

Starting a Proceeding by Petition

This guidebook will give you some instructions on how to start a proceeding by petition in the BC Supreme Court. It contains information about whether you should start your proceeding with a petition or a notice of civil claim, provides an overview of the process, important time limits, 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 consult a lawyer about your 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., a letter from a lawyer to the other party);
 - mediation; and
 - arbitration.
- Taking a case to court can be an expensive way of solving your problem. When considering alternatives, consider the cost of taking your case to court, as opposed to the cost of an

alternative solution. You might want to get legal advice to answer this question. 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 not even come close to the money you will spend on your case.

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 and perhaps collect money from them.

Should you start with a petition?

Most cases are started with a **notice of civil claim**, but some types of cases must be started with a document called a **petition**. Make sure you are using the correct document to start your legal action. You do not have a choice about how to start your lawsuit – the Supreme Court Rules dictate the correct procedure. If in doubt, you should get legal advice to answer this key question.

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.

In very general terms, actions relating to wills and estate matters, interests in land, or the property of infants and persons who are not legally competent are started with a petition. Other common proceedings that are started by petition are those that arise under the *Residential Tenancy Act*; the *Motor Vehicle Act*; judicial review of decisions made under the *Workers Compensation Act*; petitions from Provincial Court orders, and restraining orders.

It is very important to read the full text of Rule 2-1 to understand the particular proceedings that must be commenced by petition. In brief, Rule 2-1 provides that you must start a proceeding with a petition in these circumstances:

- If you are the only person who is interested in the relief claimed, or there is no person against whom the relief is sought.
- If the proceeding is brought in respect of an application that is authorized by a statute to be made to the court.
- If the sole question at issue is one of construction of a statute, will, deed, oral or written contract or other document.
- If the relief that you are seeking from the court relates to a question arising in the administration of an estate of a deceased person or the execution of a trust, or the performance of an act by a person in his or her capacity as executor, administrator, or trustee, or the determination of the persons entitled as creditors or otherwise to the estate or trust property.
- If the relief you are seeking relates to the maintenance, guardianship or property of infants or other persons under a legal disability.
- If the relief you are seeking relates to payment of money into or out of court.
- If the relief sought relates to land and is for:

- a beneficial interest in land;
 - a declaration that settles the priority between interests or charges;
 - an order that cancels a certificate of title or makes it subject to an interest or charge; or
 - an order for partition or sale.
- If the relief claimed relates to a claim of solicitor and client privilege.

You may be familiar with court proceedings and trials, but proceedings commenced by petition are different in several ways. First, the person starting the action is called the petitioner, and the person defending the action is called the petition respondent. And, if a proceeding is started with a petition, there is no trial with witnesses. Instead, the matter is heard by a judge, and the evidence is presented by affidavits only.

This chart sets out the major differences between the two types of court proceedings:

	Actions	Originating Applications
Start the claim using:	Notice of civil claim	Petition
Parties are called:	The person or business starting the case is called the plaintiff and the person or business being sued is called the defendant.	The person or business starting the case is called the petitioner and the person or business being sued is called the petition respondent. (Note that in some cases, there may only be a petitioner, and no respondent.)
Type of hearing:	Full or summary trial	Hearing before a judge
Type of evidence to support the claim:	Witnesses come to court to testify in person and the court also considers documentary evidence.	Witness do not give evidence in person. All evidence is given in the in the form of affidavits.
Process:	More complicated The notice of civil claim is usually used when the facts of the claim are in dispute. Because the court may need to determine the facts so it can make a decision about the claim, a trial is often necessary.	Less complicated The petition is usually used in cases where the facts are not in serious dispute so that they can be determined by a judge reading the evidence set out in affidavits. In some cases, a petition must be used to start a claim.
Facts are presented:	The notice of civil claim (Form 1) is used to present the facts supporting your claim. It also sets out the relief that you want the court to grant against each defendant.	The petition includes a short statement of facts supporting the claim. Instead of a notice of civil claim, a sworn affidavit is filed with the petition. The person swearing the affidavit swears that the facts in the petition are true.
Discovery of documents and people:	Before the trial, the plaintiff and defendant are both entitled to see the evidence of the other party (document discovery) as well ask questions of the other side in a meeting called an examination for discovery.	Before the hearing, the petitioner cannot ask for documents from the petition respondent or ask him or her questions. All evidence is presented in the form of affidavits.

