ALBERTA
RULES OF COURT

© Published by Alberta Queen's Printer

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Alberta Rules of Court

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ALBERTA
RULES OF COURT

Effective November 1, 2010

AR 124/2010
Includes changes from AR 85/2016

VOLUME ONE

Published September, 2016

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About These Rules

Definitions

Words and phrases that have defined meanings in these rules are collected in the Appendix *[Definitions]* to these rules.

Organization

There are 15 Parts, 3 Schedules, and one Appendix to the *Alberta Rules of Court*. These rules govern the practice and procedure in civil proceedings in the Court of Queen's Bench and the Court of Appeal. Surrogate Rules can be found in *Surrogate Rules* (AR 130/95).

Generally speaking, the Parts are organized in the same sequence as a legal action in Court proceedings, although rules for service of documents are in Part 11 *[Service of Documents]*, and some of the more technical rules are collected in Part 13 *[Technical Rules]*.

Here is an overview of each Part of the rules, the Schedules, and the Appendix:

Part 1 *[Foundational Rules]* contains the philosophy underlying the rules through purpose and intention statements. This is followed by rules about the general authority of the Court over practice and procedure and the remedies the Court may provide. The Part also describes how the rules are to be interpreted.

The foundational rules are critical to the interpretation of everything else in the rules.

Part 2 *[The Parties to Litigation]* includes rules related to Court actions involving personal representatives, trustees, partnerships and other entities. There are also rules for when a litigation representative must be appointed and the responsibilities of lawyers of record.

Part 3 *[Court Actions]* – Division 1 describes the process for starting Court actions and where to start them. Court actions are typically started either by filing in Court a statement of claim or an originating application. Division 2 describes the process for actions started by originating application, including originating applications for judicial review. Division 3 describes the process for actions started by statement of claim, defending them, making counterclaims and third party claims. Division 4 deals with obtaining more particulars about a claim and amendments to and close of pleadings, and Division 5 deals with significant deficiencies in claims and pleadings. Division 6 includes rules for joining or separating claims and parties and changes to parties.

Part 4 *[Managing Litigation]* puts the responsibility for managing litigation started by statement of claim on the parties to a legal action and creates a framework for doing that. Court assistance is available to move the case along, including management of an action by a case management judge.

For most actions started by statement of claim, the parties must attempt to resolve the dispute through a dispute resolution process before obtaining a trial date. The rules recognize judicial dispute resolution as one means of resolving litigation without a full trial.

Part 4 also includes processes to obtain an order to secure payment of a costs award and a formal process to settle legal actions designed to ensure careful consideration of offers of settlement. Divisions 6 and 7 deal with delay in Court proceedings, and transfer and transmission of interests respectively.

Part 5 *[Disclosure of Information]* describes the information that must be disclosed by the parties to a Court action to each other, and when and how the parties may question each other about the case. Early disclosure of facts and admissions help parties to evaluate the case and can facilitate early resolution of the dispute. This Part also deals with expert reports and medical examinations by health care professionals.

Part 6 *[Resolving Issues and Preserving Rights]* includes rules for making applications to the Court (also known as interlocutory applications) to obtain Court directions or to resolve issues arising during the course of a Court action. The Part also includes

- rules for obtaining evidence outside Alberta,
- orders for the protection and inspection of property, and
- rules respecting replevin orders and interpleader proceedings.

Part 7 *[Resolving Claims Without a Full Trial]* includes rules for applying for summary judgment and applying for judgment by way of a summary trial proceeding. The Part also includes a mechanism for the Court to resolve particular issues or questions that can help expedite or resolve a claim; for example, deciding a question of law.

Part 8 *[Trial]* contains rules for scheduling a trial date and the conduct of a trial.

Part 9 *[Judgments and Orders]* includes rules for preparing, entering and enforcing the Court's judgments and orders, and for registration of judgments and orders from reciprocating jurisdictions.

Part 10 *[Lawyer's Charges, Recoverable Costs of Litigation and Sanctions]*. This Part includes rules for the review of retainer agreements between a lawyer and client, a lawyer's charges, and contingency fee agreements by a review officer. The Part then deals with how the costs of litigation are assessed by the Court or by an assessment officer. Processes are included to appeal the decisions of review officers and assessment officers to a judge.

The Part also deals with sanctions for contravention of these rules and the circumstances that could cause the Court to declare a person in civil contempt of Court.

Part 11 *[Service of Documents]* sets out the rules for how documents starting an action, called commencement documents, and other documents must be served inside and outside Alberta, together with rules for validating service, substitutional service, setting aside service and proof of service.

Part 12 *[Family Law Rules]* sets out the rules for family law matters. The Part applies to proceedings under the *Divorce Act*, the *Family Law Act*, the *Matrimonial Property Act*, the *Protection Against Family Violence Act*, the *Extra-provincial Enforcement of Custody Orders Act*, and to family law matters under the *Change of Name Act* and the *Law of Property Act*. The Part also applies to restraining orders and to actions for unjust enrichment in the family law context.

Unless a different procedure is specified in Part 12, the other Parts of the Rules also apply to family law matters. The Part is divided into Divisions which correspond to the other Parts of the Rules, so that one can quickly identify any exceptions which apply to family law matters.

Part 13 *[Technical Rules]* contains rules about calculating time, pleadings and amendments to them, affidavits, exhibits, payments into and out of Court, certifying copies of documents, payment of fees and allowances and various administrative matters related to the court clerk and other Court officers.

Part 14 *[Appeals]* governs appeals to the Court of Appeal.

Part 15 *[Transitional Provisions and Coming Into Force]* deals with issues to provide for a smooth transition to the new rules.

There are 3 Schedules to the rules:

- Schedule A *[Forms]* includes forms prescribed by the rules for use under the rules,
- Schedule B *[Court Fees and Witness and Other Allowances]* prescribes Court fees payable and allowances payable to witnesses, jurors and experts, and
- Schedule C *[Tariff of Recoverable Fees]* sets out a series of fees for services performed in a legal action to which reference may or will be made by the Court or an assessment officer.

The Appendix *[Definitions]* to the rules contains words and phrases that have defined meanings in the rules.

Overview summaries and information notes

The rules contain two unique features. The first is a series of boxed notes titled ***What this Part is about*** on the title page of each Part of the rules. These notes give a summary explanation of what the Part is about.

The second unique feature is the highlighted **Information notes.** You are reading one now. Information notes are simply signposts to indicate other information or rules that the reader may find helpful.

Neither the overviews nor the information notes have any legal effect.

Numbering system

The rules are divided, numbered and named in the following way:

- rules that relate to a particular subject area are grouped into Parts with a number assigned to each Part, for example
  - Part 3 *[Court Actions]*
  - Part 4 *[Managing Litigation]*

– Part 8 *[Trial]*;

- each Part consists of a series of rules numbered first with the Part number and then consecutively; for example, in Part 5 the rules are numbered *5.1, 5.2, 5.3* and so on;
- if a particular rule is divided into 2 or more identifiable sentences, subrules are created with numbers in brackets; for example: *5.1(1), (2), (3)*;
- if a rule or subrule is divided,

  – the rule is split into clauses, using lowercase letters in brackets, for example: *3.25(a), (b), (c),* and in the case of a subrule, *5.1(1)(a), (b), (c),* and

  – the rule can be further divided into subclauses, using roman numerals in brackets, for example, *3.24(a)(i), (ii), (iii),* and in the case of a subrule, *5.1(1)(a)(i), (ii), (iii).*

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Appendix
Definitions

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Part 1:
Foundational Rules

What this Part is about: Part 1 of the *Alberta Rules of Court* sets the stage for all the other rules. It describes the philosophy underlying the rules through purpose and intention statements, and then sets out

- the general authority of the Court to provide remedies,
- the general authority of the Court to make procedural orders,
- a means to correct contraventions and non-compliance with the rules and irregularities in proceedings that are not fatal to a claim,
- the authority of judges to amend the rules, and
- how the rules are to be interpreted.

Part 1:
Foundational Rules

	Starts at rule #
Division 1: Purpose and Intention of These Rules	1.1
Division 2: Authority of the Court	1.3
Division 3: Interpreting These Rules	1.7

Information note

Words and phrases used in this Part that have defined meanings in the Appendix *[Definitions]* include

- claim
- commencement document
- costs award
- Court
- court clerk
- enactment
- file
- judge
- judgment
- lawyer
- order
- party
- pleading
- prescribed form
- remedy
- rules

Part 1:
Foundational Rules

Division 1
Purpose and Intention of These Rules

What these rules do

1.1(1) These rules govern the practice and procedure in

(a) the Court of Queen's Bench of Alberta, and

(b) the Court of Appeal of Alberta.

(2) These rules also govern all persons who come to the Court for resolution of a claim, whether the person is a self-represented litigant or is represented by a lawyer.

Purpose and intention of these rules

1.2(1) The purpose of these rules is to provide a means by which claims can be fairly and justly resolved in or by a court process in a timely and cost-effective way.

(2) In particular, these rules are intended to be used

(a) to identify the real issues in dispute,

(b) to facilitate the quickest means of resolving a claim at the least expense,

(c) to encourage the parties to resolve the claim themselves, by agreement, with or without assistance, as early in the process as practicable,

(d) to oblige the parties to communicate honestly, openly and in a timely way, and

(e) to provide an effective, efficient and credible system of remedies and sanctions to enforce these rules and orders and judgments.

(3) To achieve the purpose and intention of these rules the parties must, jointly and individually during an action,

(a) identify or make an application to identify the real issues in dispute and facilitate the quickest means of resolving the claim at the least expense,

(b) periodically evaluate dispute resolution process alternatives to a full trial, with or without assistance from the Court,

(c) refrain from filing applications or taking proceedings that do not further the purpose and intention of these rules, and

(d) when using publicly funded Court resources, use them effectively.

(4) The intention of these rules is that the Court, when exercising a discretion to grant a remedy or impose a sanction, will grant or impose a remedy or sanction proportional to the reason for granting or imposing it.

Division 2
Authority of the Court

General authority of the Court to provide remedies

1.3(1) The Court may do either or both of the following:

(a) give any relief or remedy described or referred to in the *Judicature Act*;

(b) give any relief or remedy described or referred to in or under these rules or any enactment.

(2) A remedy may be granted by the Court whether or not it is claimed or sought in an action.

Procedural orders

1.4(1) To implement and advance the purpose and intention of these rules described in rule 1.2 *[Purpose and intention of these rules]* the Court may, subject to any specific provision of these rules, make any order with respect to practice or procedure, or both, in an action, application or proceeding before the Court.

(2) Without limiting subrule (1), and in addition to any specific authority the Court has under these rules, the Court may, unless specifically limited by these rules, do one or more of the following:

(a) grant, refuse or dismiss an application or proceeding;

(b) set aside any process exercised or purportedly exercised under these rules that is

(i) contrary to law,

(ii) an abuse of process, or

(iii) for an improper purpose;

(c) give orders or directions or make a ruling with respect to an action, application or proceeding, or a related matter;

(d) make a ruling with respect to how or if these rules apply in particular circumstances or to the operation, practice or procedure under these rules;

(e) impose terms, conditions and time limits;

(f) give consent, permission or approval;

(g) give advice, including making proposals, providing guidance, making suggestions and making recommendations;

(h) adjourn or stay all or any part of an action, application or proceeding, extend the time for doing anything in the proceeding, or stay the effect of a judgment or order;

(i) determine whether a judge is or is not seized with an action, application or proceeding;

(j) include any information in a judgment or order that the Court considers necessary.

(3) A decision of the Court affecting practice or procedure in an action, application or proceeding that is not a written order, direction or ruling must be

(a) recorded in the court file of the action by the court clerk, or

(b) endorsed by the court clerk on a commencement document, filed pleading or filed document or on a document to be filed.

Rule contravention, non-compliance and irregularities

1.5(1) If a person contravenes or does not comply with any procedural requirement, or if there is an irregularity in a commencement document, pleading, document, affidavit or prescribed form, a party may apply to the Court

(a) to cure the contravention, non-compliance or irregularity, or

(b) to set aside an act, application, proceeding or other thing because of prejudice to that party arising from the contravention, non-compliance or irregularity.

(2) An application under this rule must be filed within a reasonable time after the applicant becomes aware of the contravention, non-compliance or irregularity.

(3) An application under this rule may not be filed by a party who alleges prejudice as a result of the contravention, non-compliance or irregularity if that party has taken a further step in the action knowing of the prejudice.

(4) The Court must not cure any contravention, non-compliance or irregularity unless

(a) to do so will cause no irreparable harm to any party,

(b) in doing so the Court imposes terms or conditions that will

(i) eliminate or ameliorate any reparable harm, or

(ii) prevent the recurrence of the contravention, non-compliance or irregularity,

(c) in doing so the Court imposes a suitable sanction, if any, for the contravention, non-compliance or irregularity, and

(d) it is in the overall interests of justice to cure the contravention, non-compliance or irregularity.

(5) The Court must not cure any contravention, non-compliance or irregularity if to do so would have the effect of extending a time period that the Court is prohibited from extending.

(6) If an order is made under this rule, the Court may also impose a penalty under rule 10.49 *[Penalty for contravening the rules]*.

AR 124/2010 s1.5;128/2015

Information note

Other rules may contain specific methods to resolve some contraventions, non-compliance or irregularities, for example

- rule 3.68 *[Court options to deal with significant deficiencies]*
- rule 3.73 *[Incorrect parties are not fatal to actions]*
- rule 10.53(1)(d) *[Punishment for civil contempt of Court]*
- rule 11.27 *[Validating service]*.

In addition, rule 9.15 *[Setting aside, varying and discharging judgments and orders]* is available.

Most time periods in the rules may be varied under rule 13.5 *[Variation of time periods]*.

The Court may also consider a contravention of the rules, non-compliance or irregularity in making a costs award under rule 10.33(2) *[Court considerations in making a costs award]*.

Changes to these rules

1.6(1) The judges of the Court of Queen's Bench and the Court of Appeal may alter and amend any of these rules or make additional rules.

(2) The Rules of Court Committee under the *Judicature Act* is, for the assistance of readers of these rules, authorized to delete, amend or create new information notes or overview summaries, or both.

Information note

Information notes and other informational guides for the assistance of users, such as boxed summary overviews, are created, amended and deleted by the Rules of Court Committee. They are inserted only as a reader's aid, do not in themselves form part of these rules or the text to be interpreted, and have no legal effect.

Division 3
Interpreting These Rules

Interpreting these rules

1.7(1) The meaning of these rules is to be ascertained from their text, in light of the purpose and intention of these rules, and in the context in which a particular rule appears.

(2) These rules may be applied by analogy to any matter arising that is not dealt with in these rules.

(3) Headings in these rules may be considered in ascertaining the meaning of these rules.

Information note

Subsection (1) refers to the purpose and intention of the rules. The purpose of the rules is set out in rule 1.2(1) *[Purpose and intention of these rules]* and the intention of the rules is set out in rule 1.2(2).

You are now reading an information note. If you go to the title page for *Part 1: Foundational Rules* you will see an example of a boxed summary overview.

Interpretation Act

1.8 The *Interpretation Act* applies to these rules except

(a) sections 10 *[Enactments remedial]* and 12 *[Preambles and reference aids]* of the *Interpretation Act*, which do not apply to these rules,

(b) section 22(3) to (8) *[Computation of time]* of the *Interpretation Act*, which do not apply to these rules,

(c) section 23 *[Presumption of service]* of the *Interpretation Act*, which does not apply to service of documents under these rules, and

(d) section 26(1) *[Use of forms and words]* of the *Interpretation Act*, which does not apply to these rules.

Information note

The *Interpretation Act* provisions that do not apply to the rules are replaced by

- rule 1.7 *[Interpreting these rules]*,
- the rules for calculating time starting at rule 13.2 *[Application of these rules for calculating time]*,
- Part 11 *[Service of Documents]*, and
- rule 13.16 *[Deviations from and changes to prescribed forms]*.

Conflicts and inconsistencies with enactments

1.9 Except as expressly provided, if there is a conflict or inconsistency between these rules and an enactment, the enactment prevails to the extent of the conflict or inconsistency.

Where definitions are located

1.10 Definitions of terms for the purposes of these rules are set out in the Appendix. *[Definitions]*

Part 2:
The Parties to Litigation

What this Part is about: Rules in this Part facilitate Court actions by and against personal representatives, trustees, partnerships, sole proprietors, and other entities.

The rules in this Part also specify those individuals who must be represented in Court by a litigation representative.

This Part describes when a lawyer becomes and ceases to be a lawyer of record and the responsibilities associated with that designation.

Part 2:
The Parties to Litigation

	Starts at rule #
Division 1: Facilitating Legal Actions	2.1
Division 2: Litigation Representatives	2.11
Division 3: Representation or Assistance Before the Court	2.22
Division 4: Lawyer of Record	2.24

Information note

Words and phrases used in this Part that have defined meanings in the Appendix *[Definitions]* include

- claim
- client
- commencement document
- costs award
- Court
- enactment
- file
- judgment
- lawyer
- order
- partnership
- party
- personal representative
- pleading
- prescribed form
- property
- record
- rules
- trustee

Part 2:
The Parties to Litigation

Division 1
Facilitating Legal Actions

Actions by or against personal representatives and trustees

2.1 An action may be brought by or against a personal representative or trustee without naming any of the persons beneficially interested in the estate or trust.

Information note

Rules for service of commencement documents on trustees and personal representatives are contained in rule 11.6 *[Service on trustees and personal representatives]*. For judgments against personal representatives and trustees see rule 9.11 *[Judgment against beneficiaries]*.

Actions by or against partners and partnerships

2.2(1) An action by or against 2 or more persons as partners may be brought using the name of the partnership.

(2) Subrule (1) also applies to an action between partnerships having one or more partners in common.

Information note

Rules for service of commencement documents on partners are contained in rule 11.10 *[Service on limited partnerships]* and 11.11 *[Service on partnerships other than limited partnerships]*.

Suing individual partners

2.3(1) In an action against a partnership in the partnership name, if a party intends to enforce a judgment or order personally against a partner, the party must serve the partner with

(a) the commencement document, and

(b) a notice stating that the person was a partner at a time specified in the notice.

(2) The person served is presumed to have been a partner at the time specified in the notice unless the person defends the claim separately by denying that the person was a partner at the specified time.

(3) An individual partner whether or not served with a notice under this rule may defend the action separately from the partnership.

Information note

Under rule 9.23(2) *[Enforcement against partners' and partnership property]* an order against a partnership using the partnership name may also be enforced against a person served with notice under this rule, if the order so provides. If notice is not served under this rule, an order against a partnership using the partnership name may still be enforced against a partner but only with the Court's permission and only if the conditions listed in 9.23(3) are met.

Disclosure of partners

2.4(1) If an action is brought by or against a partnership in the partnership name, any other party may serve a notice to disclose requiring the partnership to disclose in writing the names of all the partners constituting the partnership at a time specified in the notice and their current addresses.

(2) The partnership must comply with or dispute the notice to disclose within 10 days after service of the notice on the partnership.

(3) If the partnership disputes the relevance of the time specified in the notice to disclose, the partnership may apply to the Court to determine the matter, in which case the onus is on the partnership to show why the information should not be disclosed.

(4) If the present address of a partner is unknown, the partnership must disclose the last known address of the partner.

Actions by and against sole proprietors

2.5(1) If a person carries on business or operates as a sole proprietor under a name other than the person's name, the person may bring or be the subject of an action in that name.

(2) If an action is brought by or against a person in the person's business or operating name, a party may serve a notice requiring the person to disclose, in writing, the legal name of the person carrying on the business or operation.

(3) The person on whom the notice to disclose is served must comply with it within 10 days after the date the notice is served.

Information note

Rules for service of commencement documents on individuals and corporations operating under trade names are contained in rule 11.12 *[Service on individuals using another name]* and rule 11.13 *[Service on a corporation using another name]*.

Representative actions

2.6(1) If numerous persons have a common interest in the subject of an intended claim, one or more of those persons may make or be the subject of a claim or may be authorized by the Court to defend on behalf of or for the benefit of all.

(2) If a certification order is obtained under the *Class Proceedings Act*, an action referred to in subrule (1) may be continued under that Act.

Amendments to pleadings in class proceedings

2.7 After a certification order is made under the *Class Proceedings Act*, a party may amend a pleading only with the Court's permission.

Information note

Rule 13.11 *[Pleadings: specific requirements for class proceedings]* describes how class proceedings must be titled.

Questioning of class and subclass members

2.8(1) If under section 18(2) of the *Class Proceedings Act* the Court requires a class member or subclass member to file and serve an affidavit of records, the Court may do either or both of the following:

(a) limit the purpose and scope of the records to be produced and of questioning;

(b) determine how the evidence obtained may be used.

(2) If a class member or subclass member is questioned under section 18(2) of the *Class Proceedings Act*, the Court may do either or both of the following:

(a) limit the purpose and scope of the questioning;

(b) determine how the evidence obtained may be used.

Information note

Section 18(2) of the *Class Proceedings Act* reads:

(2) After discovery of the representative plaintiff or, in a proceeding referred to in section 7, one or more of the representative plaintiffs, a defendant may, with leave of the Court, discover other class members or subclass members.

Class proceedings practice and procedure

2.9 Despite any other provision of these rules, the Court may order any practice and procedure it considers appropriate for a class proceeding under the *Class Proceedings Act* to achieve the objects of that Act.

Intervenor status

2.10 On application, a Court may grant status to a person to intervene in an action subject to any terms and conditions and with the rights and privileges specified by the Court.

Information note

The rules about making applications to the Court are in Part 6 *[Resolving Issues and Preserving Rights]* – see rule 6.3 *[Applications generally]*.

Division 2
Litigation Representatives

Litigation representative required

2.11 Unless otherwise ordered by the Court, the following individuals or estates must have a litigation representative to bring or defend an action or to continue or to participate in an action, or for an action to be brought or to be continued against them:

(a) an individual under 18 years of age;

(b) an individual declared to be a missing person under section 7 of the *Public Trustee Act*;

(c) an adult who, in respect of matters relating to a claim in an action, lacks capacity, as defined in the *Adult Guardianship and Trusteeship Act*, to make decisions;

(d) an individual who is a represented adult under the *Adult Guardianship and Trusteeship Act* in respect of whom no person is appointed to make a decision about a claim;

(e) an estate for which no personal representative has obtained a grant under the *Surrogate Rules* (AR 130/95) and that has an interest in a claim or intended claim.

AR 124/2010 s2.11;122/2012

Information note

The rules for the appointment of a litigation representative would *not* apply if a personal representative of an estate had obtained a grant under the *Surrogate Rules*.

Types of litigation representatives and service of documents

2.12(1) There are 3 types of litigation representatives under these rules:

(a) an automatic litigation representative described in rule 2.13 *[Automatic litigation representatives]*;

(b) a self-appointed litigation representative under rule 2.14 *[Self-appointed litigation representatives]*;

(c) a Court-appointed litigation representative under rule 2.15 *[Court appointment in absence of self-appointment]*, 2.16 *[Court-appointed litigation representative]* or 2.21 *[Litigation representative: termination, replacement, terms and conditions]*.

(2) Despite any other provision of these rules, if an individual has a litigation representative in an action,

(a) service of a document that would otherwise be required to be effected on the individual must be effected on the litigation representative, and

(b) service of a document on the individual for whom the litigation representative is appointed is ineffective.

Information note

Litigation representatives are served with commencement documents in accordance with rule 11.7 *[Service on litigation representatives]*.

The Court may terminate, replace or impose terms and conditions on litigation representatives under rule 2.21 *[Litigation representative: termination, replacement, terms and conditions]*.

