

# Discharge from Bankruptcy

This guidebook is for people who have declared bankruptcy but have not been granted a discharge from bankruptcy. If your trustee is no longer responsible for making another application for discharge, this guidebook will help you make your own application for discharge from bankruptcy.

If you are not currently in bankruptcy but are dealing with significant debt and want to know more about the bankruptcy process there is information in the column on the right side of this page.

A “discharge” from bankruptcy is the legal process of being released from bankruptcy; at the conclusion of all required steps in processing the assets and debts of a person who has declared bankruptcy, a court order (a “discharge order”) is granted which forgives those debts which cannot be paid, with certain exceptions.

In a bankruptcy, once a bankrupt’s trustee has fulfilled his or her duties under the *Bankruptcy and Insolvency Act* with respect to the administration of the bankrupt’s estate, the trustee MUST apply for their discharge as trustee. A trustee may have reached this point shortly after bringing forward a bankrupt’s first application for discharge; particularly in situations where a bankrupt has duties to fulfill but has not completed those duties.

If you are a bankrupt who was not granted a discharge on a previous application, you are an “undischarged bankrupt” and your trustee is not responsible for making another application for your discharge. This is up to you.

This guidebook will help you make your application for discharge from bankruptcy if you are an undischarged bankrupt.

## Can’t pay your debt?

There are many things you can do if you are dealing with significant debt:

- Get financial counselling (e.g., from [www.NoMoreDebts.org](http://www.NoMoreDebts.org));
- Use a debt management program, which involves a written agreement between you and the person or company that lends you money;
- Consolidate or refinance your debts;
- Make a proposal to your creditors under Canada’s bankruptcy laws; or
- As a last resort, declare personal bankruptcy.

Learn more information about your options:

- [Consumer Law and Credit/Debt Law](#)
- [Dial-A-Law: Credit & Debt](#)
- [Office of Superintendent of Bankruptcy](#)

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 filing all Supreme Court civil documents. 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, see Resource A at the end of this document.

There are reasons why you were not discharged from bankruptcy on the first application. In most cases, undischarged bankrupts have not done something they were required to do or have failed to meet the conditions imposed by the Registrar in Bankruptcy who heard the application. For example, you may have been required to provide the trustee with monthly income and expense statements and failed to do so; you may not have been paid all of the surplus income you were required to pay; or you may not have attended your counselling sessions.

If there were things you failed to do or moneys that you should have paid (such as surplus income), the trustee objected to your discharge when it became time to apply for your discharge. When the trustee brought your discharge application before the court, that application might have been adjourned or a payment amount may have been set. In almost all cases, the reasons for the trustee's opposition to your application for discharge are set out in the trustee's "s. 170 report" (also called a section 170 report, an S170 report, or a Report of Trustee on Bankrupt's Application for Discharge).

The reasons you were not discharged from bankruptcy should also be noted on the order adjourning your discharge application. Any amount that you have been ordered to pay will be noted on the order made at the initial discharge hearing. Even if an amount is not noted on the adjourning order, you may still have a requirement to pay which must be calculated on the basis of your income during the bankruptcy.

To assist you in making your application for discharge, you should review the s. 170 report and the adjourning order to see what you have failed to do. You must make sure that you have fulfilled all of your duties under the *Bankruptcy and Insolvency Act* and have complied with all conditions that were imposed on you in the adjourning order before applying again. You may also consider making an application to change or rescind any conditional order; one year

must have passed since the conditional order was made for you to apply to rescind or vary it.

## Automatic discharge from bankruptcy

You will be automatically discharged by your trustee (i.e., there is no requirement for a court application of any sort) *9 months* after filing for bankruptcy if:

- this is your first bankruptcy;
- your discharge is not opposed by your trustee, your creditors, or the Office of the Superintendent of Bankruptcy (OSB);
- you have attended counselling sessions;
- your income tax debt is less than \$200,000 and less than 75% of your total debt; and
- you are not required to pay a portion of your income to your bankruptcy estate as "surplus income". If you have to make payments, you are eligible for an automatic discharge after 21 months.

In most cases, you will receive an automatic discharge from bankruptcy. The trustee will notify the OSB and your creditors of the pending date of your discharge. The trustee, the OSB, and your creditors all have a right to object to your absolute discharge. If no one makes an objection, a court hearing is not necessary, and the trustee will send you a copy of your discharge.

If you are bankrupt for a second time, you may be eligible for an automatic discharge 24 months after filing for bankruptcy if you are not required to make payments of surplus income. If you are a second-time bankrupt with surplus income, you must contribute part of the surplus to your trustee for a period of 36 months. After that period, you are eligible for an automatic discharge, provided you have paid all of your surplus income within the 36 months.

## Bankrupt's application for discharge

If you do not qualify for an automatic discharge, your trustee will make the first application for discharge. The trustee will appear in court and inform the court of the circumstances of your bankruptcy. The trustee will inform the court of the reasons, if any, they (or anyone else) oppose your application for discharge. The trustee will also notify your creditors and the OSB of your application for discharge, as they have a right to attend in court and oppose your discharge.

The reasons why creditors and trustees may object to your discharge are set out in the *Bankruptcy and Insolvency Act* (s. 173). Creditors may be inclined to object if they think the court will order that you repay a percentage of the money that you owe to creditors (this is a conditional discharge). The OSB may object to your discharge if you have been bankrupt before and/or it appears for some reason that you are abusing the bankruptcy process.