Who should be part of the proceeding?

An 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 petition, you are called the petitioner and the person you are suing is called the petition respondent. The petitioner(s) and the petition respondent(s) are called the parties to the proceeding. The following list gives some examples who can be parties to a petition proceeding:

- a person;
- a limited company;
- a government ministry or agency;
- a city or a municipality; or
- a partnership.

There can be more than one person or business as either the petitioner or the petition respondent. 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 petitioner, all of them must consent to being part of the proceeding.

Consider getting legal advice to make sure the correct parties are included in the petition because if you include the wrong parties, it will cost you time and money to amend the petition later.

Important time limits

Time limits are important in legal claims in two ways: you must start your proceedings 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 proceeding by filing a petition. If your limitation period expires before you file a petition, your opportunity to file the petition may be lost and you cannot commence a lawsuit.

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) sets out the different limitation periods for different types of cases.

If your limitation period is not clear to you, you should consult a lawyer.

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 a proceeding has been commenced against you, you must deliver your response to the petition within 21 days (if you live in Canada), otherwise the petitioner 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.

Preparing your documents

Once you have decided on whether you should start your proceeding with a notice of civil claim or a petition, and who your claim is against, it is time to prepare your petition (Form 66). A copy of a petition is included at the end of this guidebook.

You can also get copies of all court documents from any court registry or by downloading them from the website addresses given at the beginning of this guidebook.

Drafting the Petition

Prepare your petition (Form 66) only when you have all the information that you need to start the proceeding. The petition and affidavit together must include all the information that you want the court to consider.

The purpose of the petition is to set out the basis of your claim, including:

- the orders sought against each petition respondent;
- a concise statement of the material facts giving rise to the claim;
- a concise summary of the legal basis for the relief sought; and
- the material you are relying on.

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 petition:

	No. 12345
	Vancouver Registry
IN THE SUPREME COURT OF BRITISH COLUMBIA	
BETWEEN:	
MARY SMITH	PETITIONER
AND:	
FRED BROWN	RESPONDENT

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

Review the petition to carefully to make sure you have all the information you need to complete it. 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 to the court.

Filing your documents

Before you start your petition proceeding you must decide in which court registry to file your documents.

Generally, claims are started in the registry most convenient to the person starting the proceeding. If you live in Langley, don't forget that if you start the proceeding 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.

A list of registries can be found at the courthouse library or at the following website: www.courts.gov.bc.ca (Court Locations and Contacts).

When you file your petition and affidavit documents at the court registry, you will need:

- one copy for the court registry;
- one copy for your file;
- one copy for each of the petition respondents; 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, contact the court registry for further instructions. You will probably find it easier to file your documents in person at the court registry.

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, ask the court registry staff for instructions on how to 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 number (this is the permanent identification number for your case that is stamped at the top of your documents);
- stamps and returns the copies of the documents to you.

Serving your documents

Once your documents are filed, you must serve the petition respondents with a stamped copy of the

petition and supporting affidavits 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 and 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 the petition

Rule 4-3 tells you how to serve a petition. In brief, the petition and supporting affidavits 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 party may be able to challenge your case proceeding.

Ordinary service of other documents

Because the petition is the document that commences the court proceeding, the petition and supporting affidavits have to be personally served as described above. Rule 4-2 tells you how to serve documents other than your petition and affidavits, by what is called ordinary service.. 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 petition. 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 petition by filing a response 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 petition 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 petition and supporting affidavits within 12 months of when they were filed in the court registry. If the documents are not served within 12 months, the petition will expire and that could be a very serious matter if a limitation period is involved. So, you could file your petition on March 1, 2010 and serve it anytime before March 1, 2011. You might want to delay serving the petition as soon as it is filed if, for example, you are close to negotiating a settlement of your claim.