Automatic litigation representatives

2.13 If an individual or estate is required to have a litigation representative under rule 2.11, a person is an automatic litigation representative for the individual or estate if the person has authority to commence, compromise, settle or defend a claim on behalf of the individual or estate under any of the following:

(a) an enactment;

(b) an instrument authorized by an enactment;

(c) an order authorized under an enactment;

(d) a grant or an order under the *Surrogate Rules* (AR 130/95);

(e) an instrument, other than a will, made by a person, including, without limitation, a power of attorney or a trust.

AR 124/2010 s2.13;140/2013

Self-appointed litigation representatives

2.14(1) If an individual or estate who is required to have a litigation representative under rule 2.11 *[Litigation representative required]* does not have one, an interested person

(a) may file an affidavit in Form 1 containing the information described in subrule (2), and by doing so becomes the litigation representative for that individual or estate, and

(b) where an interested person has, or proposes to, become the litigation representative under clause (a) for an estate, the interested person must serve notice of the appointment in Form 2 on the beneficiaries and heirs at law of the deceased.

(2) The affidavit must include

(a) the interested person's agreement in writing to be the litigation representative,

(b) the reason for the self-appointment,

(c) the relationship between the litigation representative and the individual or estate the litigation representative will represent,

(d) a statement that the litigation representative has no interest in the action adverse in interest to the party the litigation representative will represent,

(e) if the litigation representative is an individual, a statement that the litigation representative is a resident of Alberta,

(f) if the litigation representative is a corporation, the place of business or activity of the corporation in Alberta, and

(g) an acknowledgment of potential liability for payment of a costs award attributable to or liable to be paid by the litigation representative.

(3) If a person proposes to become a self-appointed litigation representative for the estate of a deceased person, the affidavit referred to in subrule (2) must, in addition to the matters set out in subrule (2), disclose any of the following matters that apply:

(a) whether the estate has a substantial interest in the action or proposed action;

(b) whether the litigation representative has or may have duties to perform in the administration of the estate of the deceased;

(c) whether an application has been or will be made for administration of the estate of the deceased;

(d) whether the litigation representative does or may represent interests adverse to any other party in the action or proposed action;

(e) Repealed AR 143/2011 s2.

(4) A person proposing to become a self-appointed litigation representative has no authority to make or defend a claim or, without the Court's permission, to make an application or take any proceeding in an action, until the affidavit referred to in subrule (1)(a) is filed.

AR 124/2010 s2.14;143/2011

Information note

For the liability of a litigation representative to pay a costs award, see rule 10.47 *[Liability of litigation representative for costs]*.

Court appointment in absence of self-appointment

2.15(1) If an individual or estate who is required to have a litigation representative under rule 2.11 *[Litigation representative required]* does not have one, an interested person may, or if there is no interested person, a party adverse in interest must, apply to the Court for directions about the appointment of a litigation representative for that individual or estate.

(2) On an application under subrule (1), the Court may appoint a person as litigation representative.

Court-appointed litigation representatives in limited cases

2.16(1) This rule applies to an action concerning any of the following:

(a) the administration of the estate of a deceased person;

(b) property subject to a trust;

(c) the interpretation of a written instrument;

(d) the interpretation of an enactment.

(2) In an action described in subrule (1), a person or class of persons who is or may be interested in or affected by a claim, whether presently or for a future, contingent or unascertained interest, must have a Court-appointed litigation representative to make a claim in or defend an action or to continue to participate in an action, or for a claim in an action to be made or an action to be continued against that person or class of persons, if the person or class of persons meets one or more of the following conditions:

(a) the person, the class or a member of the class cannot be readily ascertained, or is not yet born;

(b) the person, the class or a member of the class, though ascertained, cannot be found;

(c) the person, the class or the members of the class can be ascertained and found, but the Court considers it expedient to make an appointment to save expense, having regard to all the circumstances, including the amount at stake and the degree of difficulty of the issue to be determined.

(3) On application by an interested person, the Court may appoint a person as litigation representative for a person or class of persons to whom this rule applies on being satisfied that both the proposed appointee and the appointment are appropriate.

Lawyer appointed as litigation representative

2.17(1) If the Court appoints a lawyer as the litigation representative for an individual referred to in rule 2.11(a) to (d), *[Litigation representative required]*, the Court may direct that the costs incurred in performing the duties of the litigation representative be borne by

(a) the parties or by one or more of them, or

(b) any fund in Court in which the individual for whom the litigation representative is appointed has an interest.

(2) The Court may give any other direction for repayment of costs or for an advance payment of costs as the circumstances require.

Approval of settlement

2.18(1) If a settlement is proposed in an action or claim described in rule 2.16 *[Court-appointed litigation representatives in limited cases]* and some of the persons interested in the settlement are not parties to the action but are persons

who have the same interest as those who are parties to the action, and who assent to the settlement, the Court may approve the settlement and order that it binds the persons who are not parties if the Court is satisfied that

(a) the settlement will be for the benefit of those interested persons, and

(b) to require service on those persons would cause unreasonable expense or delay.

(2) The interested persons referred to in subrule (1) are bound by the Court's order unless the order is obtained by fraud or by non-disclosure of important facts.

Court approval of settlement, discontinuance, and abandonment of actions

2.19 Unless a litigation representative has express authority under an instrument, order or enactment to settle, discontinue or abandon an action, the litigation representative may do so only with the Court's approval.

Information note

Under rule 3.36(2) *[Judgment in default of defence and noting in default]*, a judgment in default of filing a statement of defence may be entered against a defendant represented by a litigation representative only with the Court's permission.

Money received by litigation representative

2.20(1) If as a result of an action a litigation representative receives money, other than under a costs award, that money must be paid into Court unless the Court otherwise orders or an enactment or instrument otherwise provides.

(2) A payment made to a litigation representative on account of money due to a party represented by the litigation representative, other than under a costs award, is not a valid discharge as against that party unless otherwise provided by an instrument, order or enactment.

Information note

Money paid into Court is subject to rules in Part 13 *[Technical Rules]* Division 7 *[Payment into Court and Payment out of Court]*.

Litigation representative: termination, replacement, terms and conditions

2.21 The Court may do one or more of the following:

(a) terminate the authority or appointment of a litigation representative;

(b) appoint a person as or replace a litigation representative;

(c) impose terms and conditions on, or on the appointment of, a litigation representative or cancel or vary the terms or conditions.

Division 3
Representation or Assistance Before the Court

Self-represented litigants

2.22 Individuals may represent themselves in an action unless these rules otherwise provide.

Information note

Rules for service of commencement documents on individuals are contained in rule 11.5 *[Service on individuals]*. See also the information note following rule 11.5.

Assistance before the Court

2.23(1) The Court may permit a person to assist a party before the Court in any manner and on any terms and conditions the Court considers appropriate.

(2) Without limiting subrule (1), assistance may take the form of

(a) quiet suggestions,

(b) note-taking,

(c) support, or

(d) addressing the particular needs of a party.

(3) Despite subrule (1), no assistance may be permitted

(a) that would contravene section 106(1) of the *Legal Profession Act*,

(b) if the assistance would or might be disruptive, or

(c) if the assistance would not meet the purpose and intention of these rules.

Information note

Under section 106(1) of the *Legal Profession Act* assistance permitted by this rule must fall short of "acting as a barrister or solicitor" or "commencing, carrying on or defending an action or proceeding before a court or judge on behalf of another person".

Division 4
Lawyer of Record

Lawyer of record

2.24(1) The lawyer or firm of lawyers whose name appears on a commencement document, pleading, affidavit or other document filed or served in an action as acting for a party is a lawyer of record for that party.

(2) When there is a lawyer of record, the party for whom the lawyer of record acts may not self-represent unless the Court permits.

(3) A lawyer of record remains a lawyer of record until the lawyer ceases to be a lawyer of record under these rules.

Duties of lawyer of record

2.25(1) The duties of a lawyer of record include:

(a) to conduct the action in a manner that furthers the purpose and intention of these rules described in rule 1.2 *[Purpose and intention of these rules]*;

(b) to continue to act as lawyer of record while the lawyer is recorded in that capacity.

(2) On application, the Court may direct a lawyer of record to disclose the address of the party for whom the lawyer acts.

Verifying lawyer of record

2.26(1) If a person who is served with a commencement document, pleading or other document asks a lawyer or firm of lawyers if the lawyer or firm is a lawyer of record in an action, application or proceeding, the lawyer must respond to the question in writing as soon as practicable.

(2) If a lawyer or firm of lawyers whose name appears as a lawyer of record in an action denies being the lawyer of record,

(a) every application and proceeding in the action is stayed, and

(b) no further application, proceeding or step may be taken in the action without the Court's permission.

Retaining lawyer for limited purposes

2.27(1) If a self-represented litigant or a lawyer of record retains a lawyer to appear before the Court for a particular purpose, the lawyer appearing must inform the Court of the nature of the appearance, either

(a) orally, or

(b) before the appearance, by filing the terms of the retainer.

(2) If a self-represented litigant retains a lawyer for a particular purpose, the litigant must attend the application or proceeding for which the lawyer is retained unless the Court otherwise permits.

Change in lawyer of record or self-representation

2.28(1) A party may change the party's lawyer of record or may self-represent by

(a) serving a notice of the change in Form 3 on every other party and on the lawyer or former lawyer of record, and

(b) filing an affidavit of service of the notice.

(2) A self-represented litigant who retains a lawyer to act on the litigant's behalf must serve on every other party a notice to that effect naming the lawyer of record.

(3) The notice must include an address for service.

(4) The notice is not required to be served on

(a) a party noted in default, or

(b) a party against whom default judgment has been entered.

Withdrawal of lawyer of record

2.29(1) Subject to rule 2.31 *[Withdrawal after trial date scheduled]*, a lawyer or firm of lawyers may withdraw as lawyer of record by

(a) serving on the client and each of the other parties a notice of withdrawal in Form 4 that states

(i) the client's last known address, and

(ii) that on the expiry of 10 days after the date on which the affidavit of service of the notice is filed, the withdrawing lawyer will no longer be the lawyer of record,

and

(b) filing an affidavit of service of the notice.

(2) The withdrawal of the lawyer of record takes effect 10 days after the affidavit of service of the notice is filed.

(3) The address of the party stated in the notice of withdrawal is the party's address for service after the lawyer of record withdraws unless another address for service is provided or the Court otherwise orders.

(4) The Court may on application order that a lawyer need not disclose the last known address of a client and instead may provide an alternative address for service for the client in a notice of withdrawal served under this rule where the Court considers it necessary to protect the safety and well-being of the client.

(5) An application under subrule (4) may be made without notice.

Service after lawyer ceases to be lawyer of record

2.30 After a lawyer or firm of lawyers ceases to be a lawyer of record, no delivery of a pleading, affidavit, notice or document relating to the action is effective service on the former lawyer of record or at any address for service previously provided by the former lawyer of record.

Withdrawal after trial date scheduled

2.31 After a trial date is scheduled, a lawyer of record may not, without the Court's permission, serve a notice of withdrawal as lawyer of record and any notice of withdrawal that is served without the Court's permission has no effect.

Information note

A trial date is scheduled by the court clerk under rule 8.4 *[Trial date: scheduled by court clerk]* or by the Court under rule 8.5 *[Trial date: scheduled by the Court]*.

Automatic termination of lawyer of record and resolving difficulties

2.32(1) A lawyer or firm of lawyers ceases to be the lawyer of record if

(a) in the case of an individual lawyer,

(i) the lawyer dies,

(ii) the lawyer is suspended or disbarred from practice as a lawyer, or

(iii) the lawyer ceases to practise as a lawyer;

(b) in the case of a firm of lawyers, the firm dissolves.

(2) If any of the circumstances described in subrule (1) occurs, any party may apply to the Court, without notice to any other party, for directions respecting service of documents.

(3) The Court may

(a) direct the manner in which service is to be effected,

(b) dispense with service in accordance with rule 11.29 *[Dispensing with service]*, or

(c) make any other order respecting service that the circumstances require.

(4) An order under this rule applies until a notice is given under rule 2.28 or *[Change in lawyer of record or self-representation]* or 2.29 *[Withdrawal of lawyer of record]* or the Court otherwise orders.

(5) Nothing in this rule prevents a party from serving a notice of change of lawyer of record or notice that the party intends to self-represent.

Part 3:
Court Actions

What this Part is about: This Part describes the documents to be used to start and defend Court actions and the options that parties have during Court proceedings.

The Part begins by describing how Court actions are started (either by a statement of claim or by an originating application) and in which Court office the commencement document must be filed to start the Court action.

The rules then describe the requirements for originating applications and the specific rules for originating applications for judicial review, which is the process used to challenge a decision, act or omission of a person or body.

The Part then deals with actions started by statement of claim, time limits for serving the commencement document and the options that the defendant has.

The Part describes how a defence to a statement of claim is filed and served and the reply to the defence, and what happens if no defence is filed.

The Part also describes how to make a claim against a co-defendant, a third party claim, and a counterclaim, how to request more particulars about a claim and how documents filed in Court (called pleadings) can be amended.

The Part then deals with what happens if there are significant deficiencies in a claim or pleading and ends by describing how parties to a Court action can be joined, separated or changed.

Part 3:
Court Actions

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Information note

Words and phrases used in this Part that have defined meanings in the Appendix *[Definitions]* include

- claim
- commencement document
- costs award
- Court
- court clerk
- defendant
- enactment
- expert
- file
- foreclosure action
- judgment
- judgment creditor
- judgment centre
- land
- lawyer
- Minister of Justice and Attorney General
- order
- party
- plaintiff
- pleading
- prescribed form
- procedural order
- property
- record
- remedy
- rules
- third party defendant
- third party plaintiff

Part 3:
Court Actions

Division 1
Court Actions and Their Venue

Rules govern Court actions

3.1 A court action for a claim may only be brought and carried on, applications may only be filed and proceedings may only be taken in accordance with these rules.

How to start an action

3.2(1) An action may be started only by filing in the appropriate judicial centre determined under rule 3.3 *[Determining the appropriate judicial centre]*.

(a) a statement of claim by a plaintiff against a defendant,

(b) an originating application by an originating applicant against a respondent, or

(c) a notice of appeal, reference or other procedure or method specifically authorized or permitted by an enactment.

(2) A statement of claim must be used to start an action unless

(a) there is no substantial factual dispute,

(b) there is no person to serve as defendant,

(c) a decision, act or omission of a person or body is to be the subject of judicial review,

(d) an enactment authorizes or requires an application, an originating application, an originating notice, a notice of motion or a petition to be used,

(e) an enactment provides for a remedy, certificate, direction, opinion or order to be obtained from the Court without providing the procedure to obtain it, or

(f) an enactment provides for an appeal to the Court, or authorizes or permits a reference to the Court, or provides for a matter to be put before the Court, without providing the procedure to be used,

in which case an originating application may be used to start the action.

(3) If an enactment authorizes, requires or permits an application to be made to the Court,

(a) if the application is made in an action in respect of which a commencement document has been filed, the application must be made under Part 6 *[Resolving Issues and Preserving Rights]* unless the Court otherwise orders, or

(b) if the application is made in an action in respect of which a commencement document has not been filed and the enactment does not provide a procedure to be used, an originating application must be used unless the Court otherwise orders or these rules otherwise provide.

(4) If an enactment authorizes, requires or permits an appeal or reference to be made to the Court and provides a procedure, the appeal or reference must be made in the form prescribed by the enactment or, if no form is prescribed, then in a form consistent with the procedure or in Form 5.

(5) If an enactment authorizes, requires or permits an appeal or reference to be made to the Court and does not provide a procedure, the appeal or reference must be made by originating application in Form 5.

(6) If an action that is started in one form should have been started or should continue in another, the Court may make any procedural order to correct and continue the proceeding and deal with any related matter.

AR 124/2010 s3.2;143/2011

Information note

The rules about the contents of statements of claim, defence and other related documents (called *pleadings*), and rules for affidavits are contained in Part 13 *[Technical Rules]*. Rules for contents of originating applications are in rule 3.8 *[Originating applications and associated evidence]* and rule 3.15 *[Originating application for judicial review]*.

Rule 3.12 *[Application of statement of claim rules to originating applications]* may be applicable for issues under rule 3.2(3), (4) and (5).

Determining the appropriate judicial centre

3.3(1) The appropriate judicial centre for the purpose of these rules is

(a) the closest judicial centre, by road, to the Alberta residences or Alberta places of business of all the parties, or

(b) if a single judicial centre cannot be determined under clause (a), the judicial centre that is, by road, the closest to the Alberta residence or Alberta place of business of one of the parties, that party being selected by the party starting the action.

(2) If a party carries on business in more than one Alberta location, the place of business in Alberta of that party for the purpose of this rule is the place of business that is nearest to the location at which the matters in issue in the action arose or were transacted.

(3) Despite subrules (1) and (2), the parties may agree on a judicial centre in which to start and carry on the action, in which case the judicial centre agreed on by the parties is the appropriate judicial centre unless the Court otherwise orders.

Claim for possession of land

3.4(1) Despite rule 3.3 *[Determining the appropriate judicial centre]*, if possession of land is claimed in a statement of claim that was not filed in

(a) the judicial centre that is closest, by road, to the land, or

(b) the judicial centre that is closest, by road, to the Alberta residence of a defendant,

a defendant may, by making a request in Form 6, require the court clerk in the judicial centre in which the action is located to transfer the action to the judicial centre that is closest, by road, to the land or the Alberta residence of that defendant.

(2) The request must

(a) name the judicial centre to which the action is to be transferred, and

(b) give the reason for the transfer.

(3) The request must

(a) be filed before close of pleadings in the judicial centre in which the action is located, and

(b) be served on each of the other parties.

(4) A person served under subrule (3) who wishes to object to the request for the transfer of the action must file an objection within 10 days and serve it on the defendant who made the request.

(5) If no objection has been filed and served on the defendant who made the request by the end of the 10-day period referred to in subrule (4), the defendant may confirm the request with the court clerk and the court clerk must transfer the action.

(6) This rule does not apply if

(a) the Court has issued an order directing that the action be started in or transferred to a particular judicial centre,

(b) the parties agree that an action start in or be transferred to a particular judicial centre, or

(c) the action has already been transferred to a judicial centre by a request under this rule.

Information note

Close of pleadings is a time determined under rule 3.67 *[Close of pleadings]*.

Transfer of action

3.5 The Court may order that an action be transferred from one judicial centre to another

(a) if the Court is satisfied that it would be unreasonable for the action to be carried on in the judicial centre in which it is located, or

(b) at the request of the parties.

Where an action is carried on

3.6(1) An action must be

(a) carried on in the judicial centre in which the statement of claim or originating application was filed, or

(b) if the action is transferred in accordance with rule 3.4 *[Claim for possession of land]* or rule 3.5 *[Transfer of an action]*, continued in the judicial centre to which the action is transferred, and all subsequent documents in the action must be titled accordingly.

(2) Despite subrule (1), an application and an originating application may be heard or a trial may be held in any place specified by the Court other than the judicial centre.

Post-judgment transfer of action

3.7(1) After judgment or an order has been entered in a judicial centre, a judgment creditor, on notice to each of the other parties, may request a temporary transfer of the action to a different judicial centre for purposes of an application to enforce the judgment or order.

(2) An order granting a temporary transfer of an action under subrule (1), and any order resulting from an application referred to in subrule (1), must be filed in the judicial centre from which the action has temporarily been transferred.

Information note

For enforcement of judgments and orders see Part 9 *[Judgments and Orders]*.

Division 2
Actions Started by Originating Application

Subdivision 1
General Rules

Originating applications and associated evidence

3.8(1) An originating application must

(a) be in Form 7,

(b) state the claim and the basis for it,

(c) state the remedy sought, and

(d) identify the affidavit or other evidence to be used in support of the originating application.

(2) If an affidavit is filed to support an originating application, the affidavit must be confined to

(a) a statement of facts within the personal knowledge of the person swearing the affidavit, and

(b) any other evidence that the person swearing the affidavit could give at trial.

Information note

Rules for affidavits are contained in Part 13 *[Technical Rules]*. See rule 13.18 *[Types of affidavit]* and the rules that follow that rule.

Service of originating application and evidence

3.9 Except as otherwise provided in rule 3.15(5) *[Originating application for judicial review]*, an originating application and any affidavit and other evidence filed with the originating application must be served on each of the other parties 10 days or more before the date scheduled for hearing the application.

Information note

Service of documents is dealt with in Part 11 *[Service of Documents]*.

Application of Part 4 and Part 5

3.10(1) Subject to subrule (2), Part 4 *[Managing Litigation]* and Part 5 *[Disclosure of Information]* do not apply to an action started by originating application unless the parties otherwise agree or the Court otherwise orders.

(2) The rules in Divisions 2, 4, 5 and 6 of Part 4 *[Managing Litigation]* and rules 4.1 *[Responsibilities of parties to manage litigation]*, 4.2(a) *[What the responsibility includes]* and (d) and 4.36 *[Discontinuance of claim]* apply, with all necessary modifications, to actions started by originating application unless the Court otherwise orders.

AR 124/2010 s3.10;122/2012

Information note

See also rule 3.12 *[Application of statement of claim rules to originating applications]*. Typically, an action started by originating application will not require the same kind of management, either by the parties or the Court, nor require the same kind of disclosure of records or questioning, as actions started by statement of claim. However, if management, document disclosure and questioning are required, the parties may agree or the Court may order them.

Service and filing of affidavits and other evidence in reply and response

3.11(1) If the respondent to an originating application intends to rely on an affidavit or other evidence when the originating application is heard or considered, the respondent must reply by serving on the originating applicant, a reasonable time before the originating application is to be heard or considered, a copy of the affidavit or other evidence on which the respondent intends to rely.

(2) The originating applicant may respond by affidavit or other evidence to the respondent's affidavit or other evidence and must

(a) serve the response affidavit or other evidence on the respondent a reasonable time before the originating application is to be heard or considered, and

(b) limit the response to replying to the respondent's affidavit or other evidence.

(3) If either the respondent or originating applicant does not give the other reasonable notice under this rule, and an adjournment is not granted,

(a) the party who did not give reasonable notice may not rely on the affidavit or other evidence unless the Court otherwise permits, and

(b) the Court may make a costs award against the party who did not give reasonable notice.

Application of statement of claim rules to originating applications

3.12 At any time in an action started by originating application the Court may, on application, direct that all or any rules applying to an action started by statement of claim apply to the action started by originating application.

Information note

See also rule 3.10 *[Application of Part 4 and Part 5]*.

Questioning on affidavit and questioning witnesses

3.13(1) The following persons may be questioned by a party adverse in interest:

(a) a person who makes an affidavit in support of an originating application;

(b) a person who makes an affidavit in response;

(c) a person who makes an affidavit in reply to a response.

(2) Subject to rule 3.21 *[Limit on questioning]*, a person may be questioned under oath as a witness for the purpose of obtaining a transcript of the person's evidence for use at the hearing of an originating application.

(3) A party may question a person whom the party is entitled to question under this rule by serving on the person an appointment for questioning.

(4) Rules 6.16 *[Contents of appointment notice]* to 6.20 *[Form of questioning and transcript]* and 6.38 *[Requiring attendance for questioning]* apply for the purposes of this rule.

(5) The questioning party must file the transcript of the questioning.