If your trustee has been discharged, it is up to you to apply for your own discharge from bankruptcy. However, if the trustee is not discharged and the file is still open, the trustee may make a second application for discharge on your behalf. Sometimes, even if the trustee has been discharged, he or she will make the discharge application on your behalf. Your trustee will have to apply to be reappointed as your trustee. This is often done at the same time as the trustee makes your application for discharge. The trustee is entitled to, and will likely, charge you a fee for this service.

## Preparing your own application for discharge

The following information will help you if you are making a court application for your discharge from bankruptcy without the assistance of the trustee or a lawyer.

The first step is to locate your bankruptcy file at the court registry. You must look through your file and find:

- the trustee's report (also called a section 170 report, a S170 report, or a Report of Trustee on Bankrupt's Application for Discharge); and
- copies of any order(s) made at any previous discharge hearing(s).

Ask the registry to make copies of these documents for you. You will have to pay a fee for photocopying. In addition, you will need to prepare the following documents, examples of which are attached to this guidebook.

- Notice of Motion
- an Affidavit of Service;
- your affidavit, which explains why you are entitled to the order that you are seeking; and
- a draft of the order that you are seeking be made, although the Registrar in Bankruptcy hearing your application for discharge may make any order he or she sees fit. If the Registrar in Bankruptcy makes the order you are seeking, he or she may sign the order (prepared by you using the templates found in this guidebook) in court on the day you appear. That may save you some time later in having your order entered in court. Two examples of different types of orders are attached to this guidebook.

### Notice of Motion

You begin an application for discharge by preparing and filing a Notice of Motion. There is a fee for filing your Notice of Motion. (Filing fees are set out in the Schedule attached to the Bankruptcy and Insolvency General Rules. The fees are \$50 for an ordinary administration bankruptcy and \$10 for a summary administration bankruptcy.)

The rules for serving the Notice of Motion are described under the heading "Serving your documents" in this guidebook. There is a sample notice of motion at the end of this guidebook.

## The Affidavit

An affidavit is a signed (you must swear or affirm the contents of the affidavit), written statement that contains important information in your case. Any evidence that you wish the court to consider in the application must be submitted in an affidavit.

Your affidavit should state what led up to your bankruptcy and what your financial situation is at the present time. You should provide details, because the court needs to have a clear picture of your circumstances.

Your affidavit should only include evidence that relates specifically to your application for discharge. The following information might be relevant to your application:

- The cause of your bankruptcy.
- Your personal and financial situation since the date of bankruptcy (e.g., your employment, income, marital status, etc.).
- You should state why you did not seek the discharge earlier and/or why you have not been able to comply with your duties as a bankrupt or the conditions set out in any conditional order made.
- The reasons why you are seeking a discharge now.
- What debts and liabilities you have incurred since the date of bankruptcy.
- Your current assets and liabilities.
- What assets you have acquired, distributed, transferred or sold since the date of bankruptcy.

You should also ensure that you respond to any statements, findings, recommendations or objections set out in the trustee's report and other reports or objections filed in response to your application.

You should attach as exhibits to the affidavit any documents you have relating to the application you are making, such as the trustee's report and a financial statement setting out your current income, expenses, assets, and liabilities.

A sample affidavit and financial statement are set out at the end of this guidebook. You will have to swear (or affirm) your affidavit in front of a lawyer, a notary public, or a designated person at the court registry. There is a fee for this service. For further information about preparing affidavits, see the guidebook, *A Guide to Preparing Your Affidavit*.

## Serving your documents

Legally speaking, to serve documents means to provide a written copy to other parties – in some cases, this requires having a signature to confirm the document was received. You must serve the filed Notice of Motion and all other filed affidavits and documents on all proven creditors, your trustee and the OSB.

The Notice must be received by the persons to be notified at least 4 days before the hearing if the document is served, delivered personally, or sent by fax or electronic transmission. If it is couriered or mailed to the other parties, it must be sent at least 10 days before the hearing. (Time limits are set out in the *Bankruptcy and Insolvency Act*, Rule 6(1) – (2)) It is a good idea to give the other parties as much notice as possible about the hearing date.

The OSB's address for service is 2000 – 300 West Georgia Street, Vancouver, BC, V6B 6E1 (toll free telephone: 1-877-376-9902). You must provide proof of service at the discharge hearing if no one else attends the hearing. A sample Affidavit of Service is attached to this guidebook.

## At the hearing

When your application is heard, you will have an opportunity to present your case in court to a judge or a Registrar in Bankruptcy. (When a master hears your application, he or she is called a Registrar in Bankruptcy.) This is the typical procedure:

1. You explain why you believe you are entitled to an absolute discharge from bankruptcy.
2. Anyone opposing your application explains his or her position to the Registrar in Bankruptcy or judge hearing your discharge application.
3. You submit documents and affidavits in support of your case (including, if relevant, 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 Registrar in Bankruptcy or judge hearing the application).
4. The opposing party's argument is presented in the same way.

When you are presenting your position at the hearing, remember these general guidelines:

- Tell the Registrar in Bankruptcy or judge what order you are seeking.
- Outline the facts necessary to support your application.
- Set out the law on the subject.
- Explain how the law applies to the facts of your case.
- Indicate that the application of the law to the facts of your case requires the Registrar in Bankruptcy or judge to make the order requested.
- Try not to switch back and forth between facts and law.

Stand when you are making your presentation to the Registrar in Bankruptcy or judge hearing your application and address him or her as follows:

- Address a male judge as "My Lord" and address a female judge as "My Lady."
- Address a master or registrar (both male and female) as "Your Honour."

