii. has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
  - i. a copy of the filed application response;
  - ii. a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
  - iii. if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7 (9).

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

Signature of  
 applicant  lawyer for applicant(s)

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

***To be completed by the court only:***

Order made

in the terms requested in paragraphs ..... of Part 1 of this notice of application

with the following variations and additional terms:

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

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

.....  
Signature of  Judge  Master

---

**Appendix**

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

**THIS APPLICATION INVOLVES THE FOLLOWING:**

*[Check the box(es) below for the application type(s) included in this application.]*

- discovery: comply with demand for documents
- discovery: production of additional documents
- other matters concerning document discovery
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts

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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 registry and serve it on the other parties, and anyone that is affected by the order (e.g., if you are seeking production of documents from a doctor (who is not a party to the action) the doctor must be served with the notice).**

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. Insert the name of the party that you want to be in court at the hearing of your application.
  3. List the orders that you are seeking in your application (e.g., That the defendant produce the financial statements of his company for 2009 within 21 days of the date of this order).
  4. State the facts you are relying on (e.g., The defendant's accountant has advised that the financial statements were completed on February 5, 2010, but the defendant has refused to produce them to me despite written requests on 15 February 2010, 28 February 2010, 15 March 2010, and 30 March 2010).
  5. State the legal basis of your application (e.g., the defendant is required to produce financial statements to me as a debenture holder of the company immediately upon demand pursuant to s. 201 of the *Business Corporations Act of British Columbia*, SBC 2002, Ch. 57).
  6. List the affidavits that you will be relying on in your chambers application (e.g., Affidavit #1, of John Brown, made June 3, 2010).
  7. Estimate the time it will take you and the other party to make submissions to the judge or master in chambers.
-

# NOTES

## Form 33

(Rule 8-1 (10) )

*[Style of Proceeding]*

### APPLICATION RESPONSE

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

**Application response of:** .....[party(ies)]....., (the “application respondent(s)”)

**THIS IS A RESPONSE TO** the notice of application of .....[party(ies)]..... filed .....[dd/mmm/yyyy]..... .

#### Part 1: ORDERS CONSENTED TO

The application respondent(s) consent(s) to the granting of the orders set out in the following paragraphs of Part 1 of the notice of application on the following terms: .....[set out paragraph numbers and any proposed terms]..... .

#### Part 2: ORDERS OPPOSED

The application respondent(s) oppose(s) the granting of the orders set out in paragraphs .....[list paragraph numbers]..... of Part 1 of the notice of application.

#### Part 3: ORDERS ON WHICH NO POSITION IS TAKEN

The application respondent(s) take(s) no position on the granting of the orders set out in paragraphs .....[list paragraph numbers]..... of Part 1 of the notice of application.

#### Part 4: FACTUAL BASIS

*[Using numbered paragraphs, set out a brief summary of the facts on which the orders sought in the application should not be granted.]*

1

2

#### Part 5: LEGAL BASIS

*[Using numbered paragraphs, specify any rule or other enactment relied on and provide a brief summary of any other legal arguments on which the application respondent(s) intend(s) to rely in opposing the orders sought in the application. If appropriate, include citation of applicable cases.]*

1

2

#### Part 6: MATERIAL TO BE RELIED ON

*[Using numbered paragraphs, list the affidavits served with this application response and any other affidavits and other documents already in the court file on which the application respondent(s) will rely. 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

The application respondent(s) estimate(s) that the application will take .....[time estimate]..... .

*[Check whichever one of the following is correct and complete any required information.]*

The application respondent has filed in this proceeding a document that contains the application respondent's address for service.

The application respondent has not filed in this proceeding a document that contains an address for service. The application respondent's ADDRESS FOR SERVICE is: .....*[Set out the application respondent's address(es) for service in compliance with Rule 4-1 (1) of the Supreme Court Civil Rules and any additional address(es) under Rule 4-1 (2) that the application respondent wishes to include.]*..... .

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

Signature of  application respondent  lawyer  
for application respondent(s)

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

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# NOTES

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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 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. Insert your name here.
  3. Insert the name of the party who is making the application to court.
  4. List the orders that you are consenting to in your application, referring to the applicant's numbered paragraphs (e.g., I consent to paragraph 1 of the applicant's application (for production of 2009 financial statements), within 35 days rather than 14 days as requested by the applicant).
  5. List the orders that you are opposing, referring to the applicant's numbered paragraphs (e.g., I oppose granting an order set out in paragraph 3 of the applicant's application, for production of my medical records).
  6. List the orders that you take no position on, referring to the applicant's numbered paragraphs (e.g., I take no position on the orders requested in paragraphs 4, 5, and 6 of the applicant's application).
  7. State the facts you are relying on to oppose the application (e.g., a complete list of documents was already produced to the plaintiff on March 21, 2010 and particulars of those documents were provided on April 15, 2010).
  8. State the legal basis of your opposition to the applicant's application (e.g., The plaintiff is not a legal debenture holder according to *Smith v. Brown*, 2003 BCSC 44 and I am under no obligation to provide financial statements to him).
  9. List the affidavits that you will be relying on in your chambers application (e.g., Affidavit #1, of John Brown, made January 3, 2010).
  10. Estimate the time it will take you and the other party to make submissions to the judge or master in chambers.
-

# NOTES

## Form 35

(Rules 8-4 (1), 13-1 (3) and 17-1 (2) )

1

*[Style of Proceeding]*

### ORDER MADE AFTER APPLICATION

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

BEFORE THE HONOURABLE JUSTICE .....

2

} or A JUDGE OF THE COURT } .....[dd/mmm/yyyy].....  
or }  
MASTER .....  
or A MASTER OF THE COURT

3

ON THE APPLICATION of .....[party(ies)].....

4

- coming on for hearing at ..... on .....[dd/mmm/yyyy]..... and on hearing .....[name of party/lawyer]..... and .....[name of party/lawyer].....;
- without notice coming on for hearing at ..... on .....[dd/mmm/yyyy]..... and on hearing .....[name of party/lawyer].....;
- without a hearing and on reading the materials filed by .....[name of party/lawyer]..... and .....[name of party/lawyer].....;

5

THIS COURT ORDERS that:

*[If any of the following orders are by consent, indicate that fact by adding the words "By consent," to the beginning of the description of the order.]*

1

2

3

6

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

*[A signature line in the following form must be completed and signed by or for each approving party.]*

.....  
Signature of

party  lawyer for .....[name of party(ies)].....

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

.....  
Signature of

[ ] party [ ] lawyer for .....[*name of party(ies)*].....

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

By the Court.

.....  
Registrar

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## NOTES

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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.

**This order must be typed. It must be signed by all affected parties and then submitted to the court registry for entry; once entered it is returned to the submitting party who is responsible for serving copies 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. Insert the name of the judge or master who heard the application and the date of the application.
  3. Insert the name of the party who made the application.
  4. Check off the box that applies to your case, and complete the information (e.g., the date of the hearing, the names of the parties or lawyers who presented material at the hearing).
  5. List the court orders (e.g., The defendant produce a list of documents in his possession within 7 days).
  6. Every party who was at the hearing must sign the order.
-