Originating application evidence (other than judicial review)

3.14(1) When making a decision about an originating application, other than an originating application for judicial review, the Court may consider the following evidence only:

(a) affidavit evidence, including an affidavit by an expert;

(b) a transcript referred to in rule 3.13 *[Questioning on an affidavit and questioning witnesses]*;

(c) if Part 5 *[Disclosure of Information]* applies by agreement of the parties or order of the Court to the originating application, the transcript evidence or answers to written questions, or both, under that Part that may be used under rule 5.31 *[Use of transcript and answers to written questions]*;

(d) an admissible record disclosed in an affidavit;

(e) anything permitted by any other rule or by an enactment;

(f) evidence taken in any other action, but only if the party proposing to submit the evidence gives each of the other parties 5 days' or more notice of that party's intention and obtains the Court's permission to submit the evidence;

(g) with the Court's permission, oral evidence, which if permitted must be given in the same manner as at trial.

(2) An affidavit or other evidence that is used or referred to at a hearing by the respondent, or by the originating applicant in response to the respondent, and that has not previously been filed in the action must be filed as soon as practicable after the hearing.

Subdivision 2
Additional Rules Specific to Originating Applications for Judicial Review

Originating application for judicial review

3.15(1) An originating application must be filed in the form of an originating application for judicial review if the originating applicant seeks from the Court any one or more of the following remedies against a person or body whose decision, act or omission is subject to judicial review:

(a) an order in the nature of mandamus, prohibition, certiorari, quo warranto or habeas corpus;

(b) a declaration or injunction.

(2) Subject to rule 3.16 *[Originating application for judicial review: habeas corpus]*, an originating application for judicial review to set aside a decision or act of a person or body must be filed and served within 6 months after the date of the decision or act, and rule 13.5 *[Variation of time periods]* does not apply to this time period.

(3) An originating application for judicial review must be served on

(a) the person or body in respect of whose act or omission a remedy is sought,

(b) the Minister of Justice and Solicitor General or the Attorney General for Canada, or both, as the circumstances require, and

(c) every person or body directly affected by the application.

(4) The Court may require an originating application for judicial review to be served on any person or body not otherwise required to be served.

(5) An affidavit or other evidence to be used to support the originating application for judicial review, other than an originating application for an order in the nature of habeas corpus, must be filed and served on every other party one month or more before the date scheduled for hearing the application.

AR 124/2010 s3.15;170/2012

Originating application for judicial review: habeas corpus

3.16(1) An originating application for an order in the nature of habeas corpus may be filed at any time and must be served under rule 3.15(3) *[Originating application for judicial review]* as soon as practicable after filing.

(2) An affidavit or other evidence to be used to support the originating application must be filed and served on each of the other parties 10 days or more before the date scheduled for hearing the application.

Attorney General's right to be heard

3.17 The Minister of Justice and Solicitor General or the Attorney General for Canada, or both, as the case requires, is entitled as of right to be heard on an originating application for judicial review.

AR 124/2010 s3.17;170/2012

Information note

The Court may grant intervenor status to other persons under rule 2.10 *[Intervenor status]*.

Notice to obtain record of proceedings

3.18(1) An originating applicant for judicial review who seeks an order to set aside a decision or act must include with the originating application a notice in Form 8, addressed to the person or body who made or possesses the record of proceedings on which the decision or act sought to be set aside is based, to send the record of proceedings to the court clerk named in the notice.

(2) The notice must require the following to be sent or an explanation to be provided of why an item cannot be sent:

(a) the written record, if any, of the decision or act that is the subject of the originating application for judicial review,

(b) the reasons given for the decision or act, if any,

(c) the document which started the proceeding,

(d) the evidence and exhibits filed with the person or body, if any, and

(e) anything else relevant to the decision or act in the possession of the person or body.

(3) The Court may add to, dispense with or vary anything required to be sent to the court clerk under this rule.

Sending in certified record of proceedings

3.19(1) On receipt of an originating application for judicial review and a notice in accordance with rule 3.18 *[Notice to obtain record of proceedings]*, the person or body named in the notice must, as soon as practicable,

(a) comply with the notice and send to the court clerk a certified record of proceedings in Form 9, or

(b) provide in Form 9 a written explanation why the notice cannot be complied with or fully complied with.

(2) The certified record of proceedings sent to the court clerk under this rule constitutes part of the court file of the originating application.

(3) If the Court is not satisfied with the explanation for not sending all or part of the record of proceedings, the Court may order any or all of the following:

(a) the person or body to provide a better explanation;

(b) the person or body to send a certified copy of a record to the court clerk;

(c) the person or body to take any other action the Court considers appropriate.

Other circumstances when record of proceedings may be required

3.20(1) The Court may make an order for the production of the certified record of proceedings of a person or body if the conditions described in subrule (2) are met.

(2) The conditions are:

(a) the originating application for judicial review is for an order other than an order to set aside a decision or act;

(b) the certified record of proceedings is required to establish the claim;

(c) the person or body that is the subject of the originating application has not sent to the court clerk the certified record of proceedings within a reasonable time after the originating applicant's written request for the person or body to do so.

(3) If the Court orders the certified record of proceedings to be sent to the court clerk, rules 3.18(3) *[Notice to obtain record of proceedings]* and 3.19 *[Sending in certified copy of record of proceedings]* apply, unless the Court otherwise orders.

Limit on questioning

3.21 On an originating application for judicial review, no person may be questioned as a witness for the purpose of obtaining a transcript for use at the hearing without the Court's permission.

Evidence on judicial review

3.22 When making a decision about an originating application for judicial review, the Court may consider the following evidence only:

(a) the certified copy of the record of proceedings of the person or body that is the subject of the application, if any;

(b) if questioning was permitted under rule 3.21 *[Limit on questioning]*, a transcript of that questioning;

(c) anything permitted by any other rule or by an enactment;

(d) any other evidence permitted by the Court.

Stay of decision

3.23(1) The Court may stay the operation of a decision or act sought to be set aside under an originating application for judicial review pending final determination of the originating application.

(2) Despite subrule (1), no order to stay is to be made if, in the Court's opinion, the stay would be detrimental either to the public interest or to public safety.

Additional remedies on judicial review

3.24(1) If an originating applicant is entitled to a declaration that a decision or act of a person or body is unauthorized or invalid, the Court may, instead of making a declaration, set aside the decision or act.

(2) The Court may

(a) direct a person or body to reconsider the whole or any part of a matter,

(b) direct a person or body to reconsider the whole or any part of a decision if the Court has set aside the decision under subrule (1), and

(c) give any other directions it considers necessary.

(3) If the sole ground for a remedy is a defect in form or a technical irregularity, the Court may, if the Court finds that no substantial wrong or miscarriage of justice has occurred, despite the defect,

(a) refuse a remedy, or

(b) validate the decision made to have effect from a date and subject to any terms and conditions that the Court considers appropriate.

Division 3
Actions Started by Statement of Claim

Subdivision 1
Statement of Claim

Contents of statement of claim

3.25 A statement of claim must

(a) be in Form 10,

(b) state the claim and the basis for it,

(c) state any specific remedy sought, and

(d) comply with the rules about pleadings in Part 13 *[Technical Rules]*, Division 3 *[Pleadings]*.

Subdivision 2
Time Limit for Service of Statement of Claim

Time for service of statement of claim

3.26(1) A statement of claim must be served on the defendant within one year after the date that the statement of claim is filed unless the Court, on application filed before the one-year time limit expires, grants an extension of time for service.

(2) The extension of time for service under this rule must not exceed 3 months.

(3) Rule 13.5 *[Variation of time periods]* does not apply to this rule or to an extension of time ordered under this rule.

Information note

Throughout this Part there are references to service of pleadings and documents. Part 11 *[Service of Documents]* describes how commencement documents and other documents are to be served.

Rule 13.4 *[Counting months and years]* describes how to count months and a year or years.

If a litigation representative represents a party, service must be effected on the litigation representative. See rule 2.12(2) *[Types of litigation representatives and service of documents]* and rule 11.7 *[Service on litigation representatives]*.

Extension of time for service

3.27(1) The Court may, at any time, grant an extension of time for service of a statement of claim in any of the following circumstances:

(a) if a defendant, anyone purporting to be a defendant, or a lawyer or other person purporting to negotiate on behalf of a defendant, has caused the plaintiff or the plaintiff's lawyer to reasonably believe and to rely on the belief that

(i) the defendant has been served,

(ii) liability is not or will not be contested, or

(iii) a time limit or any time period relating to the action will not be relied on or will be waived;

(b) if an order for substitutional service, an order dispensing with service or an order validating service is set aside;

(c) special or extraordinary circumstances exist resulting solely from the defendant's conduct or from the conduct of a person who is not a party to the action.

(2) If an extension of time is granted under subrule (1), no further extension of time may be granted under this rule and rule 13.5 *[Variation of time periods]* does not apply unless different or new circumstances described in subrule (1) are established to the Court's satisfaction.

Effect of not serving statement of claim in time

3.28 If a statement of claim is not served on a defendant within the time or extended time for service,

(a) no further proceeding may be taken in the action against a defendant who was not served in time, and

(b) a statement of claim served on any defendant in time is unaffected by the failure to serve any other defendant in time.

Notice of extension of time for service

3.29 If a statement of claim is served within an extension of time for service permitted by the Court under rule 3.26 *[Time for service of statement of claim]* or rule 3.27 *[Extension of time for service]*, when it is served the statement of claim must be accompanied with

(a) a copy of the order granting the extension, or

(b) written notice of the order.

Subdivision 3
Defence to Statement of Claim, Reply to Defence and Demand for Notice

Defendant's options

3.30 A defendant who is served with a statement of claim may do one or more of the following:

(a) apply to the Court to set aside service in accordance with rule 11.31 *[Setting aside service]*;

(b) apply to the Court for an order under rule 3.68 *[Court options to deal with significant deficiencies]*;

(c) file and serve a statement of defence or demand for notice.

Information note

The rule relating to a demand for notice is rule 3.34 *[Demand for notice by defendant]*. In foreclosure actions a notice of address for service may be filed and served under rule 11.24 *[Notice of address for service in foreclosure actions]*.

Statement of defence

3.31(1) If a defendant files a statement of defence, the statement of defence must

(a) be in Form 11, and

(b) comply with the rules about pleadings in Part 13 *[Technical Rules]*, Division 3 *[Pleadings]*.

(2) The defendant must file the statement of defence and serve it on the plaintiff within the applicable time after service of the statement of claim.

(3) The applicable time is

(a) 20 days if service is effected in Alberta,

(b) one month if service is effected outside Alberta but in Canada, and

(c) 2 months if service is effected outside Canada.

Information note

The words "service is effected" link to the rules about service of documents in Part 11 *[Service of Documents]*. In those rules, various methods of service are described, each one describing the date service is effected. See rule 11.9(2) *[Service on corporations]* for an example of this; and note the lead-in words to rule 11.9(2) "Service is effected under this rule ".

For how time is counted, see rule 13.3 *[Counting days]* and rule 13.4 *[Counting months and years]*.

Additional options for defendant

3.32 A defendant may do one or more of the following:

(a) file a claim against a co-defendant in accordance with rule 3.43 *[How to make a claim against co-defendants]*;

(b) file a third party claim in accordance with rule 3.44 *[When a third party claim may be filed]*;

(c) file a counterclaim in accordance with rule 3.56 *[Right to counterclaim]*.

AR 124/2010 s3.32;143/2011

Reply to defence

3.33(1) A plaintiff may file a reply to a statement of defence.

(2) If the plaintiff files a reply, the reply must

(a) be in Form 12, and

(b) comply with the rules about pleadings in Part 13 *[Technical Rules]*, Division 3 *[Pleadings]*.

(3) The plaintiff must file the reply and serve it on the defendant within 10 days after service of the statement of defence on the plaintiff.

Demand for notice by defendant

3.34(1) If the defendant files a demand for notice, the demand must be in Form 13.

(2) The defendant must file the demand for notice and serve it on the plaintiff within the applicable time after service of the statement of claim on the defendant.

(3) The applicable time is

(a) 20 days if service is effected in Alberta,

(b) one month if service is effected outside Alberta but in Canada, and

(c) 2 months if service is effected outside Canada.

(4) If the defendant files a demand for notice and serves it on the plaintiff, the defendant must be served with notice of any application or proceeding in which the defendant is named as respondent, but filing and service of the notice does not give the defendant a right to contest liability.

(5) If a defendant files a demand for notice and serves it on the plaintiff, the defendant may subsequently file a statement of defence only with the Court's permission.

(6) Judgment or an order may be given against a defendant who has filed and served a demand for notice only if

(a) the plaintiff applies to the Court for judgment or an order, and

(b) notice of the application is served on the defendant.

Judgment or order by agreement

3.35(1) If a lawyer files a statement of defence or demand for notice on behalf of a defendant, no judgment or order may be obtained by agreement of the parties unless the defendant's lawyer of record is a party to the agreement or consents to the agreement.

(2) If a defendant

(a) does not file a statement of defence or a demand for notice,

(b) files a statement of defence or demand for notice in person or by a lawyer who has ceased to be the defendant's lawyer of record, or

(c) is not represented by a lawyer of record,

no judgment or order may be obtained by agreement of the parties unless the defendant's agreement, with an affidavit of execution, is filed with the application for the judgment or order.

(3) If a lawyer files a statement of claim on behalf of a plaintiff, no judgment or order may be obtained by agreement of the parties unless the plaintiff's lawyer of record is a party to the agreement or consents to the agreement.

(4) If a plaintiff

(a) files a statement of claim in person or by a lawyer who has ceased to be the plaintiff's lawyer of record, or

(b) is not represented by a lawyer of record,

no judgment or order may be obtained by agreement of the parties unless the plaintiff's agreement, with an affidavit of execution, is filed with the application for the judgment or order.

AR 124/2010 s3.35;122/2012

Information note

Rules about lawyers of record are contained in Part 2 *[The Parties to Litigation]*, Division 4 *[Lawyer of Record]*.

Subdivision 4
Failure to Defend

Judgment in default of defence and noting in default

3.36(1) Subject to subrule (2), if a defendant does not file a statement of defence or demand for notice, or if the defendant's statement of defence is struck out, the plaintiff may, on filing an affidavit of service of the statement of claim,

(a) enter judgment against the defendant under rule 3.38 *[Judgment for recovery of property]* or 3.39 *[Judgment for debt or liquidated demand]*, or

(b) require the court clerk to enter in the court file of the action, in Form 14, a note to the effect that the defendant has not filed a statement of defence or demand for notice and consequently is noted in default.

(2) A judgment in default of filing a statement of defence must not, without the Court's permission, be entered against a person who is represented by a litigation representative.

(3) If the defendant has filed but has not served a statement of defence or demand for notice, the plaintiff may apply to the Court for a costs award against the defendant for anything arising from the defendant's failure.

AR 124/2010 s3.36;128/2015

Information note

This rule is subject to rule 3.42 *[Limitation on when judgment or noting in default can occur]* and rule 10.22 *[Action for payment of a lawyer's charges]*.

Application for judgment against defendant noted in default

3.37(1) The plaintiff may, without notice to any other party, on proof of the plaintiff's claim, apply to the Court for judgment in respect of a claim for which default judgment has not been entered if

(a) one or more defendants are noted in default, or

(b) the defendant's statement of defence is struck out.

(2) In the circumstances described in subrule (1) the plaintiff is entitled to a costs award.

(3) The Court may do one or more of the following:

(a) pronounce judgment;

(b) make any necessary order;

(c) direct a determination of damages;

(d) adjourn the application and order additional evidence to be provided;

(e) dismiss the claim or a part of it;

(f) direct that the claim proceed to trial and that notice be served on every other defendant;

(g) make a costs award in favour of the plaintiff.

Information note

Note that rule 3.42 *[Limitation on when judgment or noting in default can occur]* may be relevant.

See also rule 7.2 *[Application for judgment]*. Costs awards are dealt with in Part 10 *[Lawyers' Charges, Recoverable Costs of Litigation, and Sanctions]*. See in particular Division 2 *[Recoverable Costs of Litigation]*, and rule 10.36 *[Assessment of bill of costs]*.

Judgment for recovery of property

3.38 Subject to rule 3.41 *[When no defence is filed in a foreclosure action]*, if a statement of claim includes a claim for the recovery of property and one or more defendants do not file a statement of defence or demand for notice, the plaintiff may enter judgment against that defendant or those defendants for the recovery of that property, and the plaintiff is entitled to a costs award.

Judgment for debt or liquidated demand

3.39(1) If a statement of claim includes a claim for a debt or a liquidated demand, with or without interest, whether as debt or damages, and one or more defendants do not file a statement of defence or demand for notice in response to that claim or any part of it, the plaintiff

(a) may enter judgment for a sum not exceeding the amount in respect of which no defence is filed and the interest payable, if the interest calculation is based on a set rate, either under an agreement or an enactment, and

(b) is entitled to a costs award.

(2) In this rule, "liquidated demand" means

(a) a claim for a specific sum payable under an express or implied contract for the payment of money, including interest, not being in the nature of a penalty or unliquidated damages, where the amount of money claimed can be determined by

(i) the terms of the contract,

(ii) calculation only, or

(iii) taking an account between the plaintiff and the defendant,

or

(b) a claim for a specific sum of money, whether or not in the nature of a penalty or damages, recoverable under an enactment that contains an express provision that the sum that is the subject of the claim may be recovered as a liquidated demand or as liquidated damages.

Continuation of action following judgment

3.40 If judgment is entered against some but not all defendants under

(a) rule 3.36 *[Judgment in default of defence and noting in default]*,

(b) rule 3.37 *[Application for judgment against defendant noted in default]*,

(c) rule 3.38 *[Judgment for recovery of property]*, or

(d) rule 3.39 *[Judgment for debt or liquidated demand]*,

the plaintiff may continue the action in respect of any defendant against whom judgment is not entered.

When no defence is filed in foreclosure action

3.41(1) If a defendant in a foreclosure action does not file a statement of defence or demand for notice, the plaintiff must note the defendant in default before filing an application for

(a) personal judgment, or

(b) a remedy referred to in rule 6.5(2) *[Notice of an application in foreclosure actions]*.

(2) A defendant may be noted in default even if the defendant has filed and served a notice of address for service.

Information note

In foreclosure actions a notice of address for service may be filed and served under rule 11.24 *[Notice of address for service in foreclosure actions]*.

Limitation on when judgment or noting in default may occur

3.42 Despite anything in this Division, judgment may not be entered against a defendant and a defendant may not be noted in default if the defendant has filed an application that has not been decided

(a) to set aside service of a statement of claim, or

(b) under rule 3.68 *[Court options to deal with significant deficiencies]* to set aside or amend a statement of claim, to strike out a claim, or to stay an action, application or proceeding.

Subdivision 5
Claims Against Co-defendants

How to make claim against co-defendant

3.43(1) If a defendant claims a contribution or indemnity, or both, against a co-defendant under the *Tort-feasors Act* or the *Contributory Negligence Act*,

(a) the defendant may file and serve on a co-defendant a notice in Form 15 claiming a remedy under either or both of those Acts,

(b) neither the defendant nor the co-defendant need file a pleading in respect of a claim or defence under those Acts unless the Court otherwise orders, and

(c) a third party claim need not be filed and served on the co-defendant.

(2) The notice claiming contribution must be filed and served on the co-defendant within 20 days after the date on which the defendant files the statement of defence or demand for notice.

(3) A claim under subrule (1) must be determined at the trial of the plaintiff's claim against the defendant, or if there is no trial, as directed by the Court.

Subdivision 6
Third Party Claims

When third party claim may be filed

3.44 A defendant or third party defendant may file a third party claim against another person who

(a) is or might be liable to the party filing the third party claim for all or part of the claim against that party,

(b) is or might be liable to the party filing the third party claim for an independent claim arising out of

(i) a transaction or occurrence or series of transactions or occurrences involved in the action between the plaintiff and the defendant, or

(ii) a related transaction or occurrence or series of related transactions or occurrences,

or

(c) should be bound by a decision about an issue between the plaintiff and the defendant.

Form of third party claim

3.45 A third party claim must

(a) be in Form 16,

(b) comply with the rules about pleadings in Part 13 *[Technical Rules]*, Division 3 *[Pleadings]*,

(c) be filed and served on the plaintiff and the third party defendant, whether or not the third party defendant is already a party to the action,

(i) within 6 months after the date on which the defendant filed a statement of defence or demand for notice, and

(ii) before judgment is entered against the defendant or the defendant is noted in default,

and

(d) be accompanied, when it is served on the third party defendant, with a copy of the statement of claim served on the defendant.

Third party defendant becomes party

3.46(1) On service of a third party claim,

(a) the third party defendant becomes a party to the action between the plaintiff and the defendant, and

(b) all subsequent proceedings in the action must name the third party as a party in the action between the plaintiff and the defendant.

(2) The pleadings between

(a) the defendant and the third party defendant, and

(b) a third party plaintiff and a third party defendant,

form part of the court file between the plaintiff and the defendant.

(3) A third party claim must be tried with the other claims in the action unless the Court otherwise orders under rule 3.71 *[Separating claims]*.

Third party defendant's options

3.47 A third party defendant may do one or more of the following:

(a) apply to the Court to set aside service in accordance with rule 11.31 *[Setting aside service]*;

(b) apply to the Court for an order under rule 3.68 *[Court options to deal with significant deficiencies]* with respect to the third party claim;

(c) apply to the Court for an order under rule 3.68 *[Court options to deal with significant deficiencies]* with respect to the plaintiff's statement of claim;

(d) file a statement of defence or demand for notice.

Plaintiff's options

3.48 A plaintiff in an action in which a third party claim is filed may apply to the Court for an order under rule 3.68 *[Court options to deal with significant deficiencies]* with respect to the third party claim.

Third party statement of defence and additional options

3.49(1) A statement of defence by a third party defendant

(a) must be in Form 17,

(b) must comply with the rules about pleadings in Part 13 *[Technical Rules]*, Division 3 *[Pleadings]*, and

(c) may dispute either or both of the following:

(i) the defendant's liability to the plaintiff, or

(ii) the third party defendant's liability described in the third party claim.

(2) If a third party defendant files a statement of defence, the third party defendant must file it and serve it on each of the other parties within the applicable time after service of the third party claim on the third party defendant.

(3) The applicable time is

(a) 20 days if service is effected in Alberta,

(b) one month if service is effected outside Alberta but in Canada, and

(c) 2 months if service is effected outside Canada.

(4) A third party defendant may do either or both of the following:

(a) make a claim against a third party co-defendant in accordance with rule 3.43 *[How to make a claim against co-defendants]*;

(b) make a counterclaim in accordance with rule 3.56(2) *[Right to counterclaim]*.

AR 124/2010 s3.49;143/2011

Demand for notice by third party defendant

3.50(1) A demand for notice by a third party defendant must be in Form 18.

(2) If a third party defendant files a demand for notice, the third party defendant must file it and serve it on each of the other parties within the applicable time after service of the third party claim on the third party defendant.

(3) The applicable time is

(a) 20 days if service is effected in Alberta,

(b) one month if service is effected outside Alberta but in Canada, and

(c) 2 months if service is effected outside Canada.

Effect of demand for notice

3.51(1) If a third party defendant files and serves a demand for notice, the third party defendant must be served with notice of any application in which the third party defendant is named as respondent.

(2) Judgment may be entered against a third party defendant who has filed and served a demand for notice only if

(a) the third party plaintiff applies to the Court for judgment, and

(b) notice of the application is served on the third party defendant.

(3) If a third party defendant files and serves a demand for notice, the third party defendant may subsequently file a statement of defence only with the Court's permission.

Consequences of not filing third party statement of defence

3.52(1) If a third party defendant does not file a statement of defence disputing the liability of the defendant to the plaintiff, the third party defendant admits the validity of any judgment that the plaintiff obtains against the defendant, whether obtained by agreement or otherwise.