The Registrar in Bankruptcy or judge will consider many factors at your application for discharge. Your conduct before your assignment into bankruptcy and during bankruptcy is an important factor and the trustee's report will provide information about that conduct; particularly conduct that the trustee feels was inappropriate and

might affect whether you ought to be discharged.

For example, if you have not cooperated (*i.e.*, you have not attended the required financial counselling sessions) or you have failed to pay the amount determined as surplus income to the trustee for the benefit of your creditors, the Registrar in Bankruptcy or judge may make a conditional order that you be discharged when you have completed the counselling or when you have paid the surplus income to the trustee.

The Registrar in Bankruptcy or judge will also consider your current income. If you do not have much money left over from your pay cheque after paying reasonable monthly expenses, it is unlikely an order would be made requiring you to repay a substantial amount towards your debts.

On the other hand, if you make a reasonable salary, the Registrar in Bankruptcy may order a conditional discharge; particularly if you have assets that are exempt from being attached as part of the assets in your bankruptcy (such as RSPs purchased more than one year before you declared bankruptcy).

In some cases, the Registrar in Bankruptcy or judge may order repayment of a substantial portion of the debt, even if you are of limited means (*e.g.*, if you owe money to only one creditor, like the Canada Revenue Agency or a litigation creditor).

After discharge, you are legally released from paying debts that you incurred before your assignment in bankruptcy, except certain types of debts, set out in s. 178 of the *Bankruptcy and Insolvency Act*:

- Alimony payments and child support;
- Student loans, if it is less than 7 years since you ceased to be a full or part-time student;
- A fine or penalty imposed by the court; or
- Debt arising from fraud.

## Order for discharge

At the end of the hearing, the Registrar in Bankruptcy or judge will either grant you a discharge from bankruptcy, adjourn the hearing, or dismiss your application. If you have prepared your order and brought it to the hearing, the Registrar in Bankruptcy or judge may sign your order on the bench. There are several types of possible orders. The three most common are:

- *An absolute discharge.* When an absolute discharge is granted, you will be released from your obligation to pay the debts you had as of the date of your bankruptcy. Note that you are still obliged to pay certain debts, as described above.
- *A conditional discharge.* If you get a conditional discharge, you must do certain things before you are entitled to an absolute discharge. For example, you may have to pay a certain amount of money to your trustee over a period of time. The court can impose other conditions, such as seeking counselling for addiction if addiction was a cause of your bankruptcy or ensuring your filings with and payments to Canada Revenue Agency are up to date. Once those conditions are met, you will be granted an absolute discharge.
- *A suspended discharge.* A suspended discharge is where the court sets a specific date in the future when your absolute discharge becomes effective. Although no further court hearing is required, you are not discharged until that date. Where you have not fulfilled your duties in a timely manner; you contributed to your bankruptcy in some fashion through addictive behaviour; you might be said to have over-utilized creditor when you knew or ought to have known you could not pay your creditors (or the court finds any other “s.173 (*Bankruptcy and Insolvency Act* fact” against you); or where a conditional order is inappropriate, the Registrar in Bankruptcy or judge

hearing your application might suspend your discharge from bankruptcy for a period of time – usually between three months to a year, depending on the s.173 facts found.

The court may also refuse to grant your discharge. In that case, you will have to make another application for discharge after a reasonable period of time, usually set by the court in the order refusing your discharge.

Sample orders for discharge and the required backing sheet can be found at the end of this guidebook. A backing sheet is the last page of your document. It sets out the court registry information. Other sample orders and additional information about Bankruptcy Proceedings Before the Registrar may be found in Administrative Notice-11 issued by Chief Justice Hinkson of the Supreme Court of British Columbia (“AN-11”) which may be found at; [www.courts.gov.bc.ca/supreme\\_court/practice\\_and\\_procedure/practice\\_directions/administrative\\_notices/AN%20-%2011%20Bankruptcy%20Proceedings%20before%20the%20Registrar.pdf](http://www.courts.gov.bc.ca/supreme_court/practice_and_procedure/practice_directions/administrative_notices/AN%20-%2011%20Bankruptcy%20Proceedings%20before%20the%20Registrar.pdf)

If you prepared your order before the hearing and the Registrar in Bankruptcy or judge has signed it on the bench, you may then take it to the court registry (bankruptcy division) for filing. If you did not prepare your order before the hearing, go to the court registry (bankruptcy division) and complete the order by filling in a form.

Forms for most of the orders are found in AN-11. You can take that order back to the Registrar in Bankruptcy in court and have him or her sign it if he or she has time. If that happens, take the signed order back to the bankruptcy court registry. However, it is not necessary to return to the courtroom to have the Registrar in Bankruptcy sign your order. A CSB Registrar in Bankruptcy (a staff person in the registry) is able to check the order against the clerk’s notes and enter the order accordingly.

In all cases, the registry will hold your order for 10 day before filing it. Once the order has been filed, you are discharged from bankruptcy.

You must send a copy of the signed and entered Order for your discharge to the

OSB to update the public record. (Note: Credit Bureaus obtain their bankruptcy information from the OSB.) You should also send a copy of the entered Order to your trustee and to all of your proven creditors so that they may complete their records.

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## Resource A: Where to get legal advice

Here are some places where you can get legal advice. To receive free legal advice, you must have low income to qualify. Contact one of the organizations listed below and they will tell you if you qualify financially.