If you cannot serve your petition and supporting affidavits on the petition respondents within 12 months of when you filed the documents in the registry, you must apply to the court to extend the time before the petition expires.

If you have problems serving a document

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

There will be times when you have difficulty personally serving a petition. The petition 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 alternative method of service. Rule 4-4 sets out the information that you need to consider.

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 alternative 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 have happened):
 - 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 petition respondents lives outside of British Columbia, Rule 4-5 states that you need to include in your petition 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*. 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 respondent resides outside of the province.

Response to your proceeding

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

The petition respondent must file and serve on you a response in Form 67. The response must contain an address for receiving future documents in the lawsuit. Once the petition response is delivered to you, most documents can be mailed or faxed to the address provided by the petition respondent and do not have to be personally served.

Court hearing of the petition

The petition is heard by a judge in court. Rule 16-1 sets out the special information you need to know about petitions. The hearing of petitions is a different procedure than a trial as there are no witnesses; instead the evidence is presented by affidavits only. The steps and procedures you must follow are set out in the guidebook on Applications. The guidebook *Applications to Court* will tell you how to prepare for the hearing, how to serve your documents, and what will happen at (and after) the hearing.

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: 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.

For information about other Justice Access Centre services in Vancouver and Nanaimo, see: <http://www2.gov.bc.ca/gov/content/justice/about-bcs-justice-system/jac>

Legal advice

You may be eligible for free (pro bono) legal advice. Access Pro Bono 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 forms can be completed in 3 ways:

1. Completed online and filed at: <https://justice.gov.bc.ca/cso/index.do>

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:

<http://www.supremecourtbc.ca/supreme-court-civil-forms> Printable court forms are available at:

<http://www.supremecourtbc.ca/supreme-court-civil-forms>

Common legal terms

You can find out the meaning of legal terms at: www.SupremeCourtBC.ca/glossary

Family law

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

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NOTES

Form 10

(Rule 4-4 (3))

[Style of Proceeding]

ADVERTISEMENT

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

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

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.

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.
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.
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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

1

(Rule 4-6 (1))

[Style of Proceeding]

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 at[*city and country*]..... .

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

NOTES

Court forms are available at: 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.

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.
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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*[address]*....., 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.
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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].....

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

Between

1

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

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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 66

1

(Rules 16-1 (2) and 21-5 (14))

No.

..... Registry

In the Supreme Court of British Columbia

Between

, Petitioner(s)

and

, Respondent(s)

[*or, if there is no person against whom relief is sought:*

2

Re:[*State the person by whom, or the entity in respect of which, relief is sought.*].....]

PETITION TO THE COURT

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

ON NOTICE TO:

3

.....[*name and address of each person to be served*].....

This proceeding has been started by the petitioner(s) for the relief set out in Part 1 below.

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

(a) file a response to petition in Form 67 in the above-named registry of this court within the time for response to petition described below, and

(b) serve on the petitioner(s)

(i) 2 copies of the filed response to petition, and

(ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.

Time for response to petition

A response to petition must be filed and served on the petitioner(s),

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

4

(1)	The address of the registry is:
(2)	The ADDRESS FOR SERVICE of the petitioner(s) is:[Set out the street address of the address for service for each petitioner. 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) of the petitioner(s): E-mail address for service (if any) of the petitioner(s):
(3)	The name and office address of the petitioner's(s') lawyer is:

Claim of the Petitioner(s)

Part 1: ORDER(S) SOUGHT

5

[Using numbered paragraphs, set out the order(s) that will be sought at the hearing of the petition and indicate against which respondent(s) the order(s) is(are) sought.]

1

2

Part 2: FACTUAL BASIS

6

[Using numbered paragraphs, set out the material facts on which this petition is based.]

1

2

Part 3: LEGAL BASIS

7

[Using numbered paragraphs, specify any rule or other enactment relied on and provide a brief summary of any other legal bases on which the petitioner(s) intend(s) to rely in support of the orders sought.]

1

2

Part 4: MATERIAL TO BE RELIED ON

8 [Using numbered paragraphs, list the affidavits served with the petition. 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

9 The petitioner(s) estimate(s) that the hearing of the petition will take[time estimate]..... .

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

.....
Signature of

[] petitioner [] lawyer for petitioner(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 petition

[] with the following variations and additional terms:

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

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

.....