(2) If a third party defendant does not file a statement of defence disputing the third party defendant's liability to the third party plaintiff under the third party claim, the third party defendant admits liability to the extent claimed in the third party claim.

Judgment against third party defendant

3.53(1) The Court may give judgment against a third party defendant if the third party defendant does not file a statement of defence.

(2) Judgment against a defendant must be satisfied before judgment is enforced against a third party defendant unless the Court otherwise orders.

(3) An application by a defendant to enforce a judgment against a third party defendant under subrule (2) must

(a) be in Form 19, and

(b) be served on the plaintiff and the third party defendant.

Plaintiff's reply to third party defence

3.54(1) A plaintiff or third party plaintiff may file a reply to a statement of defence filed by a third party defendant.

(2) If a plaintiff or third party plaintiff files a reply, the reply must

(a) be in Form 20,

(b) comply with the rules about pleadings in Part 13 *[Technical Rules]*, Division 3 *[Pleadings]*, and

(c) be filed and served on the third party defendant and each of the other parties within 10 days after service of the statement of defence by the third party defendant on the plaintiff.

Application of rules to third party claims

3.55 Except when the context or these rules otherwise provide, a rule that applies to or in respect of

(a) a plaintiff applies equally to or in respect of a third party plaintiff,

(b) a defendant applies equally to or in respect of a third party defendant, and

(c) a pleading related to a claim made by a statement of claim applies equally to or in respect of a pleading related to a third party claim.

Subdivision 7
Counterclaims

Right to counterclaim

3.56(1) A defendant may, by counterclaim, file a claim against

(a) a plaintiff, or

(b) the plaintiff and another person whether the other person is a party to the action by the plaintiff or not.

(2) A third party defendant may, by counterclaim, file a claim against the plaintiff, defendant or third party plaintiff, or any combination of them, with or without any other person, whether the other person is a party to the action or not.

Contents of counterclaim

3.57 A counterclaim must

(a) be in Form 21,

(b) comply with the rules about pleadings in Part 13 *[Technical Rules]*, Division 3 *[Pleadings]*, and

(c) be filed and served on the defendant-by-counterclaim within the same time period that the plaintiff-by-counterclaim must file a statement of defence under rule 3.31(2) *[Statement of defence]*.

Status of counterclaim

3.58 A counterclaim is an independent action.

Claiming set-off

3.59 A matter that might be claimed by set-off may be claimed by counterclaim or by pleading set-off as a defence.

Application of rules to counterclaims

3.60(1) Except when the context or these rules otherwise provide, a rule that applies to or in respect of

(a) a plaintiff applies equally to or in respect of a plaintiff-by-counterclaim and a third party plaintiff-by-counterclaim,

(b) a defendant applies equally to or in respect of a defendant-by-counterclaim and a third party defendant-by-counterclaim, and

(c) a pleading related to a claim made by statement of claim applies equally to or in respect of a pleading related to a counterclaim.

(2) If the defendant-by-counterclaim does not file a statement of defence or demand for notice in respect of a counterclaim, a judgment on the counterclaim may be obtained only with the Court's permission after notice of the application has been served on the defendant-by-counterclaim.

Division 4
Request for Particulars, Amendments to Pleadings and Close of Pleadings

Request for particulars

3.61(1) A party on whom a pleading is served may serve on the party who served the pleading a request for particulars about anything in the pleading.

(2) If the requesting party does not receive a sufficient response within 10 days after the date on which the request is served, the requesting party may apply to the Court for an order requiring the party who served the pleading to provide the particulars.

(3) If the Court orders particulars to be provided, it must specify a time within which the order is to be complied with.

(4) Subject to any order, despite a request for particulars, the obligation under these rules to file and serve pleadings continues even though a request for particulars has been made and whether or not it has been complied with.

Amending pleading

3.62(1) A party may amend the party's pleading, including an amendment to add, remove, substitute or correct the name of a party, as follows:

(a) before pleadings close, any number of times without the Court's permission;

(b) after pleadings close,

(i) for the addition, removal, substitution or correction of the name of a party, with the Court's prior permission in accordance with rule 3.74 *[Adding, removing or substituting parties after close of pleadings]*, or

(ii) for any other amendment, with the Court's prior permission in accordance with rule 3.65 *[Permission of Court to amendment before or after close of pleadings]*.

(c) despite clauses (a) and (b), whether or not pleadings have closed, with the agreement of the parties filed with the Court,

(2) An amended pleading must be

(a) filed, and

(b) served on each of the other parties

(i) within 10 days after the date on which it is filed, or

(ii) if the pleading is a statement of claim that has not already been served, in accordance with Division 3, Subdivision 2 *[Time Limit for Service of Statement of Claim]*.

(3) A party may, without the Court's permission, amend that party's pleading before or after pleadings close if that amended pleading is

(a) a statement of defence in response to an amended statement of claim, an amended counterclaim or an amended third party claim, or

(b) a reply to an amended statement of defence, amended statement of defence to an amended counterclaim, or amended statement of defence to an amended third party claim.

(4) A response pleading referred to in subrule (3) must be

(a) filed, and

(b) served on each of the other parties within 10 days after the date that the amended pleading referred to in subrule (3) is served.

(5) If a party has pleaded in response to a pleading that is subsequently amended and served on that party and the party does not file and serve a further response to the amended pleading, the party is assumed to rely on the party's unamended pleading in response to the amended pleading referred to in subrule (3).

(6) This rule does not apply to amendments to a class proceeding under the *Class Proceedings Act*.

AR 124/2010 s3.62;163/2010;143/2011

Information note

Rule 2.7 *[Amendments to pleadings in class proceedings]* says that after a certification order is made in a class proceeding, pleadings in a class proceeding may be amended only with the Court's permission.

Identifying amendments to pleadings

3.63(1) Unless the Court otherwise orders, if a party amends a pleading, a new pleading must be filed, being a copy of the original pleading as amended.

(2) The amendment must

(a) be dated and identified, and each amended version must be identified, and

(b) be endorsed by the court clerk in the following form:

Amended on [date] by [order] [party consent]
Dated . . .

AR 124/2010 s3.63;143/2011

Information note

Where a previously amended pleading is further amended, only the last amendment need be identified.

Time limit for application to disallow amendment to pleading

3.64(1) On application, the Court may disallow an amendment to a pleading or a part of it.

(2) The application must be filed within 10 days after service on the applicant of the amended pleading.

Permission of Court to amendment before or after close of pleadings

3.65(1) Subject to subrule (5), before or after close of pleadings, the Court may give permission to amend a pleading.

(2) If the Court gives permission for a pleading to be amended, the Court must specify the time period within which the amended pleading must be filed and served.

(3) An order giving permission to amend a pleading under this rule ceases to have effect unless the amended pleading is filed and served within the time specified by the Court.

(4) If the Court directs or allows a pleading to be amended at trial,

(a) the amendment must be recorded in writing by the court clerk, and

(b) no order need be filed.

(5) This rule does not apply to an amendment to a pleading to add, remove, substitute or correct the name of a party to which rule 3.74 *[Adding, removing or substituting parties after close of pleadings]* applies.

Costs

3.66(1) Subject to subrule (2), the costs, if any, as a result of an amendment to a pleading are to be borne by the party filing the amendment unless

(a) the amendment is a response to an amended pleading, or

(b) the Court otherwise orders.

(2) The costs of a contested application to amend a pleading are in the discretion of the Court, in accordance with rule 10.29 *[General rule for payment of litigation costs]*.

AR 124/2010 s3.66;122/2012

Close of pleadings

3.67(1) This rule applies to pleadings between the following:

(a) a plaintiff and a defendant;

(b) a plaintiff-by-counterclaim and a defendant-by-counterclaim;

(c) a third party plaintiff and a third party defendant;

(d) a plaintiff and a third party defendant.

(2) Pleadings close when

(a) a reply is filed and served by a plaintiff, plaintiff-by-counterclaim or third party plaintiff, as the case may be, or

(b) the time for filing and serving a reply expires,

whichever is earlier.

(3) The close of pleadings against one party represents the close of pleadings against all parties to that pleading.

Information note

The time for filing and service of a reply is covered in earlier rules in this Part. For example, rule 3.33 *[Reply to a defence]* requires the plaintiff's reply to be filed and served on the defendant within 10 days after service of the statement of defence on the plaintiff. See also rule 3.54(2) *[Plaintiff's reply to third party defence]*.

Division 5
Significant Deficiencies in Claims

Court options to deal with significant deficiencies

3.68(1) If the circumstances warrant and a condition under subrule (2) applies, the Court may order one or more of the following:

(a) that all or any part of a claim or defence be struck out;

(b) that a commencement document or pleading be amended or set aside;

(c) that judgment or an order be entered;

(d) that an action, an application or a proceeding be stayed.

(2) The conditions for the order are one or more of the following:

(a) the Court has no jurisdiction;

(b) a commencement document or pleading discloses no reasonable claim or defence to a claim;

(c) a commencement document or pleading is frivolous, irrelevant or improper;

(d) a commencement document or pleading constitutes an abuse of process;

(e) an irregularity in a commencement document or pleading is so prejudicial to the claim that it is sufficient to defeat the claim.

(3) No evidence may be submitted on an application made on the basis of the condition set out in subrule (2)(b).

(4) The Court may

(a) strike out all or part of an affidavit that contains frivolous, irrelevant or improper information;

(b) strike out all or any pleadings if a party without sufficient cause does not

(i) serve an affidavit of records in accordance with rule 5.5 *[When an affidavit of records must be served]*,

(ii) comply with rule 5.10 *[Subsequent disclosure of records]*, or

(iii) comply with an order under rule 5.11 *[Order for a record to be produced]*.

Division 6
Refining Claims and Changing Parties

Subdivision 1
Joining and Separating Claims and Parties

Joining claims

3.69(1) A party may join 2 or more claims in an action unless the Court otherwise orders.

(2) A party may sue or be sued in different capacities in the same action.

(3) If there is more than one defendant or respondent, it is not necessary for each to have an interest

(a) in all the remedies claimed or sought, or

(b) in each claim included in the action.

Information note

This rule and the following rules of this Division apply to all actions, whether started by statement of claim or by originating application.

Parties joining to bring action

3.70(1) Two or more parties may join to bring an action, and a plaintiff or originating applicant may make a claim against 2 or more persons as defendants or respondents in an action, if

(a) the claim arises out of the same transaction or occurrence or series of transactions or occurrences,

(b) a question of law or fact common to the parties is likely to arise, or

(c) the Court permits.

(2) This rule applies irrespective of the remedy claimed by the plaintiff or originating applicant and whether or not 2 or more plaintiffs or originating applicants seek the same remedy.

Separating claims

3.71(1) When 2 or more claims are made in an action or when 2 or more parties join or are joined in an action, the Court may make an order under this rule if the Court is satisfied that the joined claims or parties, or both, may

(a) unduly complicate or delay the action, or

(b) cause undue prejudice to a party.

(2) The Court may, by order, do one or more of the following:

(a) order separate trials, hearings, applications or other proceedings;

(b) order one or more of the claims to be asserted in another action;

(c) order a party to be compensated by a costs award for having to attend part of a trial, hearing, application or proceeding in which the party has no interest;

(d) excuse a party from having to attend all or part of a trial, hearing, application or proceeding in which the party has no interest.

Information note

Rule 3.46(3) *[Third party defendant becomes a party]* says that third party claims are to be tried with the main action unless the Court otherwise orders under this rule.

Consolidation or separation of claims and actions

3.72(1) The Court may order one or more of the following:

(a) that 2 or more claims or actions be consolidated;

(b) that 2 or more claims or actions be tried at the same time or one after the other;

(c) that one or more claims or actions be stayed until another claim or action is determined;

(d) that a claim be asserted as a counterclaim in another action.

(2) An order under subrule (1) may be made for any reason the Court considers appropriate, including, without limitation, that 2 or more claims or actions

(a) have a common question of law or fact, or

(b) arise out of the same transaction or occurrence or series of transactions or occurrences.

Incorrect parties not fatal to actions

3.73(1) No claim or action fails solely because

(a) 2 or more parties join in an action that they should not have joined,

(b) 2 or more parties do not join an action that they could or should have joined, or

(c) a party was incorrectly named as a party or was incorrectly omitted from being named as a party.

(2) If subrule (1) applies, a judgment entered in respect of the action is without prejudice to the rights of persons who were not parties to the action.

Subdivision 2
Changes to Parties

Adding, removing or substituting parties after close of pleadings

3.74(1) After close of pleadings, no person may be added, removed or substituted as a party to an action started by statement of claim except in accordance with this rule.

(2) On application, the Court may order that a person be added, removed or substituted as a party to an action if

(a) in the case of a person to be added or substituted as plaintiff, plaintiff-by-counterclaim or third party plaintiff, the application is made by a person or party and the consent of the person proposed to be added or substituted as a party is filed with the application;

(b) in the case of an application to add or substitute any other party, or to remove or to correct the name of a party, the application is made by a party and the Court is satisfied the order should be made.

(3) The Court may not make an order under this rule if prejudice would result for a party that could not be remedied by a costs award, an adjournment or the imposition of terms.

Information note

An order under this rule is likely to include terms, conditions and time limits. See rule 1.4(2)(e) *[Procedural orders]*.

Adding, removing or substituting parties to originating application

3.75(1) In an action started by originating application no party or person may be added or substituted as a party to the action except in accordance with this rule.

(2) On application of a party or person, the Court may order that a person be added or substituted as a party to the action

(a) in the case of a person to be added or substituted as an originating applicant, if consent of the person proposed to be added or substituted is filed with the application;

(b) in the case of an application to add or substitute a person as a respondent, or to remove or correct the name of a party, if the Court is satisfied the order should be made.

(3) The Court may not make an order under this rule if prejudice would result for a party that could not be remedied by a costs award, an adjournment or the imposition of terms.

Action to be taken when defendant or respondent added

3.76(1) If a defendant or respondent is added to or substituted in an action, the plaintiff, originating applicant, plaintiff-by-counterclaim or third party plaintiff must, unless the Court otherwise orders,

(a) amend the commencement document, as required, to name the new party, and

(b) serve the amended commencement document on each of the other parties.

(2) Unless the Court otherwise orders,

(a) in the case of a new defendant, the new defendant has the same time period to serve a statement of defence as the defendant had under rule 3.31 *[Statement of defence]*, and

(b) the action against the new defendant or new respondent, as the case may be, starts on the date on which the new party is added to or substituted in the action.

Subsequent encumbrancers not parties in foreclosure action

3.77 A plaintiff in a foreclosure action must not make any subsequent encumbrancer a party to the claim unless possession is claimed from the subsequent encumbrancer.

Information note

In foreclosure actions, a notice of address for service may be filed and served under rule 11.24 *[Notice of address for service in foreclosure actions]*.

Part 4:
Managing Litigation

What this Part is about: This Part sets out the responsibility of the parties to manage their litigation.

Once a statement of claim, defence, reply, and in more complicated actions a counterclaim or third party claim and related pleadings have been filed and served, each party knows what claims and defences are being made in an action. The rules then

- require the parties to manage the litigation so that the parties know when important stages in the action should be complete,
- require the parties to consider and participate in a dispute resolution process, unless the Court waives this requirement,
- provide a means for the parties to obtain Court assistance for managing the litigation, including the appointment of a case management judge, and
- establish a structure for the parties to ask a judge to actively facilitate resolution of a claim through judicial dispute resolution.

This Part also includes

- rules describing how an award for security for payment of costs can be obtained, and
- rules for a formal offer to settle the litigation and a description of the potential costs consequences when settlement is not pursued, to ensure that formal offers are given careful consideration.

Lastly, this Part deals with litigation delay, the effects of the death of a party, and discontinuing an action.

Part 4:
Managing Litigation

	Starts at rule #
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Information note

Words and phrases used in this Part that have defined meanings in the Appendix *[Definitions]* include

- Chief Justice
- claim
- costs award
- Court
- court clerk
- defendant
- expert
- file
- health care professional
- judge
- judgment
- medical examination
- order
- party
- plaintiff
- pleading
- prescribed form
- procedural order
- record
- remedy
- rules

Part 4:
Managing Litigation

Division 1
Responsibilities of Parties

Responsibilities of parties to manage litigation

4.1 The parties are responsible for managing their dispute and for planning its resolution in a timely and cost-effective way.

What the responsibility includes

4.2 The responsibility of the parties to manage their dispute and to plan its resolution requires the parties

(a) to act in a manner that furthers the purpose and intention of these rules described in rule 1.2 *[Purpose and intention of these rules]*,

(b) in an action categorized as a standard case, to respond in a substantive way and within a reasonable time to any proposal for the conduct of an action,

(c) in an action categorized as a complex case, to meet or to adjust dates in a timely way in a complex case litigation plan,

(d) when the complexity or the nature of an action requires it, to apply to the Court for direction, or request case management under rule 4.12 *[Request for case management]*, and

(e) to consider and engage in one or more dispute resolution processes described in rule 4.16(1) *[Dispute resolution processes]* unless the Court waives that requirement.

Information note

This Part does not apply to an action brought by originating application unless the parties otherwise agree or the Court otherwise orders. See rule 3.10 *[Application of Part 4 and Part 5]* and rule 3.12 *[Application of statement of claim rules to originating applications]*.

Under rule 8.4 *[Trial date: scheduled by court clerk]* no trial date can be scheduled by the court clerk until the parties have engaged in a dispute resolution process unless the Court waives this requirement. The waiver can be granted under rule 4.16(2) *[Dispute resolution processes]*. A waiver under rule 4.16(2) can also be given in the course of an application under rule 8.5(1) *[Trial date: scheduled by the Court]*; see rule 8.5(1)(a)(iii).

Categories of court action

4.3(1) For the purpose of these rules, actions are categorized as

(a) standard cases, or

(b) complex cases.

(2) In deciding whether an action should be categorized as a standard or complex case, the parties or the Court, as the case requires, must consider the following factors:

(a) the amount of the claim, the number and nature of the claims, and the complexity of the action;

(b) the number of parties;

(c) the number of documents involved;

(d) the number and complexity of issues and how important they are;

(e) how long questioning under Part 5 *[Disclosure of Information]* is likely to take;

(f) whether expert reports will be required and, if so, the time it will take to exchange reports and to question experts under Part 5 *[Disclosure of Information]*;

(g) whether medical examinations and reports under Part 5 *[Disclosure of Information]*, Division 3 *[Medical Examinations by Health Care Professionals]* will be required;

(h) any other matter that should be considered to meet the purpose and intention of the rules described in rule 1.2 *[Purpose and intention of these rules]*;

(i) whether a third party claim has been or is likely to be made.

(3) If, within 4 months after the date a statement of defence is filed, the parties do not agree on whether the action is a standard or complex case, and the Court does not otherwise order, the action is to be categorized as a standard case.

Standard case obligations

4.4(1) Unless the parties otherwise agree, or the Court otherwise orders, and subject to matters arising beyond the control of the parties, the parties to an action categorized as a standard case must, within a reasonable time considering the nature of the action, complete each of the following steps or stages in the action:

(a) close of pleadings;

(b) disclosure of information under Part 5 *[Disclosure of Information]*;

(c) at least one of the dispute resolution processes described in rule 4.16(1), unless the requirement is waived by the Court;

(d) application for a trial date.

(2) A party to an action categorized as a standard case may serve on the other party a proposed litigation plan or a proposal for the completion or timing of any stage or step in the action, and if no agreement is reached, any party may apply to the Court for a procedural or other order respecting the plan or proposal.

Information note

Close of pleadings (referred to in subrule (1)(a)) is a time determined under rule 3.67 *[Close of pleadings]*.

Complex case obligations

4.5(1) The parties to an action categorized as a complex case must, within 4 months after the date that the parties agree to the categorization or the Court determines that the action is a complex case,

(a) agree on a complex case litigation plan, and

(b) unless reasons are given in the plan not to do so,

(i) establish a date by which the real issues in dispute will be identified,

(ii) agree on a protocol for the organization and production of records,

(iii) set a date by which disclosure of records will be completed under rule 5.5 *[When an affidavit of records must be served]*,

(iv) set a date by which questioning under Part 5 *[Disclosure of Information]* will be completed,

(v) set a date by which all experts' reports and rebuttal and surrebuttal expert reports will be served,

(vi) set a date by which reports of any health care professionals will be obtained, and

(vii) agree on an estimated date to apply for a trial date.

(2) When a complex case litigation plan or an amendment to the plan is agreed to, the plaintiff must file it and serve it on all parties.

Settling disputes about complex case litigation plans

4.6(1) If no agreement is reached on a complex case litigation plan within the period referred to in rule 4.5(1) *[Complex case obligations]*, or if the parties cannot agree on an adjustment to a date in the plan, the Court may

(a) establish or amend a complex case litigation plan for the action, or

(b) make a procedural order with respect to the action generally or to deal with particular issues or issues that may arise.

Monitoring and adjusting dates

4.7(1) The parties must monitor progress in their action and adjust the dates by which a stage or step in the action is expected to be completed if a party is added to the action or as circumstances require.

(2) On application, the Court may adjust or set dates by which a stage or a step in the action is expected to be completed.

Court may categorize actions

4.8(1) On application, the Court may direct whether an action is to be categorized as a standard or complex case.

(2) The Court may change the categorization of an action to complex or standard at any time.

Division 2
Court Assistance in Managing Litigation

Orders to facilitate proceedings

4.9 If a party or the Court is not satisfied that an action is being managed in accordance with rule 4.2 *[What the responsibility includes]*,

(a) the party may apply for a procedural order, an order under rule 4.10 *[Assistance by the Court]* or any other appropriate order;

(b) the Court may make a procedural order, an order under rule 4.10 *[Assistance by the Court]* or any other appropriate order.

Assistance by the Court

4.10(1) The Court may, at any time, direct the parties and any other person to attend a conference with the Court.

(2) The participants in the conference may consider

(a) dispute resolution possibilities, the process for them, and how they can be facilitated;

(b) simplification or clarification of a claim, a pleading, a question, an issue, an application or a proceeding;

(c) a complex case litigation plan or a modification to the plan;

(d) case management by a judge;

(e) practice, procedural or other issues or questions and how to resolve them;

(f) any other matter that may aid in the resolution or facilitate the resolution of a claim, application or proceeding or otherwise meet the purpose and intention of these rules described in rule 1.2 *[Purpose and intention of these rules]*.

(3) If a party files an application for a conference under this rule, that party must

(a) give a reason for the conference, and

(b) file and serve on every other party notice of the application and any material to be relied on in support of the application a reasonable time before the date the conference is scheduled to take place.

(4) The Court may make a procedural order before, at or following the conference.

Ways the Court may manage action

4.11 The Court may manage an action in one or more of the following ways, in which case the responsibility of the parties to manage their dispute is modified accordingly:

(a) the Court may make a procedural order;

(b) the Court may direct a conference under rule 4.10 *[Assistance by the Court]*;

(c) on request under rule 4.12 *[Request for case management]*, or on the initiative of the Chief Justice under rule 4.13 *[Appointment of case management judge]*, the Chief Justice may appoint a case management judge for the action;

(d) the Court may make an order under a rule providing for specific direction or a remedy.

Request for case management

4.12(1) A request for a case management order must be made in writing to the Chief Justice and a copy of the request must be served on each of the other parties.

(2) The request must state

(a) the reason for the request, and

(b) whether any of the other parties agrees with the request.