### **Community Legal Assistance Society**

The Community Legal Assistance Society runs legal clinics for BC Supreme Court for civil matters. There is financial qualification. Phone 604-685-3425. Their web site is: [www.CLASBC.net](http://www.CLASBC.net).

### **Access Pro Bono Society of British Columbia**

This program runs free legal advice clinics. There is a financial qualification. The phone number is 604-878-7400. Some of the clinics are run out of courthouses. See their web page: [www.AccessProbono.ca](http://www.AccessProbono.ca).

### **Lawyer Referral Service**

The BC branch of the Canadian Bar Association offers a lawyer referral service. With a phone call (1-800-663-1919), you can get the contact information of a qualified lawyer who works in the area of law that you need. You will be able to meet with that lawyer for up to 30 minutes for only \$25. See their web page: <http://www.cbabc.org/Our-Work/Initiatives/Lawyer-Referral-Service>

### **Law Students' Legal Advice Program**

This program is run by law students at the University of British Columbia. It provides free advice and representation to clients who would otherwise be unable to afford legal assistance. Clinics are located throughout Greater Vancouver. To book an appointment, phone 604-822-5791. View their website: [www.LSLAP.bc.ca](http://www.LSLAP.bc.ca).

### **SupremeCourtBC.ca – Ask JES**

Website users can “Ask JES” their civil law questions. They will receive answers that provide legal information, but NOT legal advice. From Monday to Friday, between 11am and 2pm, online chat is available and it provides immediate support. During offline hours, users can send a message with their question and then receive an email response within five days. To access the service, visit the Civil section and click on the Ask JES image on the right side of the page.

## 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

The Justice Education Society website: [www.SupremeCourtBC.ca](http://www.SupremeCourtBC.ca) provides a range of helpful information, including all *Guidebooks for Representing Yourself in BC Supreme Court Civil Matters*.

Clicklaw provides a range of legal information and 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:

[http://www.courts.gov.bc.ca/supreme\\_court/self-represented\\_litigants/](http://www.courts.gov.bc.ca/supreme_court/self-represented_litigants/)

### Legal information services

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**Justice Access Centres:** 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, 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 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: [BCLaws.ca](http://BCLaws.ca).

### Court rules and forms

SupremeCourtBC.ca includes a complete list of [civil forms](#), along with notes about how to complete many of the 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 a court registry
3. Printed, completed manually and filed at a court registry

This guidebook is part of a series:

***Guidebooks for Representing Yourself in Supreme Court Civil Matters.***

Produced by: [www.JusticeEducation.ca](http://www.JusticeEducation.ca)



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# NOTES

District of British Columbia  
Division No.  
Court No. \_\_\_\_\_  
Estate No. \_\_\_\_\_

1

In the Supreme Court of British Columbia  
in Bankruptcy and Insolvency

In the Matter of the Bankruptcy of \_\_\_\_\_

2

## NOTICE OF MOTION

Take notice that a motion will be made by \_\_\_\_\_ before  
*[name of bankrupt]*

\_\_\_\_\_ at the courthouse at

3

*[Judge/Registrar in Bankruptcy]*

\_\_\_\_\_

*[location/address]*

on \_\_\_\_\_ at \_\_\_\_\_ for the order(s) set out in Part 1 below.  
*[dd/mmm/yyyy]* *[time]*

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

*[Using numbered paragraphs, set out the order(s) that will be sought at the application.]*

1

\_\_\_\_\_

2

\_\_\_\_\_

### 5 Part 2: FACTUAL BASIS

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

1

\_\_\_\_\_

2

\_\_\_\_\_

**6 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

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2

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

**7**

*[Using numbered paragraphs, list the affidavits served with the notice of motion 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].....".]*

Affidavit # \_\_\_\_\_ of \_\_\_\_\_ made \_\_\_\_\_

**8**

The applicant(s) estimate(s) that the application will take \_\_\_\_\_ hours \_\_\_\_\_ minutes

[Check the correct box.]

This matter is within the jurisdiction of a registrar in bankruptcy.

This matter is not within the jurisdiction of a registrar of bankruptcy.

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

Signature of  
 Applicant  Lawyer for applicant(s)

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

Address: .....

Telephone Number: .....

[Name of Applicant] .....

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## NOTES

**Note** that this form is not available online. Print out a clean copy of this form (without numbers) and complete it manually. If you are handwriting the information, please ensure that your writing is legible.

**File this form in the court registry and serve it on the trustee, the OSB, and all your creditors that have filed a proof of claim.**

1. This information identifies your case within the court system. Insert the division number, court registry number and the bankruptcy estate number.
  2. Insert your name.
  3. Insert your name, whether the application is to be heard by a judge or a Registrar, the address of the courthouse, and the date and time of the hearing that you have secured from Supreme Court Scheduling staff.
  4. List the orders that you are seeking in your application (e.g., That the court grant me an absolute discharge from bankruptcy).
  5. State the facts you are relying on (e.g., It has been 12 months since my last application for a discharge. I have paid the amount to the trustee as required by the conditional order (dated). I have completed both counselling sessions, as required by the conditional order (dated)).
  6. State the legal basis of your application (e.g., I am entitled to an absolute discharge from bankruptcy pursuant to s. 168.1 of the *Bankruptcy and Insolvency Act*).
  7. List the affidavits and other documents that you will be relying on in your application (e.g., Affidavit #1, of John Brown, made June 3, 2014. You should also list the trustee's report and any previous orders that the court made about your bankruptcy).
  8. Estimate the time it will take you and the other party to make submissions to the judge or Registrar in Bankruptcy. (It is usually 15 or 30 minutes unless your application is opposed. In those circumstances your application could possibly take one hour. It is always better to over-estimate, rather than underestimate, the time you expect your application to take).
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District of British Columbia  
Division No.  
Court No. \_\_\_\_\_  
Estate No. \_\_\_\_\_