Signature of [] Judge [] Master

NOTES

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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 respondent.

1. The style of proceeding is the part at the top of the document that identifies your case within the court system. 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. Use names only (not addresses) in the style of proceeding.
 2. Name the person you have started the proceeding against.
 3. Name and address of those you are bringing the claim against.
 4. Put the address of the court registry and your address.
 5. List the orders you are asking the court to make (e.g., that the respondent, John Brown, transfer the property held by the estate of Jane Brown to the named beneficiaries in the will).
 6. “Material facts” are the facts that relate to your claim. Set out your story.
 7. Set out the legal basis of your claim, including the Court Rules, legislation, and case law that support your claim (e.g., the respondent failed to pay a debt owed by the estate of Jane Brown to me, contrary to s. 65 of the *Estate Administration Act*; *Smith v. White*, 2009 BCCA 456, etc.)
 8. List the affidavits you are relying on to prove your claim (e.g., Affidavit #1 of Mary White, made January 5, 2010).
 9. Estimate the time you will need for the hearing (e.g., 90 minutes), the date, and your name.
-

NOTES

Form 67

(Rule 16-1 (5))

[Style of Proceeding]

1

RESPONSE TO PETITION

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

2

Filed by:[party(ies)]..... (the “petition respondent(s)”)

THIS IS A RESPONSE TO the petition filed[dd/mmm/yyyy]..... .

3

Part 1: ORDERS CONSENTED TO

The petition respondent(s) consent(s) to the granting of the orders set out in the following paragraphs of Part 1 of the petition:[set out paragraph numbers]..... .

4

Part 2: ORDERS OPPOSED

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

5

Part 3: ORDERS ON WHICH NO POSITION IS TAKEN

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

6

Part 4: FACTUAL BASIS

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

1

2

Part 5: LEGAL BASIS

7

[Using numbered paragraphs, specify any rule or other enactment relied on and provide a brief summary of any other legal bases on which the petition respondent(s) intend(s) to rely in opposing the orders sought in the petition. In addition, a written argument may be provided to the court in opposition to the petition.]

1

2

Part 6: MATERIAL TO BE RELIED ON

8

[Using numbered paragraphs, list the affidavits served with this response to petition and any other affidavits and other documents already in the court file on which the petition 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 petition respondent(s) estimate(s) that the application will take[time estimate]..... .

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

Signature of [] petition respondent

[] lawyer for petition respondent(s)

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

9

Petition respondent'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):

E-mail address for service (if any):

Name of the petition respondent's(s') lawyer, if any:

NOTES

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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 petitioner.

1. The style of proceeding is the part at the top of the document that identifies your case within the court system. You will use the style of proceeding on every one of your documents, whether they are filed in the court registry or not. Insert the court number, the location of the registry (e.g., Vancouver), as it is part of your style of proceeding. Write in the names of the plaintiff and defendant in capital letters (not addresses) in the style of proceeding.
 2. Put your name here if you are filing the response.
 3. List the orders that the petitioner is asking the court to make that you consent to (e.g., Part 1 of the petition: paragraphs 2 and 3).
 4. List the orders that the petitioner is asking the court to make that you oppose (e.g., Part 1 of the petition: paragraphs 5 and 9).
 5. List the orders that the petitioner is asking the court to make that you take no position on – that is, that you will abide by what the court orders (e.g., an order for costs).
 6. “Material facts” are the facts that relate to your claim. Set out your story.
 7. Set out the legal basis of your claim, including the Court Rules, legislation, and case law that support your claim (e.g., the petitioner did not notify me that the deceased had given him an advance on his inheritance as set out in s. 92 of the *Estate Administration Act*; *Joe v. Silver*, 2001 BCSC 45; etc.)
 8. List the affidavits you are relying on to prove your claim (e.g., Affidavit #1 of Margaret Blue, made January 8, 2009).
 9. Your address must be a physical location (not just a post office box) where documents can be delivered.
-