(3) An action commenced or continued under the *Class Proceedings Act* must have a case management judge appointed for the action unless the Chief Justice decides otherwise, and the request for a case management judge must be made no later than the date on which the first application in respect of the class proceeding is made under section 2(2) of the *Class Proceedings Act*.

Appointment of case management judge

4.13 The Chief Justice may order that an action be subject to case management and appoint a judge as the case management judge for the action for one or more of the following reasons:

(a) to encourage the parties to participate in a dispute resolution process;

(b) to promote and ensure the fair and efficient conduct and resolution of the action;

(c) to keep the parties on schedule;

(d) to facilitate preparation for trial and the scheduling of a trial date.

Authority of case management judge

4.14(1) A case management judge, or if the circumstances require, any other judge, may

(a) order that steps be taken by the parties to identify, simplify or clarify the real issues in dispute,

(b) establish, substitute or amend a complex case litigation plan and order the parties to comply with it,

(c) make an order to facilitate an application, proceeding, questioning or pre-trial proceeding,

(d) make an order to promote the fair and efficient resolution of the action by trial,

(e) facilitate efforts the parties may be willing to take towards the efficient resolution of the action or any issue in the action through negotiation or a dispute resolution process other than trial,

(f) make any procedural order that the judge considers necessary, or

(g) as a case management judge, exercise the powers that a trial judge has by adjudicating any issues that can be decided before commencement of the trial, including those related to

(i) the admissibility of evidence,

(ii) expert witnesses,

(iii) admissions, and

(iv) adverse inferences.

(2) Unless the Chief Justice or the case management judge otherwise directs, or these rules otherwise provide, the case management judge must hear every application filed with respect to the action for which the case management judge is appointed.

(3) A decision that results from the exercise of the power referred to in subrule (1)(g) is binding on the parties for the remainder of the trial, even if the judge who hears the evidence on the merits is not the same as the case management judge, unless the court is satisfied that it would not be in the interests of justice because, among other considerations, fresh evidence has been adduced.

AR 124/2010 s4.14;85/2016

Case management judge presiding at summary trial and trial

4.15 Unless every party and the judge agree, a case management judge must not hear an application for judgment by way of a summary trial or preside at the trial of the action for which the case management judge is appointed.

Division 3
Dispute Resolution by Agreement

Subdivision 1
Dispute Resolution Processes

Dispute resolution processes

4.16(1) The responsibility of the parties to manage their dispute includes good faith participation in one or more of the following dispute resolution processes with respect to all or any part of the action:

(a) a dispute resolution process in the private or government sectors involving an impartial third person;

(b) a Court annexed dispute resolution process;

(c) a judicial dispute resolution process described in rules 4.17 to 4.21 *[Judicial Dispute Resolution]*;

(d) any program or process designated by the Court for the purpose of this rule.

(2) On application, the Court may waive the responsibility of the parties under this rule, but only if

(a) before the action started the parties engaged in a dispute resolution process and the parties and the Court believe that a further dispute resolution process would not be beneficial,

(b) the nature of the claim is not one, in all the circumstances, that will or is likely to result in an agreement between the parties,

(c) there is a compelling reason why a dispute resolution process should not be attempted by the parties,

(d) the Court is satisfied that engaging in a dispute resolution process would be futile, or

(e) the claim is of such a nature that a decision by the Court is necessary or desirable.

(3) The parties must attend the hearing of an application under subrule (2) unless the Court otherwise orders.

Information note

Note that under rule 8.4(3) *[Trial date: scheduled by court clerk]*, the court clerk cannot schedule a trial date unless satisfactory evidence is produced that the parties have participated in a dispute resolution process or the Court, by order, waives this requirement under rule 4.16(2). If the Court sets a trial date under rule 8.5 *[Trial date: scheduled by the Court]* the Court may, if the conditions of rule 4.16(2) are met, give a waiver of that rule at that time.

Subdivision 2
Judicial Dispute Resolution

Purpose of judicial dispute resolution

4.17 The purpose of this Subdivision *[Judicial Dispute Resolution]* is to provide a party-initiated framework for a judge to actively facilitate a process in which the parties resolve all or part of a claim by agreement.

Judicial dispute resolution process

4.18(1) An arrangement for a judicial dispute resolution process may be made only with the agreement of the participating parties and, before engaging in a judicial dispute resolution process, and subject to the directions of the presiding judge, the participating parties must agree to the extent possible on at least the following:

(a) that every party necessary to participate in the process has agreed to do so, unless there is sufficient reason not to have complete agreement;

(b) rules to be followed in the process, including rules respecting

(i) the nature of the process,

(ii) the matters to be the subject of the process,

(iii) the manner in which the process will be conducted,

(iv) the date on which and the location and time at which the process will occur,

(v) the role of the judge and any outcome expected of that role,

(vi) any practice or procedure related to the process, including exchange of materials, before, at or after the process,

(vii) who will participate in the process, which must include persons who have authority to agree on a resolution of the dispute, unless otherwise agreed, and

(viii) any other matter appropriate to the process, the parties or the dispute.

(2) The parties who agree on the proposed judicial dispute resolution process are entitled to participate in the process.

(3) The parties to a proposed judicial dispute resolution process may request that a judge named by the parties participate in the process.

Information note

The parties to a JDR process cannot, of course, bind a judge to participate in the process. The parties should find out in advance whether their proposed process gives a judge any difficulty. If the judge is not willing to participate in the process agreed on by the parties, the parties are free to seek the assistance of another judge.

If the parties agree and a judge is willing, the judge may assist the parties in working out a JDR process.

Documents resulting from judicial dispute resolution

4.19 The only documents, if any, that may result from a judicial dispute resolution process are

(a) an agreement prepared by the parties, and any other document necessary to implement the agreement,

(b) a consent order or consent judgment resulting from the process, and

(c) a transcript of proceedings made in open court at the time of the judicial dispute resolution process which records the outcome of the judicial dispute resolution process.

AR 124/2010 s4.19;128/2015

Confidentiality and use of information

4.20(1) A judicial dispute resolution process is a confidential process intended to facilitate the resolution of a dispute.

(2) Unless the parties otherwise agree in writing, statements made or documents generated for or in the judicial dispute resolution process with a view to resolving the dispute

(a) are privileged and are made or generated without prejudice,

(b) must be treated by the parties and participants in the process as confidential and may only be used for the purpose of that dispute resolution process, and

(c) may not be referred to, presented as evidence or relied on, and are not admissible in a subsequent application or proceeding in the same action or in any other action, or in proceedings of a judicial or quasi-judicial nature.

(3) Subrule (2) does not apply to the documents referred to in rule 4.19 *[Documents resulting from judicial dispute resolution]*.

(4) Subrule (2) does not prevent the use of statements made or documents generated for or in the judicial dispute resolution process to prove the fact that a settlement was reached or the terms of a settlement.

AR 124/2010 s4.20;128/2015

Involvement of judge after process concludes

4.21(1) The judge facilitating a judicial dispute resolution process in an action must not hear or decide any subsequent application, proceeding or trial in the action without the written agreement of every party and the agreement of the judge.

(2) The judge facilitating a judicial dispute resolution process must treat the judicial dispute resolution process as confidential, and all the records relating to the process in the possession of the judge or in the possession of the court clerk must be returned to the parties or destroyed except

(a) the agreement of the parties and any document necessary to implement the agreement, and

(b) a consent order or consent judgment resulting from the process.

(3) The judge facilitating a judicial dispute resolution process is not competent to give evidence nor compellable to give evidence in any application or proceeding relating to the process in the same action, in any other action, or in any proceeding of a judicial or quasi-judicial nature.

Division 4
Security for Payment of Costs Award

Considerations for security for costs order

4.22 The Court may order a party to provide security for payment of a costs award if the Court considers it just and reasonable to do so, taking into account all of the following:

(a) whether it is likely the applicant for the order will be able to enforce an order or judgment against assets in Alberta;

(b) the ability of the respondent to the application to pay the costs award;

(c) the merits of the action in which the application is filed;

(d) whether an order to give security for payment of a costs award would unduly prejudice the respondent's ability to continue the action;

(e) any other matter the Court considers appropriate.

Contents of security for costs order

4.23(1) An order to provide security for payment of a costs award must, unless the Court otherwise orders,

(a) specify the nature of the security to be provided, which may include payment into Court,

(b) require a party to whom the order is directed to provide the security no later than 2 months after the date of the order or any other time specified in the order,

(c) stay some or all applications and other proceedings in the action until the security is provided, and

(d) state that if the security is not provided in accordance with the order, as the case requires,

(i) all or part of an action is dismissed without further order, or

(ii) a claim or defence is struck out.

(2) If the security is given by bond, the bond must be given to the party requiring security unless the Court otherwise orders.

(3) If the security is given by money paid into Court, the money may, by agreement of the parties, be paid out and a bond substituted for it.

(4) As circumstances require, the Court may

(a) increase or reduce the security required to be provided, and

(b) vary the nature of the security to be provided.

(5) An order under this rule may amend a complex case litigation plan.

Division 5
Settlement Using Court Process

Formal offers to settle

4.24(1) At any time after a statement of claim, a claim under the *Family Law Act*, an application to vary a custody order under the *Extra-provincial Enforcement of Custody Orders Act* or an originating application to vary a corollary relief order granted by another court under the *Divorce Act* (Canada) is filed, but 10 days or more before

(a) an application for judgment by way of a summary trial is scheduled to be heard,

(b) a trial is scheduled to start, or

(c) an application is scheduled to be heard or considered,

one party may serve on the party to whom the offer is made a formal offer to settle the action or a claim in the action.

(2) To be valid a formal offer to settle must be made within the period described in subrule (1), be in Form 22 and include the following information:

(a) the name of the party making the offer;

(b) the name of the party or parties to whom the offer is made;

(c) what the offer is and any conditions attached to it;

(d) whether or not the amount of the offer is inclusive of interest and, if not, to what date and at what rate interest is payable under the terms of the offer;

(e) whether or not the amount of the offer is inclusive of costs and, if not, the amount or scale of the costs and the date to which they are payable under the terms of the offer;

(f) the requirements that must be complied with to accept the offer;

(g) a form of acceptance of the offer;

(h) notice of the costs consequences specified in rule 4.29 *[Costs consequences of formal offer to settle]*.

(3) Unless a valid formal offer to settle is withdrawn under subrule (4), the offer remains open for acceptance until

(a) the expiry of 2 months after service of the offer or any longer period specified in the offer, or

(b) the start of a hearing of an application for judgment by way of a summary trial, the start of a trial or the start of a hearing of an application, as the case may be,

whichever occurs first.

(4) A valid formal offer to settle may not be withdrawn unless

(a) the Court first gives permission for the withdrawal, which may be given only if the Court is satisfied that there are special circumstances that justify withdrawal, and

(b) the party who made the offer serves written notice of withdrawal on every party who received the offer.

AR 124/2010 s4.24;143/2011

Acceptance of formal offer to settle

4.25(1) For the purpose of this Division, a formal offer to settle an action or a claim in an action may only be accepted in accordance with this rule.

(2) At any time a formal offer to settle remains open for acceptance or before a formal offer to settle is withdrawn, a party to whom the offer has been made may accept the offer by

(a) filing the offer and the acceptance of it, and

(b) serving on the party who made the offer notice that

(i) the offer has been accepted, and

(ii) the terms of any judgment or order in the offer have been agreed to.

(3) After the filing and service, a party may

(a) apply to the Court for judgment or an order in accordance with the terms of the formal offer to settle,

(b) continue the action in respect of any matter not covered by the judgment or order, and

(c) continue the action against any party who is not a party to the settlement.

If costs are not dealt with in formal offer to settle

4.26 If a formal offer to settle and acceptance filed under rule 4.25 *[Acceptance of formal offer to settle]* do not deal with costs, either party may apply to the Court for an order under rule 10.31 *[Court-ordered costs award]*.

Status of formal offer to settle and acceptance

4.27 Unless otherwise agreed by the parties, a formal offer to settle under this Division

(a) is to be considered as an offer to settle that is made without prejudice, and

(b) is not an admission of anything.

Confidentiality of formal offer to settle

4.28(1) Subject to rule 4.24(4) *[Formal offers to settle]* and subrule (2), a formal offer to settle is to be kept confidential and not disclosed to the Court until

(a) it is accepted, or

(b) the remedy for the claim has been decided.

(2) Subrule (1) does not apply to an offer of a written or printed apology made under section 4 of the *Defamation Act*.

Costs consequences of formal offer to settle

4.29(1) Subject to subrule (4), if a plaintiff makes a formal offer to settle that is not accepted and subsequently obtains a judgment or order in the action that is equal to or more favourable to the plaintiff than the offer, the plaintiff is entitled to double the costs to which the plaintiff would otherwise have been entitled under rule 10.31(1)(a) *[Court-ordered costs award]* or 10.32 *[Costs in a class proceeding]* for all steps taken in relation to the action or claim after service of the offer, excluding disbursements.

(2) Subject to subrule (4), if a defendant makes a formal offer to settle that is not accepted and a judgment or order in the action is made that is equal to or more favourable to the defendant than the offer, the defendant is entitled to costs for all steps taken in the action in relation to the action or claim after service of the offer.

(3) A defendant is entitled to double the costs provided for in subrule (2), excluding disbursements, if

(a) subrule (2) applies, and

(b) the action or claim that is the subject of the formal offer to settle is dismissed.

(4) This rule does not apply

(a) if costs are awarded under rule 10.31(1)(b) *[Court-ordered costs award]*,

(b) in the case of a formal offer to settle made with respect to an application for judgment after a summary trial, if the offer is made less than 10 days before the date scheduled to hear the application for judgment,

(c) in the case of a formal offer to settle made with respect to any other matter, if the offer is made less than 10 days before the date scheduled for the trial to start,

(d) in the case of a formal offer to settle that is withdrawn in accordance with rule 4.24(4) *[Formal offers to settle]*, or

(e) if in special circumstances the Court orders that this rule is not to apply.

When this Division does not apply

4.30 This Division does not apply to an action or a claim in an action in respect of which a defence of tender before the action started is pleaded unless that defence is first withdrawn.

Information note

Rule 13.9 *[Defence of tender]* sets out the conditions for a defence of tender before action.

Division 6
Delay in an Action

Application to deal with delay

4.31(1) If delay occurs in an action, on application the Court may

(a) dismiss all or any part of a claim if the Court determines that the delay has resulted in significant prejudice to a party, or

(b) make a procedural order or any other order provided for by these rules.

(2) Where, in determining an application under this rule, the Court finds that the delay in an action is inordinate and inexcusable, that delay is presumed to have resulted in significant prejudice to the party that brought the application.

AR 124/2010 s4.31;140/2013

Agreement about delay

4.32 If 2 or more parties agree to delay an application or proceeding in an action, each of the other parties must be served with notice of the agreement to delay and of the nature and extent of the delay.

Dismissal for long delay

4.33(1) In this rule,

(a) "applicant" means a party to an action who makes an application to dismiss the action for delay as set out in this rule;

(b) "respondent" means a party who has filed a commencement document;

(c) "suspension period" means, in subrules (5) to (9), a period that ends on

(i) a specific date, or

(ii) the happening of a specific event.

(2) If 3 or more years have passed without a significant advance in an action, the Court, on application, must dismiss the action as against the applicant, unless

(a) the action has been stayed or adjourned by order, an order has been made under subrule (9) or the delay is provided for in a litigation plan under this Part, or

(b) an application has been filed or proceedings have been taken since the delay and the applicant has participated in them for a purpose and to the extent that, in the opinion of the Court, warrants the action continuing.

(3) If the Court refuses an application to dismiss an action for delay, the Court may make whatever procedural order it considers appropriate.

(4) The period of time referred to in subrule (2) does not include the following, whichever ends earlier:

(a) the period of time between the service of a statement of claim on an applicant and the service of the applicant's statement of defence;

(b) the period of one year after the date of service of a statement of claim on an applicant.

(5) If a respondent and an applicant agree in writing to a suspension period, the period of time under subrule (2) does not include the suspension period agreed to.

(6) A respondent, whether or not the respondent has sought agreement under subrule (5), may serve an applicant with a written proposal setting out a suspension period and requesting that the suspension period not be included in computing the period of time under subrule (2).

(7) An applicant who receives a proposal referred to in subrule (6) must respond within 2 months, and within that time

(a) if the applicant agrees with the proposal, then the period of time under subrule (2) does not include the suspension period agreed to, or

(b) if the applicant disagrees with the proposal or does not respond to the proposal, then the respondent may apply for an order under subrule (9).

(8) If a suspension period is agreed to under subrule (5) or (7)(a), the respondent must give all other parties to the action written notice setting forth what the suspension period is, when it was agreed to and by whom.

(9) A respondent, whether or not the respondent has sought agreement under subrule (5) or served a proposal under subrule (6), may apply for an order setting out a suspension period that shall not be included in computing the period of time under subrule (2).

(10) Rule 13.5 *[Variation of time periods]* does not apply to this rule.

AR 124/2010 s4.33;140/2013;85/2016

Division 7
Transfer and Transmission of Interest

Stay of proceedings on transfer or transmission of interest

4.34(1) If at any time in an action prior to judgment the interest or liability of a party is transferred or transmitted to another person by assignment, bankruptcy, death or other means, the action is stayed until an order to continue the action by or against the other person has been obtained.

(2) If a transfer or transmission of the interest or liability of a party takes place while an application or proceeding in an action is pending, an interested person may, on filing an affidavit verifying the transfer or transmission of the interest or liability and without notice to any other party, request the Court to order that the action continue.

(3) An order to continue the action must be served on each of the other parties as soon as it is received by the party requesting the order.

(4) If an order to continue an action is not made within a reasonable time after the date on which the action is stayed, the defendant or respondent may apply to the Court to have the action dismissed for delay under rule 4.31 *[Application to deal with delay]*.

Death has no effect on action after evidence heard

4.35 If a party dies before judgment but after all the evidence has been heard,

(a) the death does not terminate the action, whether or not the claim survives death, and

(b) judgment may be pronounced and entered despite the death.

Division 8
Discontinuance

Discontinuance of claim

4.36(1) Before a date is set for trial, a plaintiff may discontinue all or any part of an action against one or more defendants.

(2) After a trial date has been set but before a trial starts, a plaintiff may discontinue all or part of an action against one or more defendants only

(a) with the written agreement of every party, or

(b) with the Court's permission.

(3) After the trial starts, a plaintiff may discontinue all or part of an action only with the Court's permission.

(4) A discontinuance under this rule must be in Form 23 and must be filed and served on each of the other parties and, after the plaintiff serves notice of discontinuance, the defendant is entitled to a costs award against the plaintiff for having defended against the discontinued claim.

(5) The discontinuance of the action may not be raised as a defence to any subsequent action for the same or substantially the same claim.

Discontinuance of defence

4.37(1) A defendant may discontinue the whole of a statement of defence by filing a notice of discontinuance in Form 24 and serving it on the plaintiff.

(2) On filing the notice of discontinuance,

(a) the defendant is in default of defence, and

(b) the plaintiff is entitled to a costs award against the defendant for having responded to the discontinued defence.

Part 5:
Disclosure of Information

What this Part is about: This Part describes what information and records the parties must disclose to each other and when and how the parties may question each other about the dispute. The Part requires the parties to share relevant and material information about the action in order to clearly identify

- what is in dispute,
- what evidence is available about the dispute.

This information helps minimize surprises during Court proceedings and avoids delay later in the litigation, assists the parties in evaluating their own and the other party's case, and facilitates resolution of the dispute or elements of it.

This Part also contains rules for the evidence of experts and rules for medical examinations by health care professionals.

Part 5:
Disclosure of Information

	Starts at rule #
Division 1: How Information is Disclosed	5.2
Subdivision 1: Introductory Matters	5.2
Subdivision 2: Disclosing and Identifying Relevant and Material Records	5.5
Subdivision 3: Questions to Discover Relevant and Material Records and Relevant and Material Information	5.17
Division 2: Experts and Expert Reports	5.34
Division 3: Medical Examinations by Health Care Professionals	5.41

Information note

Words and phrases used in this Part that have defined meanings in the Appendix *[Definitions]* include

- claim
- corporate representative
- corporate witness
- costs award
- Court
- defendant
- expert
- file
- health care professional
- judge
- master
- medical examination
- order
- partnership
- party
- plaintiff
- pleading
- prescribed form
- procedural order
- record
- relevant and material
- rules
- third party defendant

Part 5:
Disclosure of Information

Purpose of this Part

5.1(1) Within the context of rule 1.2 *[Purpose and intention of these rules]*, the purpose of this Part is

(a) to obtain evidence that will be relied on in the action,

(b) to narrow and define the issues between parties,

(c) to encourage early disclosure of facts and records,

(d) to facilitate evaluation of the parties' positions and, if possible, resolution of issues in dispute, and

(e) to discourage conduct that unnecessarily or improperly delays proceedings or unnecessarily increases the cost of them.

(2) The Court may give directions or make any order necessary to achieve the purpose of this Part.

Information note

This Part does not apply to actions started by originating application unless the parties otherwise agree or the Court otherwise orders. See rule 3.10 *[Application of Part 4 and Part 5]*.

Division 1
How Information Is Disclosed

Subdivision 1
Introductory Matters

When something is relevant and material

5.2(1) For the purposes of this Part, a question, record or information is relevant and material only if the answer to the question, or the record or information, could reasonably be expected

(a) to significantly help determine one or more of the issues raised in the pleadings, or

(b) to ascertain evidence that could reasonably be expected to significantly help determine one or more of the issues raised in the pleadings.

(2) The disclosure or production of a record under this Division is not, by reason of that fact alone, to be considered as an agreement or acknowledgment that the record is admissible or relevant and material.

Modification or waiver of this Part

5.3(1) The Court may modify or waive any right or power under a rule in this Part or make any order warranted in the circumstances if

(a) a person acts or threatens to act in a manner that is vexatious, evasive, abusive, oppressive, improper or tediously lengthy, or

(b) the expense, delay, danger or difficulty in complying with a rule would be grossly disproportionate to the likely benefit.

(2) In addition to making a procedural order, the Court may do any one or more of the following:

(a) make a costs award under Part 10 *[Lawyers' Charges, Recoverable Costs of Litigation, and Sanctions]* or require an advance payment against costs payable, or both;

(b) increase or decrease the amount of interest to which a person is entitled;

(c) order future questioning to be conducted before a judge, master or person designated by the Court;

(d) make any other order respecting the action or an application or proceeding the Court considers necessary in the circumstances.

Information note

A procedural order may include any order described in rule 1.4 *[Procedural orders]* or an order under any other rule respecting practice or procedure.

Appointment of corporate representatives

5.4(1) Unless the Court otherwise orders, every corporation that is a party must appoint a corporate representative.

(2) Corporate representatives must

(a) inform themselves of relevant and material records and relevant and material information before being questioned under this Division,

(b) if questioned under this Division, bring to the questioning any records likely to be required in respect of which there is no claim of privilege, and

(c) give appropriate evidence of the relevant and material records and relevant and material information.

(3) The corporate representative's evidence is evidence given by the corporation.

(4) On application, the Court may order corporate representatives to inform themselves of relevant and material records or relevant and material information, or both.

(5) The Court may appoint a corporate representative for a party that is a corporation if the party has not done so.

(6) The Court may appoint an additional or a substitute corporate representative for a party that is a corporation if

(a) an appointed corporate representative is not suitable, or

(b) an appointed corporate representative failed to inform himself or herself of relevant and material records and relevant and material information before being questioned.

Subdivision 2
Disclosing and Identifying Relevant and Material Records

When affidavit of records must be served

5.5(1) Every party must serve an affidavit of records on each of the other parties in accordance with the time period specified in subrule (2), (3) or (4).