In the Supreme Court of British Columbia  
in Bankruptcy and Insolvency

In the Matter of the Bankruptcy of \_\_\_\_\_

NOTICE OF MOTION

Take notice that a motion will be made by \_\_\_\_\_ before  
*[name of bankrupt]*

\_\_\_\_\_ at the courthouse at  
*[Judge/Registrar in Bankruptcy]*

\_\_\_\_\_ *[location/address]*  
on \_\_\_\_\_ at \_\_\_\_\_ for the order(s) set out in Part 1 below.  
*[dd/mmm/yyyy]* *[time]*

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

*[Using numbered paragraphs, set out the order(s) that will be sought at the application.]*

1

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2

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**Part 2: FACTUAL BASIS**

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

1

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2

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**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

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2

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

*[Using numbered paragraphs, list the affidavits served with the notice of motion 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].....".]*

Affidavit # \_\_\_\_\_ of \_\_\_\_\_ made \_\_\_\_\_

The applicant(s) estimate(s) that the application will take \_\_\_\_\_ hours \_\_\_\_\_ minutes

[Check the correct box.]

[  ] This matter is within the jurisdiction of a registrar in bankruptcy.

[  ] This matter is not within the jurisdiction of a registrar of bankruptcy.

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

.....

Signature of

[  ] Applicant [  ] Lawyer for applicant(s)

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

Address: .....

Telephone Number: .....

[Name of Applicant] .....

# NOTES

1

This is the \_\_\_\_\_ affidavit

Of \_\_\_\_\_  
[name]

in this case and was made on

\_\_\_\_\_  
[dd/mmm/yyyy]

District of British Columbia  
Division No.

Court No. \_\_\_\_\_

Estate No. \_\_\_\_\_

2

3

In the Matter of the Bankruptcy of \_\_\_\_\_

## AFFIDAVIT

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

4

I, \_\_\_\_\_ of \_\_\_\_\_, \_\_\_\_\_  
[name] [address] [occupation]

SWEAR (OR AFFIRM) THAT:

5

1

6

SWORN (OR AFFIRMED) BEFORE ME

at \_\_\_\_\_,  
British Columbia  
on \_\_\_\_\_  
[dd/mmm/yyyy]

\_\_\_\_\_  
A commissioner for taking affidavits for British Columbia

\_\_\_\_\_  
[print name or affix stamp of commissioner]



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## NOTES

This form is not available online. Print out a clean copy of this form (without numbers) and complete it. If you are handwriting the information, make sure that your writing is legible.

**This document must be filed in the court registry and attached to your notice of motion.**

1. Insert your name and date that you swore the affidavit.
2. This information identifies your case within the court system. Insert the division number, court registry number and the bankruptcy estate number.
3. Insert your name.
4. Insert your name, address, and occupation.
5. List the facts that you want the court to know about your application for bankruptcy, in numbered paragraphs. For example:
  1. I am the bankrupt in these proceedings and as such have personal knowledge of the matters hereinafter deposed to.
  2. My bankruptcy was caused by (provide explanation). Further details of my bankruptcy are set out in the Trustee's s. 170 report, attached as Exhibit A to this affidavit. (FYI, the trustee's report is also called a section 170 report, a S170 report, or a Report of Trustee on Bankrupt's Application for Discharge).
  3. My original application for discharge from bankruptcy was heard on (date). The result of the application was (state the result); or, if the application was adjourned, explain why. A copy of the order adjourning my application for discharge from bankruptcy is attached as Exhibit B to this affidavit.
  4. I am presently (employed/unemployed). I attach as Exhibit C to this affidavit my last 3 paystubs (if applicable).
  5. I attach as Exhibit D to this affidavit an accurate statement of my monthly income and expenses for myself (and others, if applicable).
  6. I make this affidavit in support of my application for an absolute discharge from bankruptcy, pursuant to the provisions of the Bankruptcy and Insolvency Act.

You might also include the following information if it is relevant to your application:

- Your past and present personal and financial situation since the date of bankruptcy. You should state why you did not seek the discharge earlier or why you were not able to comply with your duties as a bankrupt or fulfill the conditional requirements in your adjourned discharge order.
- Important changes in your financial situation during the period of bankruptcy, such as your employment, your income, etc.
- The reasons why you are seeking a discharge now.
- The reason why you are not represented by a trustee or a lawyer.
- Your current debts and liabilities.
- What debts and liabilities you have incurred since the date of bankruptcy.
- What assets you have acquired, distributed, transferred or sold since the date of bankruptcy.

You should also respond to any statements, findings, recommendations or objections set out in the trustee's report and any other reports or objections filed in response to your application.

6. Your affidavit must be sworn or affirmed before a lawyer, a notary public, or a designated court official at the court registry.
-

This is the \_\_\_\_\_ affidavit

Of \_\_\_\_\_  
[name]

in this case and was made on

\_\_\_\_\_   
[dd/mmm/yyyy]

District of British Columbia  
Division No.

