

# NOTES

## Form 5

1

(Rule 3-5 (3) )

*[Style of Proceeding]*

*[Add the following to the style of proceeding.]*

and

Third Party(ies)

### THIRD PARTY NOTICE

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

2

**Filed by:** .....[party(ies)]..... (the "claiming party(ies)")

3

**To:** .....[name(s) of third party(ies)].....

THIS ACTION has been brought by the plaintiff(s) against the defendant(s) for the relief set out in the notice of civil claim filed in this action.

TAKE NOTICE that the claiming party(ies) claim(s) against you for the relief set out in Part 2 below.

IF YOU INTEND TO RESPOND TO this claim against you, or if you have a set-off or counterclaim that you wish to have taken into account at the trial, YOU MUST FILE a response to third party notice in Form 6 in the above-named registry of this court within the time for response to third party notice provided for below and SERVE a copy of the filed response to third party notice on the claiming party's(ies') address for service.

YOU OR YOUR LAWYER may file the response to third party notice.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to third party notice within the time for response to third party notice described below.

#### **Time for response to third party notice**

A response to third party notice must be filed and served on the claiming party(ies),

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

Claim of the Claiming Party(ies)

4

**Part 1: STATEMENT OF FACTS**

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

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

5

**Part 2: RELIEF SOUGHT**

*[Using numbered paragraphs, set out the relief sought against the third party(ies). Relief may be sought in the alternative.]*

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2

6

**Part 3: LEGAL BASIS**

*[Using numbered paragraphs, set out a concise summary of the legal bases on which the claiming party(ies) intend(s) to rely in support of the relief sought and specify any rule or other enactment relied on. The legal bases for the relief sought may be set out in the alternative.]*

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2

7

Address for service of claiming party(ies): *[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):

The address of the registry is:

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

.....

Signature of

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

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

Rule 7-1 (1) of the Supreme Court Civil Rules states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial, and

(b) serve the list on all parties of record.

# NOTES

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Court forms are available at:

[http://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 and serve it all parties of record.**

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.
  3. Put the names of the others that you are bringing the third party claim against.
  4. Material facts” are the facts that relate to your claim. Set out your story.
  5. “Relief sought” is a summary of what orders you are asking the court to make (e.g., that the third party pay \$35,000 for failing to return my car pursuant to our rental agreement).
  6. Set out the legal basis of your claim, including the Court Rules, legislation, and case law that support your claim (e.g., the third party’s stairs were rotten and unsafe contrary to *The Occupiers’ Liability Act*, s. 3; calculation of damages in a wrongful dismissal case as described in *Brown v. Smith*, 2009 BCSC 200, etc.).
  7. Set out your name. Your address must be a physical location (not just a post office box) where documents can be delivered.
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