(2) The plaintiff must serve an affidavit of records on each of the other parties within 3 months after the date the plaintiff is served with a statement of defence, or the first statement of defence if more than one is served.

(3) The defendant must serve an affidavit of records on each of the other parties within 2 months after the date the defendant is served with the plaintiff's affidavit of records.

(4) A third party defendant who has filed a statement of defence must, within 3 months after that filing, serve an affidavit of records on each of the other parties.

AR 124/2010 s5.5;140/2013

Information note

An affidavit of records must not be filed unless it is needed for the purpose of an application or at trial. See rule 5.32 *[When information can be used]*.

Form and contents of affidavit of records

5.6(1) An affidavit of records must

(a) be in Form 26, and

(b) disclose all records that

(i) are relevant and material to the issues in the action, and

(ii) are or have been under the party's control.

(2) The affidavit of records must also specify

(a) which of the records are under the control of the party on whose behalf the affidavit is made,

(b) which of those records, if any, the party objects to produce and the grounds for the objection,

(c) for those records for which there is no objection to produce, a notice stating

(i) the time when the record may be inspected, which must be within 10 days after the affidavit is served, and

(ii) the place where the record may be inspected, which must be

(A) the address for service of the party serving the affidavit,

(B) a place agreed on by the parties or ordered by the Court, or

(C) if the record is in constant use, the place where it is usually kept,

(d) which relevant and material records the party previously had under the party's control, and

(i) the time when, and the manner in which, those records ceased to be under that party's control, and

(ii) the present location of the records, if known,

and

(e) that the party does not have and has never had any other relevant and material record under the party's control.

(3) If a party does not have and has never had any relevant and material records under the party's control, the affidavit must say so.

AR 124/2010 s5.6;122/2012

Information note

The Court may give directions to facilitate disclosure and examination of documents that may be costly or lengthy. See rule 5.1(2) *[Purpose of this Part]* and rule 1.4 *[Procedural orders]*.

Producible records

5.7(1) Each producible record in an affidavit of records must

(a) be numbered in a convenient order, and

(b) be briefly described.

(2) A group of records may be bundled and treated as a single record if

(a) the records are all of the same nature, and

(b) the bundle is described in sufficient detail to enable another party to understand what it contains.

Records for which there is an objection to produce

5.8 Each record in an affidavit of records that a party objects to produce must be numbered in a convenient order, and the affidavit must identify the grounds for the objection in respect of each record.

Who makes affidavit of records

5.9(1) Subject to subrule (2), an affidavit of records must be sworn by

(a) the party,

(b) if the party is a corporation, by the corporation's corporate representative, or

(c) if a litigation representative is appointed for a party, by the party's litigation representative.

(2) A suitable person, other than the lawyer of record of the party, may swear the affidavit of records if

(a) it is inconvenient for the party, the corporate representative or the litigation representative to do so, and

(b) the parties agree or the Court so orders.

Subsequent disclosure of records

5.10 If, after a party has served an affidavit of records on other parties, the first party finds, creates or obtains control of a relevant and material record not previously disclosed, the first party must

(a) immediately give notice of it to each of the other parties,

(b) on written request and on payment of reasonable copying expenses, supply each of the other parties with a copy of it, and

(c) prior to scheduling a date for trial, serve a supplementary affidavit of records on each of the other parties.

Order for record to be produced

5.11(1) On application, the Court may order a record to be produced if the Court is satisfied that

(a) a relevant and material record under the control of a party has been omitted from an affidavit of records, or

(b) a claim of privilege has been incorrectly or improperly made in respect of a record.

(2) For the purpose of making a decision on the application, the Court may

(a) inspect a record, and

(b) permit cross-examination on the original and on any subsequent affidavit of records.

Penalty for not serving affidavit of records

5.12(1) In addition to any other order or sanction that may be imposed, the Court may impose a penalty of 2 times the amount set out in item 3(1) of the tariff in Division 2 of Schedule C *[Tariff of Recoverable Fees]*, or any larger or smaller amount the Court may determine, on a party who, without sufficient cause,

(a) does not serve an affidavit of records in accordance with rule 5.5 *[When an affidavit of records must be served]* or within any modified period agreed on by the parties or set by the Court,

(b) does not comply with rule 5.10 *[Subsequent disclosure of records]*, or

(c) does not comply with an order under rule 5.11 *[Order for a record to be produced]*.

(2) If there is more than one party adverse in interest to the party ordered to pay the penalty, the penalty must be paid to the parties in the proportions determined by the Court.

(3) A penalty imposed under this rule applies irrespective of the final outcome of the action.

Information note

One of the additional sanctions that may be imposed is the striking out of pleadings. See rule 3.68(3) *[Court options to deal with significant deficiencies]*.

Obtaining records from others

5.13(1) On application, and after notice of the application is served on the person affected by it, the Court may order a person who is not a party to produce a record at a specified date, time and place if

(a) the record is under the control of that person,

(b) there is reason to believe that the record is relevant and material, and

(c) the person who has control of the record might be required to produce it at trial.

(2) The person requesting the record must pay the person producing the record an amount determined by the Court.

Inspection and copying of records

5.14(1) Every party is entitled, with respect to a record that is relevant and material and that is under the control of another party, to all of the following:

(a) to inspect the record on one or more occasions on making a written request to do so;

(b) to receive a copy of the record on making a written request for the copy and paying reasonable copying expenses;

(c) to make copies of the record when it is produced.

(2) This rule does not apply to a record for which a claim of privilege is made unless the Court orders the record to be produced for inspection.

(3) The Court or a party to an action who receives a computer-generated document that was filed with the court clerk may request the person filing that document or causing it to be issued to provide a copy of it in an electronic format.

Admissions of authenticity of records

5.15(1) In this rule, "authentic" includes the fact that

(a) a document that is said to be an original was printed, written, signed or executed as it purports to have been, and

(b) a document that is said to be a copy is a true copy of the original.

(2) Subject to subrules (3), (4), (5) and (6), a party who makes an affidavit of records or on whose behalf an affidavit of records is filed and a party on whom an affidavit of records is served are both presumed to admit that

(a) a record specified or referred to in the affidavit is authentic, and

(b) if a record purports or appears to have been transmitted, the original was sent by the sender and was received by the addressee.

(3) Subrule (2)

(a) does not apply if the maker or the recipient of the affidavit objects in accordance with subrule (4),

(b) does not prejudice the right of a party to object to the admission of a record in evidence, and

(c) does not constitute an agreement or acknowledgment that the record is relevant and material.

(4) The maker or recipient of an affidavit of records is not presumed to make the admission referred to in subrule (2) if, within 3 months after the date on which the records are produced, the maker or recipient serves notice on the other party that the authenticity or transmittal of a record, as the case may be, is disputed and that it must be proved at trial.

(5) Notwithstanding that the maker or recipient of an affidavit of records does not serve a notice under subrule (4) within the time provided by that subrule, the Court may order that the maker or recipient is not presumed to make the admission referred to in subrule (2).

(6) This rule does not apply to a record whose authenticity, receipt or transmission has been denied by a party in the party's pleadings.

AR 124/2010 s5.15;140/2013

Information note

A party who invokes subrule (4) unreasonably may be ordered to pay costs under rule 10.33(2) *[Court considerations in making a costs award]*. Denials of authenticity must be specific and contain particulars. Blanket denials of authenticity are not an acceptable response.

Undisclosed records not to be used without permission

5.16 A party who

(a) does not disclose a relevant and material record in an affidavit of records referred to in rule 5.6 *[Form and contents of affidavit of records]*,

(b) does not disclose as required by rule 5.10 *[Subsequent disclosure of records]* a relevant and material record that is found, created or obtained, or

(c) does not produce a relevant and material record in accordance with a valid request to do so under rule 5.14 *[Inspection and copying of records]*

may not afterwards use the record in evidence in the action unless the parties otherwise agree or the Court otherwise orders on the basis that there was a sufficient reason for the failure to disclose.

Subdivision 3
Questions to Discover Relevant and Material Records and Relevant and Material Information

People who may be questioned

5.17(1) A party is entitled to ask the following persons questions under oath about relevant and material records and relevant and material information:

(a) each of the other parties who is adverse in interest;

(b) if the party adverse in interest is a corporation,

(i) one or more officers or former officers of the corporation who have or appear to have relevant and material information that was acquired because they are or were officers of the corporation, and

(ii) the corporate representative;

(c) if a litigation representative is appointed for a party,

(i) the litigation representative, and

(ii) with the Court's permission, the person on whose behalf the litigation representative is appointed if that person is competent to give evidence;

(d) one or more other persons who are or were employees of the party adverse in interest who have or appear to have relevant and material information that was acquired because of the employment;

(e) an auditor or former auditor engaged by a party adverse in interest, but not an auditor or former auditor engaged solely for the purpose of the action;

(f) if a partnership is a party adverse in interest, a partner or former partner of the partnership;

(g) in an action with respect to a negotiable instrument or chose in action,

(i) an assignor of the negotiable instrument or chose in action,

(ii) a prior endorser, drawer, holder or maker of the negotiable instrument, and

(iii) an employee or former employee of an assignor of the negotiable instrument or chose in action, and if the assignor is a corporation, an officer or former officer of the corporation.

(2) If a questioning party questions more than one person of a party adverse in interest under subrule (1) and the person questioned is

(a) an officer or former officer of a corporation described in subrule (1)(b)(i),

(b) an employee or former employee of the party adverse in interest described in subrule (1)(d),

(c) an auditor or former auditor described in subrule (1)(e),

(d) a partner or former partner of a partnership referred to in subrule (1)(f), or

(e) an employee, former employee, officer or former officer described in subrule (1)(g)(iii), other than a corporate representative,

the costs of questioning the second and subsequent persons are to be paid by the questioning party unless

(f) the parties otherwise agree, or

(g) the Court otherwise orders.

(3) This rule applies whether the person to be questioned is within or outside the Court's jurisdiction.

Information note

The *Class Proceedings Act* contains limitations on who can be questioned when the action is a proceeding under that Act.

Persons providing services to corporation

5.18(1) Subject to subrules (2) and (3), if

(a) a party cannot obtain relevant and material information from an officer or employee or a former officer or former employee of a corporation that is a party adverse in interest,

(b) it would be unfair to require the party seeking the information to proceed to trial without having the opportunity to ask questions about the information sought, and

(c) the questioning will not cause undue hardship, expense or delay to, or unfairness to, any other party or to the person to be questioned,

the party may question, under oath, a person who has provided services for the corporation and who can provide the best evidence on the issue.

(2) A person described in subrule (1) may be questioned only

(a) by written agreement of the parties, or

(b) with the Court's permission.

(3) An expert engaged by a party for the purposes of the action may not be questioned under this rule.

(4) Evidence from a person questioned under this rule is to be treated as if it were evidence of an employee of the corporation.

(5) The costs related to questioning a person under this rule are to be borne by the questioning party unless

(a) the parties otherwise agree, or

(b) the Court otherwise orders.

Limit or cancellation of questioning

5.19 On application, the Court may do either or both of the following:

(a) limit the number of persons subject to questioning by a party;

(b) cancel an appointment for questioning that the Court considers unnecessary, improper or vexatious.

When questioning is to take place

5.20(1) Unless the parties otherwise agree, or the Court in exceptional circumstances otherwise orders, a party may not question a party or person under this Division unless the questioning party has served an affidavit of records on the party adverse in interest.

(2) Subject to subrule (1), the questioning of a person is to take place as follows:

(a) questioning by the plaintiff, at any time after

(i) a statement of defence has been served on the plaintiff, or

(ii) the time for serving the statement of defence has expired;

(b) questioning by the defendant and every other party, at any time after a statement of defence has been served.

Appointment for questioning

5.21(1) A party may question a person whom the party is entitled to question under this Part by serving on the person a notice of appointment for questioning in Form 29.

(2) Rules 6.16 *[Contents of appointment notice]* to 6.19 *[Interpreters]* and 6.38 *[Requiring attendance for questioning]* apply for the purposes of subrule (1) with one modification, namely, unless the parties otherwise agree, the notice of appointment for questioning must be served 20 days or more before the appointment date.

Questioning options

5.22 Subject to rule 5.24 *[Oral and written questioning limitations]*, questioning may be conducted

(a) orally, under oath, or

(b) by written questions, answered under oath, subject to the limitations of rule 5.28 *[Written questions]*.

Preparation for questioning

5.23 A person to be questioned under this Division, other than a corporate representative, must

(a) reasonably prepare for questioning, and

(b) bring to the questioning any records likely to be required in respect of which there is no claim of privilege.

Information note

Note that a person to be questioned under this rule must reasonably prepare himself or herself while a corporate representative must inform himself or herself of relevant and material records and relevant and material information under rule 5.4(2) *[Appointment of corporate representatives]*.

Oral and written questioning limitations

5.24 Unless the parties otherwise agree or the Court otherwise orders,

(a) if more than one party is entitled to question a person, the questioning must be oral, and

(b) a party may not question a person both orally and by written questioning.

Appropriate questions and objections

5.25(1) During questioning, a person is required to answer only

(a) relevant and material questions, and

(b) questions in respect of which an objection is not upheld under subrule (2).

(2) A party or a witness being questioned may object to an oral or written question during questioning but only for one or more of the following reasons:

(a) privilege;

(b) the question is not relevant and material;

(c) the question is unreasonable or unnecessary;

(d) any other ground recognized at law.

(3) A corporate representative may object to an oral or written question during questioning on the basis that it would be unduly onerous for the corporate representative to inform himself or herself in the circumstances.

(4) If an objection to a question cannot be resolved the Court must decide its validity.

(5) After the questioning party has finished questioning a person, that person may be questioned by the party for whom the person is or may be a witness to explain, elaborate or provide context for an answer initially given.

(6) Following answers to the explanatory, elaborative or contextual questions, the person may be questioned again about the person's answers.

Information note

The Court has a broad range of powers to deal with situations in which the expense or difficulty of complying with a rule would be disproportional to its benefit. For example, rule 5.3 *[Modification or waiver of this Part]* and the Court's power under rule 1.4 *[Procedural orders]*.

If there is non-compliance with a rule, a costs award may be made and rule 10.49 *[Penalty for contravening the rules]* would apply.

Transcript of oral questioning

5.26(1) Oral questioning under this Part must be recorded word for word by a person qualified to do so

(a) by a method that is capable of producing a written transcript, and

(b) in a manner agreed on by the parties or directed by the Court.

(2) The questioning party must make necessary arrangements to record the questioning.

(3) Exhibits produced at the questioning must, unless otherwise agreed by the parties or ordered by the Court,

(a) be incorporated in or attached to the transcript, or

(b) be produced at the trial of the action without a notice to produce.

(4) The person recording the oral questioning must

(a) keep in safe custody the recorded questioning,

(b) if required to do so, honestly and accurately transcribe the recorded questioning and deliver a copy of the transcript, as required, and

(c) on or attached to any transcript

(i) state the person's name,

(ii) specify the date and place where the questioning occurred, and

(iii) certify the transcript, or the portion of the questioning transcribed, as complete and accurate.

(5) A person is qualified to record and transcribe oral questioning under this Part if the person is

(a) an official court reporter,

(b) a person appointed by the Court as an examiner under the *Alberta Rules of Court* (AR 390/68), or

(c) a shorthand writer, sworn to record the questioning word for word and to impartially fulfill the duties imposed by subrule (4), who

(i) is an agent or employee of an official court reporter or an examiner, or

(ii) has been approved by the parties.

Continuing duty to disclose

5.27(1) A person who is or has been questioned must, by affidavit, correct an answer if

(a) the answer was incorrect or misleading, or

(b) the answer becomes incorrect or misleading as a result of new information.

(2) The correcting affidavit must be made and served on each of the other parties as soon as practicable after the person realizes that the answer was or has become incorrect or misleading.

Written questions

5.28(1) Unless the Court otherwise orders or the parties otherwise agree, the following rules apply with respect to written questions and the answers to them:

(a) the written questions must be numbered and succinct;

(b) the answers provided to the questions must be given by affidavit and must state the question being answered;

(c) the party being questioned must serve the answers to the questions on each of the other parties within a time agreed on by the parties or ordered by the Court.

(2) A party is entitled to ask

(a) one set of follow-up written questions as a result of the answers to the initial written questions, or

(b) follow-up oral questions if agreed by the parties.

(3) If the answers to the written questions or the answers to the follow-up written or follow-up oral questions are unsatisfactory, the questioning party may apply to the Court for an order for either or both of the following:

(a) oral or further oral questioning;

(b) further written questions to be answered.

AR 124/2010 s5.28;140/2013

Acknowledgment of corporate witness's evidence

5.29(1) The evidence given by a corporate witness during questioning may not be read in as evidence at trial unless a corporate representative of the corporation, under oath, acknowledges that the evidence forms some of the information of the corporation.

(2) Subject to subrule (3), the corporate representative may refuse to acknowledge some or all of the evidence of the corporate witness and, if so, must state why, but is not entitled to refuse to acknowledge the corporate witness's information just because the corporate representative disbelieves or disagrees with it.

(3) If the corporate representative disbelieves or disagrees with some or all of the evidence of a corporate witness, the corporate representative

(a) must acknowledge the evidence as information of the corporation unless it is inadmissible under the laws of evidence, and

(b) may then qualify the acknowledgment with further evidence that is contrary to or inconsistent with the corporate witness's evidence if the further evidence is based on either or both of the following:

(i) the corporate representative's personal knowledge;

(ii) a record prepared by the corporate representative or provided to the corporate representative by a person having personal knowledge of the issue in question.

Undertakings

5.30(1) If, during questioning, a person answering questions

(a) does not know the answer to a question but would have known the answer if the person had reasonably prepared for questioning, or if as a corporate representative the person had reasonably informed himself or herself, or

(b) has under the person's control a relevant and material record that is not privileged,

the person must undertake to inform himself or herself and provide an answer, or produce the record, within a reasonable time.

(2) After the undertaking has been discharged, the person who gave the undertaking may be questioned on the answer given or record provided.

Information Note

Undertakings should be answered in a reasonable time, and the witnesses should generally not delay responding until every undertaking can be answered. The questioner is expected to indicate within a reasonable time whether the undertaking is responsive to the question, and whether the questioner intends to question further on the undertaking. Further questioning should proceed when the undertakings are substantially answered, even if some undertakings remain outstanding, and even if questioning is not completed.

Use of transcript and answers to written questions

5.31(1) Subject to rule 5.29 *[Acknowledgment of corporate witness's evidence]*, a party may use in support of an application or proceeding or at trial as against a party adverse in interest any of the evidence of that other party in a transcript of questioning under rule 5.17 *[People who can be questioned]* or 5.18 *[Persons providing services to a corporation]* and any of the evidence in the answers of that other party to written questions under rule 5.28 *[Written questions]*.

(2) Evidence referred to in subrule (1) is evidence only of the questioning party who uses the transcript evidence or the answers to the written questions, and is evidence only against the party who was questioned.

(3) If only a portion of a transcript or a portion of the answers to the written questions is used, the Court may, on application, direct that all or each other portion of the transcript or answers also be used if all or any other portion is so connected with the portion used that it would or might be misleading not to use all or any other portion of the transcript or other answers.

Information note

Rule 8.14 *[Unavailable or unwilling witness]*, in the limited circumstances described in that rule, permits transcript evidence under this Part to be admitted as evidence.

When information may be used

5.32 The transcript of questioning, including exhibits, made under this Division, an affidavit of records, affidavits and answers to written questions, and correcting affidavits under this Division

(a) must not be filed and must not be put before the Court except during an application, proceeding or at trial, and

(b) may be filed and put before the Court only as permitted by these rules,

in which case the person relying on the documents filed must provide the material in writing or in any other form permitted by the Court.

Confidentiality and use of information

5.33(1) The information and records described in subrule (2) must be treated as confidential and may only be used by the recipient of the information or record for the purpose of carrying on the action in which the information or record was provided or disclosed unless

(a) the Court otherwise orders,

(b) the parties otherwise agree, or

(c) otherwise required or permitted by law.

(2) For the purposes of subrule (1) the information and records are:

(a) information provided or disclosed by one party to another in an affidavit served under this Division;

(b) information provided or disclosed by one party to another in a record referred to in an affidavit served under this Division;

(c) information recorded in a transcript of questioning made or in answers to written questions given under this Division.

Division 2
Experts and Expert Reports

Service of expert's report

5.34 An expert's report must

(a) be in Form 25 and contain the information required by the form, or any modification agreed on by the parties, and

(b) be served in the sequence required by rule 5.35 *[Sequence of exchange of expert reports]*.

Information note

The court clerk cannot schedule a trial date under rule 8.4 *[Trial date: scheduled by court clerk]* unless expert reports, if needed, have been exchanged. See also rule 8.5 *[Trial date: scheduled by the Court]*, which provides for a trial date to be scheduled by the Court.

Sequence of exchange of experts' reports

5.35(1) If a party intends to use the evidence of an expert at trial, the expert's report must be served in the sequence described in subrule (2).

(2) Unless the parties otherwise agree or the Court otherwise orders, experts' reports on which a party intends to rely must be served in the following sequence:

(a) the party who bears the primary onus of proof must serve on each of the other parties the report of that party's expert;

(b) the other party or parties must serve their expert's rebuttal report, if any, and may include in the report issues not raised in the initial expert's report;

(c) the party who served the initial expert's report may serve a surrebuttal expert's report that responds only to the new issues raised in the rebuttal report.

Objection to expert's report

5.36(1) A party who receives an expert's report must notify the party serving the report of

(a) any objection to the admissibility of the expert's report that the party receiving the report intends to raise at trial, and

(b) the reasons for the objection.

(2) No objection to the admissibility of an expert's report is permitted at trial unless

(a) reasonable notice of the objection was given to the other party, or

(b) the Court permits the objection to be made.

Questioning experts before trial

5.37(1) The parties may agree, or in exceptional circumstances the Court may direct, that an expert be questioned by any party adverse in interest to the party proposing to call the expert witness at trial.

(2) The questioning must be limited to the expert's report.

(3) The Court may impose conditions about questioning with respect to all or any of the following:

(a) limiting the length of questioning;

(b) specifying the place where the questioning is to take place;

(c) directing payment of costs incurred;

(d) any other matter concerning the questioning.

(4) Evidence of an expert under this Division is to be treated as if it were evidence of an employee of the party who intends to rely on the expert's report.

Continuing obligation on expert

5.38 If, after an expert's report has been provided by one party to another, the expert changes his or her opinion on a matter in the report, the change of opinion must be

(a) disclosed by the expert in writing, and

(b) immediately served on each of the other parties.

Use of expert's report at trial without expert

5.39(1) A party serving an expert's report may, at the same time, also serve notice of intention to have the report entered as evidence without calling the expert as a witness.

(2) If a party serves a notice of intention under subrule (1), no objection may be made at trial to entering the expert's report as evidence unless, within 2 months after service of the notice under subrule (1), any other party serves a statement on the party serving the notice of intention

(a) setting out all or parts of the report that that other party objects to being entered as evidence under this rule, and giving reasons for the objection, or

(b) serving on the party a request that the expert attend the trial for cross-examination.

(3) Agreeing to have the expert's report entered as evidence without calling the expert as a witness, either explicitly or by allowing subrule (2) to operate without objection, is not an admission of the truth or correctness of the expert's report.

Expert's attendance at trial

5.40(1) A party who agrees to have all of an expert's report entered in evidence at trial, either explicitly or by allowing rule 5.39(2) *[Use of expert's report at trial without expert]* to operate without objection, may, at the same time as responding to the notice of intention, serve a request that the expert be in attendance at trial for cross-examination.