Court No. \_\_\_\_\_

Estate No. \_\_\_\_\_

In the Matter of the Bankruptcy of \_\_\_\_\_

**AFFIDAVIT**

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

I, \_\_\_\_\_ of \_\_\_\_\_, \_\_\_\_\_  
[name] [address] [occupation]

SWEAR (OR AFFIRM) THAT:

1

SWORN (OR AFFIRMED) BEFORE ME )

at \_\_\_\_\_, )

British Columbia )

on \_\_\_\_\_ )

[dd/mmm/yyyy] )

\_\_\_\_\_ )  
A commissioner for taking affidavits for British Columbia )

\_\_\_\_\_ )  
[print name or affix stamp of commissioner] )



# NOTES

## Form 15

(Rule 4-6 (1))

District of British Columbia  
Division No. \_\_\_\_\_  
Court No. \_\_\_\_\_  
Estate No. \_\_\_\_\_

1

2

In the Matter of the Bankruptcy of \_\_\_\_\_

### AFFIDAVIT OF ORDINARY SERVICE

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

3

I, \_\_\_\_\_ of \_\_\_\_\_,  
[name] [address]

\_\_\_\_\_ SWEAR (OR AFFIRM) THAT:  
[occupation]

4

On \_\_\_\_\_ I caused to be mailed to \_\_\_\_\_ [name of individual or entity served] the \_\_\_\_\_ [type of document] in this proceeding, a copy of which is attached to this affidavit and marked as Exhibit A, by mailing it by ordinary mail to the \_\_\_\_\_ [name of individual or entity served] at \_\_\_\_\_ [mailing address of individual or entity served].

SWORN (OR AFFIRMED) BEFORE ME

5

at \_\_\_\_\_,  
British Columbia )  
on \_\_\_\_\_ ) \_\_\_\_\_  
[dd mmm yyyy] )  
)  
)  
\_\_\_\_\_ )  
A commissioner for taking affidavits for British Columbia )  
)  
)

\_\_\_\_\_  
*[print name or affix stamp of commissioner]*

---

## NOTES

**This document must be filed in the court registry; it is not served on anyone.**

1. This information identifies your case within the court system. Insert the division number, court registry number and the bankruptcy estate number.
  2. Your name goes here.
  3. Insert your name, the city you reside in and your occupation.
  4. Insert the name of the individual or entity served, the type of document served, and the address to which the document was mailed. Make sure that the address you are using is a valid one.
  5. Your document must be sworn or affirmed before a lawyer, a notary public, or a designated court official at the court registry.
-



## NOTES

District of British Columbia  
Division No. \_\_\_\_

1

Court No. \_\_\_\_\_  
Estate No. \_\_\_\_\_

IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY  
IN THE MATTER OF THE BANKRUPTCY OF

2

\_\_\_\_\_  
(Summary Administration) \*\* delete if Ordinary

BEFORE \_\_\_\_\_ ) \_\_\_\_\_, THE \_\_\_\_ DAY  
REGISTRAR ) OF \_\_\_\_\_, 20\_\_  
ORDER

3

4

UPON THE APPLICATION of \_\_\_\_\_, a bankrupt who made an assignment on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_;

AND UPON reading the report of the Trustee as to the bankrupt's conduct and affairs;

5

AND UPON hearing \_\_\_\_\_ [insert name of person appearing] on behalf of the Trustee \_\_\_\_\_ [insert name of trustee];

AND UPON hearing the bankrupt on his/her own behalf;

AND UPON hearing \_\_\_\_\_ [insert name and description of others attending; e.g. \_\_\_\_\_, appearing on behalf of the Office of the Superintendent of Bankruptcy and/or \_\_\_\_\_, a creditor in the bankrupt's estate]. [if applicable]

6

AND WHEREAS proof has been made of the following fact(s) under Section 173 of the Bankruptcy and Insolvency Act, namely

- a) Section \_\_\_\_\_ (set out details); and
- b) Section \_\_\_\_\_ (set out details);

7

IT IS ORDERED THAT:

1. The bankrupt shall pay to the Trustee for the general benefit of the creditors, the sum of \$ \_\_\_\_\_ in minimum monthly instalments of \$ \_\_\_\_\_, commencing on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ and continuing on the \_\_\_\_ day of each and every month thereafter until paid in full, with the right to prepay in part or in full at any time; and
2. If a condition of this Order has not been fulfilled or the bankrupt misses an aggregate of three (3) payments to be made hereunder, the Trustee may proceed to its discharge and creditors' rights to enforce payment will be reinstated upon the discharge of the Trustee.

AND UPON the Registrar being satisfied that the conditions set forth in this Order have been complied with, the Registrar shall grant the bankrupt an Absolute Discharge

BY THE COURT

\_\_\_\_\_  
REGISTRAR IN BANKRUPTCY

## NOTES

**This order 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. This information identifies your case within the court system. Insert the division number, court registry number and the bankruptcy estate number.
  2. Insert your name.
  3. Insert the name of the registrar who heard the application and the date of the application.
  4. Insert your name here, and the date that you made your assignment into bankruptcy.
  5. Insert the names of the parties who made submissions at the court hearing; delete the sections that do not apply.
  6. Read section 173 of the *Bankruptcy and Insolvency Act* (the facts for which discharge may be refused, suspended or granted conditionally), and state which section of 173 applies to you, and provide details.
  7. Complete this section according to the conditions that the court imposed. For example, the court may have ordered that you pay \$2,400 in minimum monthly installments of \$200 each, commencing on March 1, 2014 and continuing on the first day of every month until it is paid in full.
-

**Conditional Order of Discharge**

District of British Columbia  
Division No. \_\_\_\_  
Court No. \_\_\_\_\_  
Estate No. \_\_\_\_\_

IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY  
IN THE MATTER OF THE BANKRUPTCY OF

\_\_\_\_\_  
(Summary Administration) \*\* delete if Ordinary

BEFORE ) \_\_\_\_\_, THE \_\_\_\_ DAY  
)  
REGISTRAR ) OF \_\_\_\_\_, 20\_\_

ORDER

UPON THE APPLICATION of \_\_\_\_\_, a bankrupt who made an assignment on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_;

AND UPON reading the report of the Trustee as to the bankrupt's conduct and affairs;

AND UPON hearing \_\_\_\_\_ [*insert name of person appearing*] on behalf of the Trustee \_\_\_\_\_ [*insert name of trustee*];

AND UPON hearing the bankrupt on *his/her* own behalf;

AND UPON hearing \_\_\_\_\_ [*insert name and description of others attending; e.g. \_\_\_\_\_, appearing on behalf of the Office of the Superintendent of Bankruptcy and/or \_\_\_\_\_, a creditor in the bankrupt's estate*]. [*if applicable*]

AND WHEREAS proof has been made of the following fact(s) under Section 173 of the Bankruptcy and Insolvency Act, namely

- a) Section \_\_\_\_\_ (*set out details*); and
- b) Section \_\_\_\_\_ (*set out details*);

IT IS ORDERED THAT:

1. The bankrupt shall pay to the Trustee for the general benefit of the creditors, the sum of \$ \_\_\_\_\_ in minimum monthly instalments of \$ \_\_\_\_\_, commencing on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ and continuing on the \_\_\_\_ day of each and every month thereafter until paid in full, with the right to prepay in part or in full at any time; and
2. If a condition of this Order has not been fulfilled or the bankrupt misses an aggregate of three (3) payments to be made hereunder, the Trustee may proceed to its discharge and creditors' rights to enforce payment will be reinstated upon the discharge of the Trustee.

AND UPON the Registrar being satisfied that the conditions set forth in this Order have been complied with, the Registrar shall grant the bankrupt an Absolute Discharge.

BY THE COURT

\_\_\_\_\_  
REGISTRAR IN BANKRUPTCY

**Order Suspending Discharge**

**NOTES**

1

District of British Columbia  
Division No. \_\_\_\_  
Court No. \_\_\_\_\_  
Estate No. \_\_\_\_\_

2

IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY  
IN THE MATTER OF THE BANKRUPTCY OF

3

\_\_\_\_\_  
[your name]  
BEFORE ) \_\_\_\_\_, THE \_\_\_\_ DAY  
)  
REGISTRAR ) OF \_\_\_\_\_, 20\_\_

4

UPON THE APPLICATION of \_\_\_\_\_, a bankrupt who made an assignment on the \_\_\_\_ day of \_\_\_\_\_;

AND UPON reading the report of the Trustee as to the bankrupt's conduct and affairs;

5

AND UPON hearing \_\_\_\_\_ [insert name of person appearing] on behalf of the Trustee \_\_\_\_\_ [insert name of trustee];

AND UPON hearing the bankrupt on his/her own behalf;

AND UPON hearing \_\_\_\_\_ [insert name and description of others attending; e.g. \_\_\_\_\_, appearing on behalf of the Office of the Superintendent of Bankruptcy and/or \_\_\_\_\_, a creditor in the bankrupt's estate]. [if applicable]

6

AND WHEREAS proof has been made of the following fact(s) under Section 173 of the Bankruptcy and Insolvency Act, namely:

- a) Section \_\_\_\_\_ (set out details); and
- b) Section \_\_\_\_\_ (set out details);

7

IT IS ORDERED THAT the bankrupt's discharge be suspended for a period of \_\_\_\_\_ from the date of this Order and that the bankrupt be discharged on and from the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

BY THE COURT

\_\_\_\_\_  
REGISTRAR IN BANKRUPTCY

## NOTES

**This order 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. This information identifies your case within the court system. Insert the division number, court registry number and the bankruptcy estate number.
  2. Insert your name.
  3. Insert the name of the registrar who heard the application and the date of the application.
  4. Insert your name and the date that you made your assignment into bankruptcy.
  5. Insert the names of the parties who made submissions at the court hearing; delete the sections that do not apply.
  6. Read section 173 of the Bankruptcy and Insolvency Act (the facts for which discharge may be refused, suspended or granted conditionally), and state which section of 173 applies to you, and provide details.
  7. Complete this section according to the length of the suspension imposed - one day, one month, three months, etc. Calculate the date of your discharge, based on the registrar's order, and insert it here.
-

**Order Suspending Discharge**

District of British Columbia  
Division No. \_\_\_\_  
Court No. \_\_\_\_\_  
Estate No. \_\_\_\_\_

IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY  
IN THE MATTER OF THE BANKRUPTCY OF

\_\_\_\_\_  
[your name]

BEFORE ) \_\_\_\_\_, THE \_\_\_\_ DAY  
)  
REGISTRAR ) OF \_\_\_\_\_, 20\_\_

ORDER

UPON THE APPLICATION of \_\_\_\_\_, a bankrupt who made an assignment on the \_\_\_\_ day of \_\_\_\_\_;

AND UPON reading the report of the Trustee as to the bankrupt's conduct and affairs;