(2) The expert whose entire report is to be entered at trial must not give oral evidence at trial unless

(a) a request that the expert attend for cross-examination has been served, or

(b) the Court permits.

(3) The party who requests an expert's attendance for cross-examination must pay the costs of the expert's attendance, determined under Schedule B *[Court Fees and Witness and Other Allowances]*, unless the Court is satisfied that the cross-examination is of sufficient assistance to warrant a different order about who is to pay those costs.

(4) If the party proposing to enter the expert's report receives a request that the expert attend for cross-examination, the party proposing to enter the report may question the expert at trial.

Division 3
Medical Examinations by Health Care Professionals

Medical examinations

5.41(1) The parties may agree that the mental or physical condition of a person is at issue in an action and agree on a health care professional to conduct a medical examination.

(2) On application, the Court may in an action in which the mental or physical condition of a person is at issue do either or both of the following:

(a) order that a person submit to a mental or physical medical examination;

(b) appoint a health care professional to conduct a medical examination.

(3) The Court may order a second or further medical examination by a health care professional.

(4) If the plaintiff has been the subject of a medical examination by a health care professional of the plaintiff's choice who will or may be proffered as an expert, the Court may order that the plaintiff be the subject of a medical examination by one or more health care professionals of the defendant's choice.

Options during medical examination

5.42(1) Unless otherwise ordered by the Court, a person who is to be the subject of a medical examination by a health care professional may elect to do one or more of the following:

(a) nominate a health care professional to be present during the medical examination;

(b) videotape the medical examination;

(c) make a word-for-word recording of the medical examination.

(2) The Court may

(a) define or limit the presence or role of the nominated health care professional,

(b) direct that any part of the medical examination, including any standardized tests, not be recorded, and

(c) otherwise provide direction as to the conduct of the medical examination.

Payment of costs of medical examinations

5.43(1) Unless the Court otherwise orders, the party who applies for the order for a medical examination must pay the cost of the medical examination.

(2) Unless the Court otherwise orders, the cost of

(a) the attendance of a nominated health care professional at a medical examination, or

(b) videotaping or recording a medical examination,

is to be paid by the party appointing the nominated health care professional or electing to have the medical examination videotaped or recorded.

(3) The party arranging for the videotaping or recording must provide a copy of the videotape or recording to the other party as soon as practicable after the medical examination is completed.

(4) The videotape or recording

(a) may be shown or played at trial only with the Court's permission, and

(b) may only be used to verify events at the medical examination.

Conduct of examination

5.44(1) A health care professional conducting a medical examination may ask the person being examined questions relating to that person's mental and physical condition and medical history, and the person being examined must answer the questions.

(2) If the person to be examined agrees in writing, or if the Court so orders, the examining health care professional may

(a) take or obtain samples from the person being examined, and make an analysis of the samples, and

(b) perform any test recognized by medical science.

(3) The party causing the medical examination to be conducted

(a) must, on request, deliver promptly to each of the other parties a copy of a detailed written report of the health care professional's findings and conclusions, and

(b) is, on request, entitled to receive promptly from the person examined a report of every medical examination previously or subsequently made of the physical or mental condition of the person resulting from the injuries sustained or the mental or physical condition that is in issue.

(4) If a party refuses to provide a report in the manner described in subrule (3), the Court may order the report to be provided, and if the health care professional refuses to make the report in writing, the Court may make any order it considers proper, one of the provisions of which may be the exclusion of the health care professional's evidence if that person's evidence is offered at trial.

(5) On application, the Court may make any order it considers necessary to limit or curtail a medical examination.

Part 6:
Resolving Issues and Preserving Rights

What this Part is about: This Part is designed to resolve issues and questions arising in the course of a Court action. It includes rules describing how applications are made to the Court and responded to by others, rules for questioning on affidavits and questioning witnesses before a hearing, and rules for preserving, protecting and obtaining evidence inside and outside Alberta.

The Part also

- describes resources and rules available to assist the Court (experts and referees), and
- includes special rules for replevin and interpleader proceedings.

Part 6:
Resolving Issues and Preserving Rights

	Starts at rule #
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Information note

Words and phrases used in this Part that have defined meanings in the Appendix *[Definitions]* include:

- Chief Justice
- civil enforcement agency
- claim
- Court
- court clerk
- defendant
- enactment
- expert
- file
- foreclosure action
- foreclosure order
- health care professional
- judge
- judgment
- judgment creditor
- judgment debtor
- judgment centre
- land
- lawyer
- master
- order
- party
- plaintiff
- pleading
- prescribed form
- procedural order
- property
- record
- redemption order
- referee
- remedy
- rules
- secured property

Part 6:
Resolving Issues and Preserving Rights

Division 1
Applications to the Court

What this Division applies to

6.1 This Division

(a) applies to every application filed in the Court unless a rule or an enactment otherwise provides or the Court otherwise orders or permits;

(b) does not apply to originating applications unless the parties otherwise agree or the Court otherwise orders.

Application to the Court to exercise its authority

6.2 When the Court has authority under these rules, a person may make an application to the Court that the Court exercise its authority.

Subdivision 1
Application Process Generally

Applications generally

6.3(1) Unless these rules or an enactment otherwise provides or the Court otherwise permits, an application may only be filed during an action or after judgment is entered.

(2) Unless the Court otherwise permits, an application to the Court must

(a) be in the appropriate form set out in Schedule A, Division 1 to these rules,

(b) state briefly the grounds for filing the application,

(c) identify the material or evidence intended to be relied on,

(d) refer to any provision of an enactment or rule relied on,

(e) specify any irregularity complained of or objection relied on,

(f) state the remedy claimed or sought, and

(g) state how the application is proposed to be heard or considered under these rules.

(3) Unless an enactment, the Court or these rules otherwise provide, the applicant must file and serve on all parties and every other person affected by the application, 5 days or more before the application is scheduled to be heard or considered,

(a) notice of the application, and

(b) any affidavit or other evidence in support of the application.

Information note

An application may be made both during an action and, if Court assistance is still required, after judgment. See rule 9.14 *[Further or other order after judgment or order entered]*.

Rules related to the preparation and contents of affidavits are contained in rules starting at rule 13.18 *[Types of affidavit]*.

Applications without notice

6.4 Despite any other rule to the contrary, notice of an application is not required to be served on a party if an enactment so provides or permits or the Court is satisfied that

(a) no notice is necessary, or

(b) serving notice of the application might cause undue prejudice to the applicant.

Subdivision 2
Application in Foreclosure Action

Notice of application in foreclosure action

6.5(1) In a foreclosure action, notice of every application made by the plaintiff must be served on each person who filed and served on the plaintiff a statement of defence, a demand for notice or a notice of address for service.

(2) A defendant or subsequent encumbrancer who is not required to be served under subrule (1) must be served with notice of an application in a foreclosure action if the application is for one or more of the following:

(a) a redemption order;

(b) an order that secured property be offered for sale;

(c) an order confirming sale to the plaintiff or other person;

(d) an order for possession, but not a preservation order;

(e) an order appointing a receiver and manager;

(f) a foreclosure order.

(3) A defendant who is not required to be served under subrule (1) must be served with notice of an application in a foreclosure action if the application is for personal judgment against that defendant.

(4) A person who is not required to be served under subrule (1) must be served with notice of an application in a foreclosure action for an order for possession if the plaintiff seeks possession of secured property from that person.

(5) An offeror or tenderer who is not required to be served under subrule (1) must be served with notice of an application in a foreclosure action if one or more offers or tenders have been made on secured property and the application is for one or more of the following:

(a) an order confirming sale to the plaintiff or another person;

(b) an order for possession, but not a preservation order;

(c) an order appointing a receiver and manager;

(d) a foreclosure order.

Information note

Rule 11.24 *[Notice of address for service in foreclosure actions]* specifies the persons who may file and serve on the plaintiff in a foreclosure action a notice of address for service in Alberta.

Subdivision 3
Responses, Replies and Decisions on Applications

Response and reply to application

6.6(1) If the respondent to an application intends to rely on an affidavit or other evidence when the application is heard or considered, the respondent must reply by serving on the applicant a copy of the affidavit or other evidence a reasonable time before the application is to be heard or considered.

(2) The applicant may respond by affidavit or other evidence to the respondent's affidavit or other evidence but must

(a) serve the affidavit or other evidence on the respondent a reasonable time before the application is to be heard, and

(b) limit the response to replying to the respondent's affidavit or other evidence.

(3) If either the respondent or applicant does not give the other reasonable notice, the Court may impose costs on the party who did not give reasonable notice, and the party who did not give reasonable notice is not entitled to rely on that party's affidavit or other evidence unless the Court otherwise permits.

Questioning on affidavit in support, response and reply to application

6.7 A person who makes an affidavit in support of an application or in response or reply to an application may be questioned, under oath, on the affidavit by a person adverse in interest on the application, and

(a) rules 6.16 *[Contents of appointment notice]* to 6.20 *[Form of questioning and transcript]* apply for the purposes of this rule, and

(b) the transcript of the questioning must be filed by the questioning party.

Questioning witness before hearing

6.8 A person may be questioned under oath as a witness for the purpose of obtaining a transcript of that person's evidence for use at the hearing of the application, and

(a) rules 6.16 *[Contents of appointment notice]* to 6.20 *[Form of questioning and transcript]* apply for the purposes of this rule, and

(b) the transcript of the questioning must be filed by the questioning party.

How the Court considers applications

6.9(1) The Court may consider a filed application in one or more of the following ways:

(a) in person, with one, some or all of the parties present;

(b) by means of an electronic hearing if an electronic hearing is permitted under rule 6.10 *[Electronic hearings]*;

(c) by a process involving documents only.

(2) Applications may be decided by a judge or master.

Electronic hearing

6.10(1) In this rule, "electronic hearing" means an application, proceeding, summary trial or trial conducted, in whole or in part, by electronic means in which all the participants in a hearing and the Court can hear each other, whether or not all or some of the participants and the Court can see each other or are in each other's presence.

(2) An electronic hearing may be held if

(a) the parties agree and the Court so permits, or

(b) on application, the Court orders an electronic hearing.

(3) The Court may

(a) direct that an application for an electronic hearing be heard by electronic hearing,

(b) direct that an application, a summary trial or a trial be heard in whole or in part by electronic hearing,

(c) give directions about arrangements for the electronic hearing or delegate that responsibility to another person,

(d) give directions about the distribution of documents and the practice and procedure at the electronic hearing, or

(e) order that an electronic hearing be completed in person.

(4) The court clerk must participate in an electronic hearing unless the Court otherwise directs.

Evidence at application hearings

6.11(1) When making a decision about an application the Court may consider only the following evidence:

(a) affidavit evidence, including an affidavit by an expert;

(b) a transcript of questioning under this Part;

(c) the written or oral answers, or both, to questions under Part 5 *[Disclosure of Information]* that may be used under rule 5.31 *[Use of transcript and answers to written questions]*;

(d) an admissible record disclosed in an affidavit of records under rule 5.6 *[Form and contents of affidavit of records]*;

(e) anything permitted by any other rule or by an enactment;

(f) evidence taken in any other action, but only if the party proposing to submit the evidence gives every other party written notice of that party's intention 5 days or more before the application is scheduled to be heard or considered and obtains the Court's permission to submit the evidence;

(g) with the Court's permission, oral evidence, which, if permitted, must be given in the same manner as at trial.

(2) An affidavit or other evidence that is used or referred to at a hearing and that has not previously been filed in the action must be filed as soon as practicable after the hearing.

If person does not get notice of application

6.12 If it appears to the Court at the time an application is heard that a person who should have been served with notice of the application was not served, the Court may

(a) dismiss the application,

(b) adjourn the hearing for notice to be served, or

(c) if the Court considers it appropriate to do so, hear and decide the application.

Recording hearings when only one party present

6.13 Unless the Court otherwise orders, a hearing of an application in which only one party makes a personal appearance must be recorded word for word by a method that is capable of providing a written transcript.

Subdivision 4
Appeal from Master's Judgment or Order

Appeal from master's judgment or order

6.14(1) If a master makes a judgment or order, the applicant or respondent to the application may appeal the judgment or order to a judge.

(2) A notice of appeal in Form 28 must be filed and served within 10 days after the judgment or order is entered and served and returnable within a reasonable time, not exceeding 2 months, after the date the notice of appeal is filed.

(3) An appeal from a master's judgment or order is an appeal on the record of proceedings before the master and may also be based on additional evidence that is, in the opinion of the judge hearing the appeal, relevant and material.

(4) The record of proceedings is

(a) the application before the master,

(b) affidavits and other evidence filed by the parties respecting the application before the master,

(c) any transcript of proceedings before the master, which must be ordered and paid for by the appellant, unless the Court determines, or the parties agree, that transcripts are not needed, and

(d) the master's judgment or order and any written reasons given for the decision.

(5) The appellant must file and serve on the respondent to the appeal, within one month after service of the notice of appeal,

(a) any transcript of proceedings described in subrule (4)(c),

(b) any additional evidence referred to in subrule (3), and

(c) any further written argument.

(6) The respondent to the appeal must file and serve on the appellant, within 20 days after service of the documents referred to in subrule (5),

(a) any further written argument the respondent wishes to make, and

(b) any additional evidence referred to in subrule (3).

(7) The appellant may, within 10 days after service of the documents referred to in subrule (6), file a brief written argument responding to any unanticipated additional evidence or further argument raised by the respondent.

(8) A party may rely on its original written argument, if any, that was before the master or any further argument filed under subrule (5)(c) or (6)(a), or both the original argument and the further argument.

AR 124/2010 s6.14;143/2011

Information note

Section 12 of the *Court of Queen's Bench Act* provides for an appeal of a master's order.

Where the master has given formal written reasons, it will often be unnecessary to provide a transcript of the proceedings before the master.

Subdivision 5
Procedure for Questioning

Appointment for questioning under this Part

6.15 If a party is entitled to question a person under this Part, that party may do so by serving on the person a notice of appointment for questioning in Form 29, and rules 6.16 *[Contents of appointment notice]* to 6.20 *[Form of questioning and transcript]* apply.

Contents of notice of appointment

6.16(1) A notice of appointment for questioning must

(a) specify a reasonable date, time and place for the appointment for questioning,

(b) describe any records the person is required to bring to the appointment for questioning, and

(c) request the person to be questioned to specify any arrangements necessary to accommodate the person's reasonable needs which, to the extent reasonably possible, must be accommodated.

(2) The notice of appointment for questioning must be served 5 days or more before the appointment date

(a) on the person to be questioned, or if a lawyer acts for that person, on the lawyer, and

(b) on each of the other parties.

(3) On application, the Court may resolve a dispute over the date, time, place and person to be questioned and any related matters, and the records to be produced at the appointment for questioning.

(4) The attendance of a person to be questioned and the records to be produced at the appointment for questioning may be required by an order under rule 6.38 *[Requiring attendance for questioning]*.

Information note

If the person to be questioned on an affidavit in support of an application or originating application is outside Alberta and a party to the application seeks to question that person in Alberta, an application for a certificate to attach to a subpoena must be made under the *Interprovincial Subpoena Act*.

Payment of allowance

6.17(1) When a notice of appointment for questioning is served, an allowance must be paid by the questioning party to or on behalf of the person to be questioned, unless the Court dispenses with an allowance.

(2) If an allowance is not paid, the person who is the subject of the notice of appointment for questioning need not attend the appointment unless ordered to do so by the Court.

(3) The allowance to be paid is

(a) the amount determined under Schedule B *[Court Fees and Witness and Other Allowances]*, or

(b) if there is a dispute over the amount to be paid, the amount ordered by the Court.

Lawyer's responsibilities

6.18(1) If a lawyer is served with a notice of appointment for questioning and an allowance is also paid, the lawyer must,

(a) as soon as practicable, inform the person to be questioned about the appointment, and

(b) use the allowance only for the purpose for which it is paid.

(2) If a person to be questioned does not attend the appointment for questioning, the allowance must, unless the parties otherwise agree or the Court otherwise orders, be repaid to the person who paid it by

(a) the lawyer, or

(b) if the lawyer paid the allowance to another person, that other person.

Interpreter

6.19(1) If a person to be questioned will not be able to understand the questions or be able to answer the questions without the aid of an interpreter, the person to be questioned must give reasonable notice of that fact to the party who served the notice of appointment for questioning, and the questioning party must then notify every other party that an interpreter will be present.

(2) The questioning party must provide an interpreter

(a) who is impartial and competent, and

(b) who takes an oath to interpret the questions and answers correctly and honestly.

(3) The cost of the interpreter must initially be borne by the questioning party.

Form of questioning and transcript

6.20(1) A person questioned on an affidavit under this Part or a person questioned as a witness for the purpose of obtaining a transcript under this Part for use at a hearing may also be questioned by any other party, and the person questioned may then be questioned again by the questioning party on that person's answers to the questions of other parties.

(2) Questioning and questioning again under this rule by parties adverse in interest may take the form of cross-examination.

(3) The questions and answers must be recorded word for word by a person qualified to do so

(a) by a method that is capable of producing a written transcript, and

(b) in a manner agreed on by the parties or directed by the Court.

(4) The person recording the oral questioning must

(a) keep in safe custody the recorded questioning,

(b) if required to do so, honestly and accurately transcribe the recorded questioning and deliver a copy of the transcript, as required, and

(c) on or attached to any transcript

(i) state the person's name,

(ii) specify the date and place where the questioning occurred, and

(iii) certify the transcript, or the portion of the questioning transcribed, as complete and accurate.

(5) The questioning party must

(a) make necessary arrangements for the questioning to be recorded, and

(b) file the transcript unless the Court otherwise orders.

(6) A person is qualified to record and transcribe oral questioning under this Part if the person is

(a) an official court reporter,

(b) a person appointed by the Court as an examiner under the *Alberta Rules of Court* (AR 390/68), or

(c) a shorthand writer, sworn to record the questioning word for word and to impartially fulfil the duties imposed by subrule (4), who

(i) is an agent or employee of an official court reporter, or

(ii) has been approved by the parties.

Division 2
Preserving Evidence and Obtaining Evidence Outside Alberta

Preserving evidence for future use

6.21(1) The Court may order that a person be questioned, under oath,

(a) for the purpose of preserving evidence, or

(b) for any other purpose satisfactory to the Court.

(2) An order may be made under subrule (1)(a)

(a) if the person to be questioned is or might be unable to give evidence before the Court because of accident, ill health or disability, or if there is the likelihood that the person might die before being required to give evidence,

(b) if the person to be questioned is within the Court's jurisdiction when the application is filed, but will be or might be beyond the Court's jurisdiction when the person is required to give evidence,

(c) if, considering the evidence to be given, the expense and inconvenience of bringing the person to give evidence is not warranted, or

(d) for any other purpose the Court considers appropriate.

Information note

This rule and the following rule provide for obtaining what was formerly described as commission evidence in Alberta (rule 6.21) and outside Alberta (rule 6.22).

Obtaining evidence outside Alberta

6.22(1) On application, the Court may order the evidence of a person to be taken outside Alberta for the purpose of one or more of the following:

(a) questioning under rule 5.17 *[People who can be questioned]*;

(b) an application;

(c) an originating application;

(d) trial;

(e) any other purpose that the Court considers appropriate.

(2) In making its decision on the application, the Court must consider

(a) the convenience of the person to be questioned,

(b) whether the person is or might be unable to give evidence before the Court because of accident, ill health or disability, or if there is the likelihood that the person might die before giving evidence,

(c) whether the person might be beyond the jurisdiction of the Court when the person is required to give evidence,

(d) regarding the evidence to be given, and the expense and inconvenience of bringing the person to give evidence,

(e) whether the witness should give evidence in person, and

(f) any other sufficient reason for granting or refusing the application.

(3) The Court may determine

(a) the date, time and place of the questioning,

(b) the minimum notice to be given to the person to be questioned of the date, time and place of the questioning,

(c) the person before whom the questioning is to be conducted,

(d) the amount of the allowance to be paid to the person to be questioned, and

(e) any other matter that needs to be resolved about the questioning.

(4) An order under this rule must be in Form 31, filed and served, and may

(a) authorize the taking of evidence before a named person,

(b) give instructions to the person named to take evidence and to have a transcript of the evidence prepared,

(c) order the production of records applicable to the questioning, and

(d) authorize a letter of request in Form 30 to be sent to the judicial authority of the jurisdiction in which the person to be questioned is located, requesting the necessary order or document to be issued to require the person to be questioned to attend before the person authorized to take evidence and, if necessary, to produce records.

Duties of person authorized to take evidence

6.23(1) A person authorized to take evidence under rule 6.22 *[Obtaining evidence outside Alberta]* must, to the extent that it is possible to do so, conduct the questioning in accordance with these rules, the law of evidence of Alberta, and the terms of the authorization unless

(a) another form of questioning is required by the Court, or

(b) the law of the place where the questioning is conducted otherwise requires.

(2) On or attached to the transcript, the person preparing the transcript must

(a) state the person's name,

(b) specify the date and place where the transcript was prepared, and

(c) certify the transcript as complete and accurate.

(3) As soon as the transcript of the questioning is prepared and certified as complete and accurate, the person authorized to take evidence must

(a) return the authorization, together with the original transcript and exhibits, to the court clerk of the judicial centre in which the action is located,

(b) keep a copy of the transcript and, where practicable, the exhibits, and

(c) notify the parties who appeared at the questioning that the transcript is complete and has been sent to the court clerk.

Assistance to judicial authorities outside Alberta

6.24 If a judicial authority in another jurisdiction requests or authorizes a request to be made to the Court for the Court's assistance in obtaining evidence from a person in Alberta for use in a court or other proceeding outside Alberta, the Court may make any order that it considers appropriate, including any one or more of the following:

(a) requiring a person to attend for questioning, under oath, which may take the form of cross-examination;

(b) requiring a person to produce records;

(c) requiring a transcript of the questioning to be prepared;

(d) specifying the manner in which questioning is to be conducted.

Division 3
Preserving and Protecting Property or its Value and Inspection of Property

Preserving or protecting property or its value

6.25(1) On application, the Court may make one or more of the following orders:

(a) an order for the preservation or custody of property that is in dispute or that may be evidence in an action;

(b) an order that the amount in dispute or other amount be paid into Court or that security be given to the Court or to a person named by the Court, in a form and manner satisfactory to the Court, including an amount for interest, costs and other expenses;

(c) an order for the sale of property and payment of the proceeds into Court if the property is perishable, likely to deteriorate or likely to lose its value, or for any other reason should be sold;

(d) if property is sought to be retained or attached under a lien or otherwise as security for money, an order

(i) that the person otherwise entitled to possession of the property be given possession,

(ii) that possession of the property be given to a party pending the outcome of the action on payment of an amount into Court or on security being given to the Court, or

(iii) that possession be given to a person named by the Court in a form and manner satisfactory to the Court;

(e) an order to enter land or premises for the purpose of carrying out an order under this rule.

(2) If the right of a party to a specific fund is in question, the Court may order that the fund be paid into Court or that security be given for it to the Court or to a person named by the Court in a form and manner and in an amount satisfactory to the Court.

Information note

See also the *Civil Enforcement Act*.

Inspection or examination of property

6.26 On application, the Court may make one or more of the following orders:

(a) an order to inspect property, including an inspection by a judge or jury, or both, at trial, if the inspection is advisable to decide a question in dispute in an action, application or proceeding;

(b) an order to take samples, make observations or undertake experiments for the purpose of obtaining information or evidence, or both;

(c) an order to enter land or premises for the purpose of carrying out an order under this rule.