AND UPON hearing \_\_\_\_\_ [insert name of person appearing] on behalf of the Trustee \_\_\_\_\_ [insert name of trustee];

AND UPON hearing the bankrupt on *his/her* own behalf;

AND UPON hearing \_\_\_\_\_ [insert name and description of others attending; e.g. \_\_\_\_\_, appearing on behalf of the Office of the Superintendent of Bankruptcy and/or \_\_\_\_\_, a creditor in the bankrupt's estate]. [if applicable]

AND WHEREAS proof has been made of the following fact(s) under Section 173 of the Bankruptcy and Insolvency Act, namely:

- a) Section \_\_\_\_\_ (set out details); and
- b) Section \_\_\_\_\_ (set out details);

IT IS ORDERED THAT the bankrupt's discharge be suspended for a period of \_\_\_\_\_ from the date of this Order and that the bankrupt be discharged on and from the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

BY THE COURT

\_\_\_\_\_  
REGISTRAR IN BANKRUPTCY

**Absolute Order of Discharge**

**NOTES**

District of British Columbia  
Division No. \_\_\_\_

**1** Court No. \_\_\_\_\_  
Estate No. \_\_\_\_\_

IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY  
IN THE MATTER OF THE BANKRUPTCY OF

**2** \_\_\_\_\_  
(Summary Administration) [**\*\* delete if Ordinary**]

**3** BEFORE \_\_\_\_\_ ) \_\_\_\_\_, THE \_\_\_\_ DAY  
REGISTRAR ) OF \_\_\_\_\_, 20\_\_

ORDER

**4** UPON THE APPLICATION of \_\_\_\_\_, a bankrupt who made an assignment on the \_\_\_\_ day of \_\_\_\_\_;

**5** AND UPON reading the report of the Trustee as to the Bankrupt’s conduct and affairs;

AND UPON hearing \_\_\_\_\_ [*insert name of person appearing*] on behalf of the Trustee \_\_\_\_\_ [*insert name of trustee*];

AND UPON hearing the bankrupt on *his/her* own behalf;

AND UPON hearing \_\_\_\_\_ [*insert name and description of others attending; e.g. \_\_\_\_\_, appearing on behalf of the Office of the Superintendent of Bankruptcy and/or \_\_\_\_\_, a creditor in the bankrupt’s estate*]. [*if applicable*]

AND WHEREAS proof has not been made of any of the facts mentioned in Section 173 of the *Bankruptcy and Insolvency Act*, nor has the bankrupt been guilty of any misconduct in relation to his/her property or affairs;

IT IS ORDERED THAT the bankrupt be and is hereby discharged.

BY THE COURT

\_\_\_\_\_  
REGISTRAR IN BANKRUPTCY

## NOTES

**This order 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. This information identifies your case within the court system. Insert the division number, court registry number and the bankruptcy estate number.
  2. Insert your name.
  3. Insert the name of the registrar who heard the application and the date of the application.
  4. Insert your name and the date that you made your assignment into bankruptcy.
  5. Insert the names of the parties who made submissions at the court hearing; delete the sections that do not apply.
-

**Absolute Order of Discharge**

District of British Columbia  
Division No. \_\_\_\_  
Court No. \_\_\_\_\_  
Estate No. \_\_\_\_\_

IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY  
IN THE MATTER OF THE BANKRUPTCY OF

\_\_\_\_\_  
(Summary Administration) [**\*\* delete if Ordinary**]

BEFORE ) \_\_\_\_\_, THE \_\_\_\_ DAY  
          ) )  
REGISTRAR ) OF \_\_\_\_\_, 20\_\_

ORDER

UPON THE APPLICATION of \_\_\_\_\_, a bankrupt who made an assignment on the \_\_\_\_ day of \_\_\_\_\_;

AND UPON reading the report of the Trustee as to the Bankrupt's conduct and affairs;

AND UPON hearing \_\_\_\_\_ [*insert name of person appearing*] on behalf of the Trustee \_\_\_\_\_ [*insert name of trustee*];

AND UPON hearing the bankrupt on *his/her* own behalf;

AND UPON hearing \_\_\_\_\_ [*insert name and description of others attending; e.g. \_\_\_\_\_, appearing on behalf of the Office of the Superintendent of Bankruptcy and/or \_\_\_\_\_, a creditor in the bankrupt's estate*]. [*if applicable*]

AND WHEREAS proof has not been made of any of the facts mentioned in Section 173 of the *Bankruptcy and Insolvency Act*, nor has the bankrupt been guilty of any misconduct in relation to his/her property or affairs;

IT IS ORDERED THAT the bankrupt be and is hereby discharged.

BY THE COURT

\_\_\_\_\_  
REGISTRAR IN BANKRUPTCY

## NOTES

1

Court No. \_\_\_\_\_

Estate No. \_\_\_\_\_

---

2

IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY  
IN THE MATTER OF THE BANKRUPTCY OF

\_\_\_\_\_  
[your name]

---

ORDER

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3

\_\_\_\_\_  
Your name and address

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## NOTES

**This document must be attached as the last page to every document you file in the Bankruptcy Registry.**

1. Insert the court registry number and your bankruptcy (estate) number here.
  2. Insert your name.
  3. Insert your name and address.
-

**Backing Sheet**

Court No. \_\_\_\_\_  
Estate No. \_\_\_\_\_

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*IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY  
IN THE MATTER OF THE BANKRUPTCY OF*

\_\_\_\_\_  
*[your name]*

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ORDER

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Your name and address