Notice before disposing of anything held by the Court

6.27(1) On application, the Court may direct that money or other personal property held by the Court not be paid out or disposed of without notice being served on the applicant.

(2) The applicant must be a person who

(a) is interested in the money or other personal property held by the Court, or

(b) is seeking to have the money or personal property applied to satisfy a judgment or order or a writ of enforcement against the person on whose behalf the money or personal property is held.

(3) The applicant

(a) must file an affidavit verifying the facts relied on in the application, and

(b) may make the application without serving notice of the application on any other person.

Information note

An application may be made before or after judgment (see rule 6.3(1) *[Applications generally]*). For applications after judgment, see rule 9.14 *[Further or other order after judgment or order entered]*.

Division 4
Restriction on Media Reporting and Public Access to Court Proceedings

Application of this Division

6.28 Unless an enactment otherwise provides or the Court otherwise orders, this Division applies to an application for an order

(a) to ban publication of court proceedings,

(b) to seal or partially seal a court file,

(c) permitting a person to give evidence in a way that prevents that person or another person from being identified,

(d) for a hearing from which the public is excluded, or

(e) for use of a pseudonym.

Restricted court access applications and orders

6.29 An application under this Division is to be known as a restricted court access application and an order made under this Division is to be known as a restricted court access order.

When restricted court access application may be filed

6.30 A person may file a restricted court access application only if a judge has authority to make a restricted court access order under an enactment or at common law.

Timing of application and service

6.31 An applicant for a restricted court access order must, 5 days or more before the date scheduled for the hearing, trial or proceeding in respect of which the order is sought,

(a) file the application in Form 32, and

(b) unless the Court otherwise orders, serve every party and any other person named or described by the Court.

Notice to media

6.32 When a restricted court access application is filed, a copy of it must be served on the court clerk, who must, in accordance with the direction of the Chief Justice, give notice of the application to

(a) the electronic and print media identified or described by the Chief Justice, and

(b) any other person named by the Court.

AR 124/2010 s6.32;163/2010

Judge assigned to application

6.33 A restricted court access application must be heard and decided by

(a) the judge assigned to hear the application, trial or other proceeding in respect of which the restricted court access order is sought,

(b) if the assigned judge is not available or no judge has been assigned, the case management judge for the action, or

(c) if there is no judge available to hear the application as set out in clause (a) or (b), the Chief Justice or a judge designated for the purpose by the Chief Justice.

Application to seal or unseal court files

6.34(1) An application to seal an entire court file or an application to set aside all or any part of an order to seal a court file must be filed.

(2) The application must be made to

(a) the Chief Justice, or

(b) a judge designated to hear applications under subrule (1) by the Chief Justice.

(3) The Court may direct

(a) on whom the application must be served and when,

(b) how the application is to be served, and

(c) any other matter that the circumstances require.

Persons having standing at application

6.35 The following persons have standing to be heard when a restricted court access application is considered

(a) a person who was served or given notice of the application;

(b) any other person recognized by the Court who claims to have an interest in the application, trial or proceeding and whom the Court permits to be heard.

No publication pending application

6.36 Information that is the subject of the initial restricted court access application must not be published without the Court's permission.

Information note

If a rule in this Division is not complied with, the person who does not comply may be liable to a penalty under rule 10.49 *[Penalty for contravening the rules]* and to have the matter taken into consideration when a costs award is made (see rule 10.33(2)(f) *[Court considerations in making a costs award]*. The person may also be liable to be declared in civil contempt of Court under rule 10.52 *[Declaration of civil contempt]* if a Court order is not complied with and to have a pleading, claim or defence struck out or an action or application stayed under rule 10.53(1)(d) *[Punishment for civil contempt of Court]*.

Division 5
Facilitating Proceedings

Notice to admit

6.37(1) A party may, by notice in Form 33, call on any other party to admit for the purposes of an application, originating application, summary trial or trial, either or both of the following:

(a) any fact stated in the notice, including any fact in respect of a record;

(b) any written opinion included in or attached to the notice, which must state the facts on which the opinion is based.

(2) A copy of the notice must be served on each of the other parties.

(3) Each of the matters for which an admission is requested is presumed to be admitted unless, within 20 days after the date of service of the notice to admit, the party to whom the notice is addressed serves on the party requesting the admission a statement that

(a) denies the fact or the opinion, or both, for which an admission is requested and sets out in detail the reasons why the fact cannot be admitted or the opinion cannot be admitted, as the case requires, or

(b) sets out an objection on the ground that some or all of the matters for which admissions are requested are, in whole or in part,

(i) privileged, or

(ii) irrelevant, improper or unnecessary.

(4) A copy of the statement must be served on each of the other parties.

(5) A denial by a party must fairly meet the substance of the requested admission and, when only some of the facts or opinions for which an admission is requested are denied, the denial must specify the facts or opinions that are admitted and deny only the remainder.

(6) A party may amend or withdraw an admission or denial made under this rule only

(a) with the Court's permission, or

(b) by agreement of the parties.

(7) An admission under this rule is made only for the specific purpose for which it is made and may not be used as an admission against the party making it on any other occasion, or in favour of a person other than the person requesting the admission, without the agreement of the party making the admission.

(8) On application, the Court may set aside a notice to admit.

Information note

A failure to admit anything that should have been admitted is a specific matter that the Court can consider under rule 10.33(2)(b) *[Court considerations in making a costs award]* when making a costs award.

Requiring attendance for questioning

6.38(1) On application, the Court may order a person to attend for questioning at a date, time and place specified by the Court, if the person

(a) is required to be questioned under these rules,

(b) was served with a notice of appointment for questioning in Form 29 under these rules,

(c) was provided with an allowance, determined in accordance with Schedule B *[Court Fees and Witness and Other Allowances]*, if so required by these rules, and

(d) did not attend the appointment, attended the appointment but refused to answer or fully answer proper questions or did not bring a record required to be brought to the questioning.

(2) The Court may order the person to be questioned to bring records to the questioning that the person could be required to produce at trial.

Order to produce prisoner

6.39 On application, the Court may order the person having custody of a prisoner to produce that person, at a time and place specified by the Court, for a trial, for hearing, or for questioning authorized by these rules.

Division 6
Resources to Assist the Court

Subdivision 1
Court Experts

Appointment of court expert

6.40(1) The Court may appoint a person as a court expert to give evidence on a matter.

(2) The court expert must give independent evidence to the Court.

(3) If possible, the parties must agree on the court expert to be appointed under subrule (1).

(4) The appointment of a court expert does not affect the right of a party to call the party's own expert as a witness.

(5) If the court expert is a health care professional, the court expert has all the authority and responsibility conferred on a health care professional by these rules.

Information note

See rules starting at rule 5.41 *[Medical examinations]* for the conduct of medical examinations by health care professionals.

Instructions or questions to court expert

6.41(1) If the parties do not agree on the directions or instructions to be given or questions to be put to a court expert, the Court may decide what directions or instructions are to be given or questions are to be put to the court expert.

(2) The Court may give any direction or instruction or pose any question to the court expert that the Court considers necessary, whether the parties agree or not.

(3) The court expert's report

(a) must be in writing, verified by affidavit,

(b) must be served on the parties by the court clerk, and

(c) is admissible in evidence.

Application to question court expert

6.42(1) Within 20 days after receipt of a copy of the court expert's report, a party may apply to the Court to question the court expert on the report.

(2) The Court may order the questioning of the court expert before or at a hearing of an application or originating application or before or at trial.

(3) The questioning may take the form of cross-examination.

Costs of court expert

6.43 The costs of a court expert are to be paid by the parties in equal proportions unless the Court otherwise orders.

Subdivision 2
Referees

Persons who are referees

6.44 The following are referees for the purposes of these rules:

(a) a master;

(b) a court clerk;

(c) a person appointed as a referee by the Lieutenant Governor in Council;

(d) a person appointed as a referee by the Court with the agreement of all parties.

References to referee

6.45(1) The Court may refer a question or matter to a referee or order an inquiry to be conducted or an account to be taken by a referee.

(2) Subject to an order of the Court, the referee may do all or any of the following:

(a) hold an inquiry at, or adjourn the inquiry to, any convenient time and place;

(b) inspect and verify records;

(c) inspect, examine or take a view of property;

(d) conduct an accounting or verify accounts;

(e) make any determination required;

(f) do anything else required to answer a question or respond to a matter in accordance with the reference or order.

(3) The Court may

(a) give any directions for the conduct of the matter it considers necessary, and

(b) prescribe the fees and expenses to be paid to the referee, if any, and who is to pay them.

(4) Proceedings before a referee, as nearly as circumstances allow, are to be conducted in the same way proceedings are conducted before a Court.

Referee's report

6.46(1) The referee must make a report to the Court on the question or matter referred to the referee, and a copy of the report must be filed and served on the parties to the question or matter.

(2) After the referee's report has been served, a party may apply to the Court for an order

(a) adopting the referee's report in whole or in part;

(b) varying the report;

(c) requiring an explanation from the referee;

(d) remitting the whole or part of the question or matter referred to the referee for further consideration by the referee or by any other referee;

(e) deciding the question or matter referred to the referee on the evidence taken before the referee either with or without additional evidence.

(3) Notice of the application must be served on every party to the question or matter referred to the referee 10 days or more before the application is scheduled to be heard.

Division 7
Court-appointed Receiver

Court-appointed receiver

6.47 If a Court appoints a receiver other than under an enactment, the Court may, in addition to a procedural order,

(a) prescribe the compensation payable to the receiver and who is to pay it;

(b) require the receiver to provide security;

(c) require the receiver to file financial accounts and reports with the court clerk at the times and subject to the scrutiny ordered by the Court;

(d) order payment to or disallow all or part of a payment to the receiver;

(e) order a hearing to be held with respect to any matter for which the receiver was appointed or is responsible;

(f) make any other order or direction that the circumstances require.

Division 8
Replevin

Application of this Division

6.48 This Division applies to an application in an action

(a) for the recovery of personal property in which the applicant claims that the property was unlawfully taken or is unlawfully detained, and

(b) in which the applicant seeks to repossess the personal property in issue immediately, pending determination of the action described in clause (a).

Application for replevin order

6.49(1) A party may apply to the Court for a replevin order without serving notice of the application on any other party unless the Court otherwise orders.

(2) The application for a replevin order must include in the application an undertaking

(a) to conclude the action for recovery of the personal property without delay,

(b) to return the personal property to the respondent if ordered to do so, and

(c) to pay damages, costs and expenses sustained by the respondent as a result of the replevin order if the applicant is not successful in the action for recovery of the personal property and the Court so orders.

(3) The application for a replevin order must be supported by an affidavit that

(a) sets out the facts respecting the wrongful taking or detention of the personal property,

(b) contains a clear and specific description of the personal property and its value, and

(c) describes the applicant's ownership or entitlement to lawful possession of the personal property.

Replevin order

6.50(1) A replevin order must

(a) include a clear and specific description of the personal property to be repossessed,

(b) impose on the applicant the following duties:

(i) to conclude the action for recovery of the personal property without delay, and

(ii) to return the personal property to the respondent if ordered to do so,

(c) include a requirement to pay damages, costs and expenses sustained by the respondent as a result of the replevin order if the applicant is not successful in the action for recovery of the personal property and if the Court so orders, and

(d) require the applicant to provide, to the person from whom the personal property is to be repossessed, security in a form satisfactory to the Court, which may include, without limitation, a bond, a letter of undertaking or payment into Court.

(2) A replevin order may also include either or both of the following:

(a) an order to a civil enforcement agency to make a report on its enforcement or attempted enforcement of the replevin order;

(b) the value of the personal property.

(3) If the replevin order is made without notice to the respondent, the Court must specify a date, not more than 20 days after the date the order is granted, on which the order will expire.

(4) The applicant must file an affidavit or other evidence that the order requiring security has been complied with.

(5) The replevin order is not effective until the affidavit or evidence of the security has been filed and the affidavit or evidence has been served on

(a) the respondent, and

(b) a civil enforcement agency.

Enforcement of replevin order

6.51(1) Only a civil enforcement agency has authority to enforce a replevin order.

(2) A civil enforcement agency must take possession of personal property that is the subject of the replevin order in accordance with the order and, as soon as practicable, must serve notice on the applicant.

(3) Unless the Court otherwise orders, if an order for possession of the personal property to be given to the applicant is not made within one month after the civil enforcement agency serves notice of taking possession of it, the civil enforcement agency must return the personal property to the respondent.

Respondent may apply for remedy

6.52 If the respondent did not receive notice of the application for a replevin order, or in any other circumstance with the Court's prior permission, the respondent may apply to the Court for an order

(a) to discharge or amend the replevin order,

(b) to stay the application for a replevin order,

(c) to return, keep safe or sell the personal property or any part of it, or

(d) for any other remedy relating to the personal property.

Expiry of replevin order

6.53 A replevin order

(a) obtained without notice to the respondent, expires in accordance with its terms unless it is extended by the Court, or

(b) obtained after notice of the application for the replevin order was served on the respondent, expires on the earlier of

(i) the dismissal of the action, and

(ii) 2 months after the date on which judgment in favour of the applicant is entered.

Division 9
Interpleader

Definitions

6.54 In this Division,

(a) "applicant" means an originating applicant or applicant for an interpleader order, as the context requires;

(b) "application for an interpleader order" means an application filed under rule 6.56 *[Application for interpleader order]*, whether an originating application or an application;

(c) "claimant" means a person who files or is expected to file an adverse claim against personal property;

(d) "instructing creditor" has the same meaning as it has in the *Civil Enforcement Act*;

(e) "personal property" includes a debt;

(f) "related writ" has the same meaning as it has in the *Civil Enforcement Act*;

(g) "writ proceedings" has the same meaning as it has in the *Civil Enforcement Act*.

Nature of application for interpleader order

6.55(1) An application for an interpleader order must be filed

(a) as an originating application if the applicant is not a party to an action respecting the personal property that is the subject of the application, or

(b) as an application if the applicant is a party to an action respecting the personal property.

(2) An application for an interpleader order or an application to determine the rights of the various claimants may be filed under rule 6.56 *[Application for interpleader order]* and an order may be made even if the respondent to the application has provided security or an indemnity to the applicant.

Application for interpleader order

6.56(1) A person may apply to the Court for an interpleader order in respect of personal property if

(a) 2 or more claimants have filed or are expected to file adverse claims in respect of the personal property, and

(b) the applicant

(i) claims no beneficial interest in the personal property, other than a lien for costs, fees or expenses, and

(ii) is willing to deposit the personal property with the Court or dispose of it as the Court orders.

(2) An application for an interpleader order in Form 34 must be filed and served on all the claimants and must direct those claimants to

(a) appear before the Court, and

(b) state the nature and particulars of their claim.

(3) The applicant must file an affidavit in support of the application.

Interpleader applicant not disentitled

6.57 An applicant for an interpleader order is not disentitled to a remedy solely because the titles of the claimants to personal property do not have a common origin but are adverse to and independent of one another.

Interpleader order

6.58(1) On hearing an application for an interpleader order the Court may do any one or more of the following:

(a) determine, summarily or otherwise, any issue;

(b) direct a trial of an issue specifying

(i) which party will be plaintiff or applicant and which party will be defendant or respondent, and

(ii) the pleadings, affidavits or documents to be filed;

(c) declare any party to be owner of the personal property;

(d) direct or otherwise provide for the satisfaction or payment of a lien or charges of the applicant;

(e) make a procedural order or any other order that the Court considers appropriate in the circumstances, including

(i) giving directions to the applicant,

(ii) a declaration as to the liability of a person, and

(iii) a release or extinguishment of liability of a person.

(2) If a claimant

(a) does not appear at the hearing of the application after having been served with a notice to attend, or

(b) having appeared, does not comply with an order,

the Court may make an order declaring the claimant and all persons claiming under the claimant to be barred from taking further interpleader proceedings as against the plaintiff or applicant and as against all persons claiming under the plaintiff or applicant.

(3) An order under subrule (2) does not affect the rights of claimants as between themselves.

Civil enforcement agency application

6.59(1) If a civil enforcement agency or other person charged with carrying out writ proceedings or acting under the Court's authority receives from one or more persons a claim, other than an objection under the *Civil Enforcement Act*, with respect to personal property under seizure pursuant to the *Civil Enforcement Act*, the civil enforcement agency or that other interested person may apply to the Court for an interpleader order.

(2) If a civil enforcement agency receives a claim for which the civil enforcement agency may apply for an interpleader order, instead of initially proceeding under subrule (1), the civil enforcement agency may do the following:

(a) the civil enforcement agency may by written notice in Form 35 served on the instructing creditor direct the instructing creditor to apply to the Court to determine the rights of the various claimants;

(b) if an instructing creditor on whom a written notice is served under clause (a) fails to apply to the Court in accordance with the notice, the civil enforcement agency may by written notice served on the holders of related writs direct the holders of the related writs to apply to the Court for an order determining the rights of the various claimants;

(c) if neither the instructing creditor nor the holder of a related writ on whom a notice is served under this subrule obtains an order determining the rights of the various claimants, the civil enforcement agency may

(i) apply under subrule (1) for an interpleader order, or

(ii) release the personal property from seizure.

(3) If the civil enforcement agency gives a direction under subrule (2), an instructing creditor or a holder of a related writ, as the case may be, may apply to the Court for an interpleader order.

Several claims combined

6.60 If a civil enforcement agency or other person charged with carrying out writ proceedings or acting under the Court's authority intends to make an application for an interpleader order in respect of personal property against which there is more than one claim, the civil enforcement agency or that other person must, unless the Court otherwise orders,

(a) make only one application for an interpleader order in respect of all the claims, and

(b) join all the judgment creditors as parties to the application for the interpleader order.

Enforcement from different courts

6.61 If there are writs arising out of judgments or orders from more than one court against the same personal property, whether on behalf of the same or different plaintiffs or applicants,

(a) any application for an interpleader order must be filed, and

(b) the Court, after the applications are made, must dispose of the whole matter as if all of the writs against the personal property had been issued from the Court.

Claim by third person

6.62 If a third person who is neither a judgment debtor nor a judgment creditor of a judgment debtor makes a claim to personal property that is seized by a civil enforcement agency under civil enforcement proceedings, the third person must serve on the civil enforcement agency a written notice setting out

(a) the claim made by the third person, and

(b) an address for service of the third person.

Notice by civil enforcement agency

6.63(1) On being served with notice of a claim under rule 6.62 *[Claims by a third person]*, a civil enforcement agency must immediately serve written notice of the claim on the person who instructed that civil enforcement proceedings be taken and on all other holders of related writs.

(2) If a person on whom notice of a claim is served under subrule (1) wishes to

(a) dispute the claim, or

(b) assert priority over the claim,

that person must, within 20 days after service of the notice of the claim, serve on the civil enforcement agency a written notice disputing the claim or asserting priority over it.

(3) A person on whom notice of a claim is served under subrule (1) may serve on the civil enforcement agency a written notice stating that the person admits or does not dispute the claim.

(4) Despite subrule (3), a person on whom notice of a claim is served under subrule (1) is presumed to admit the claim if that person does not, within 20 days after service of the notice, serve on the civil enforcement agency a written notice disputing the claim.

(5) If a civil enforcement agency has served notice of a claim under subrule (1) and is satisfied that none of the persons on whom the notice is served is disputing the claim, the civil enforcement agency may release from seizure the personal property in respect of which the claim was made.

(6) If the person who instructed that the proceedings be taken does not dispute the claim but another person on whom notice of a claim is served under subrule (1) does dispute the claim, that other person may instruct the civil enforcement agency to continue seizure of the personal property.

(7) On receiving instructions from another person under subrule (6) to continue a seizure, the civil enforcement agency must continue the seizure if that other person pays the appropriate fees, if any, and meets any other conditions that a civil enforcement agency may impose on a person who is an instructing creditor.

Security interest

6.64 If a person claims to have a security interest in personal property that has been seized under civil enforcement proceedings, the Court may

(a) order that the personal property be sold and the proceeds of the sale be applied to discharge the amount due to the claimant if the sale and application of the proceeds of the sale are not disputed,

(b) order that sufficient money to answer the claim be paid into Court pending disposition of the claim, or

(c) make any other order that the Court considers appropriate.

Expeditious sale

6.65 At any time during an application for an interpleader order the Court, on application, may order that

(a) a civil enforcement agency expeditiously sell or dispose of personal property if the Court considers it appropriate to do so, and

(b) the proceeds of the sale or disposal of the personal property, less any reasonable costs of the sale or disposal, take the place of the personal property that was sold or disposed of.

Part 7:
Resolving Claims Without Full Trial

What this Part is about: This Part allows a claim to be resolved through processes to expedite proceedings or avoid a full trial. These processes include applications

- to resolve a particular issue or question, including a question of law
- to apply for summary judgment
- to apply for judgment after an abbreviated hearing, called a summary trial.

Part 7:
Resolving Claims Without Full Trial

	Starts at rule #
Division 1: Trial of Particular Questions or Issues	7.1
Division 2: Summary Judgment	7.2
Division 3: Summary Trials	7.5

Information note

Words and phrases used in this Part that have defined meanings in the Appendix *[Definitions]* include

- claim
- Court
- court clerk
- defendant
- file
- judge
- judgment
- order
- party
- plaintiff
- pleading
- prescribed form
- procedural order
- record
- referee
- remedy

Part 7:
Resolving Claims Without Full Trial

Division 1
Trial of Particular Questions or Issues

Application to resolve particular questions or issues

7.1(1) On application, the Court may

(a) order a question or an issue to be heard or tried before, at or after a trial for the purpose of

(i) disposing of all or part of a claim,

(ii) substantially shortening a trial, or

(iii) saving expense,

(b) in the order or in a subsequent order

(i) define the question or issue, or

(ii) in the case of a question of law, approve or modify the issue agreed by the parties,

(c) stay any other application or proceeding until the question or issue has been decided, or

(d) direct that different questions of fact in an action be tried by different modes.

(2) If the question is a question of law, the parties may agree

(a) on the question of law for the Court to decide,

(b) on the remedy resulting from the Court's opinion on the question of law, or

(c) on the facts or that the facts are not in issue.

(3) If the Court is satisfied that its determination of a question or issue substantially disposes of a claim or makes the trial of the issue unnecessary, it may

(a) strike out a claim or order a commencement document or pleading to be amended,

(b) give judgment on all or part of a claim and make any order it considers necessary,

(c) make a determination on a question of law, or

(d) make a finding of fact.

(4) Part 5 *[Disclosure of Information]* Division 2 *[Experts and Expert Reports]* applies to an application under this rule unless the parties otherwise agree or the Court otherwise orders.

Information note

Rule 8.1 *[Trial without a jury]* requires the mode of trial of an action to be by judge alone unless otherwise ordered.

Division 2
Summary Judgment

Application for judgment

7.2 On application, the Court may at any time in an action give judgment or an order to which an applicant is entitled when

(a) admissions of fact are made in a pleading or otherwise, or

(b) the only evidence consists of records and an affidavit is sufficient to prove the authenticity of the records in which the evidence is contained.

Application and decision

7.3(1) A party may apply to the Court for summary judgment in respect of all or part of a claim on one or more of the following grounds:

(a) there is no defence to a claim or part of it;

(b) there is no merit to a claim or part of it;

(c) the only real issue is the amount to be awarded.

(2) The application must be supported by an affidavit swearing positively that one or more of the grounds described in subrule (1) have been met or by other evidence to the effect that the grounds have been met.

(3) If the application is successful the Court may, with respect to all or part of a claim, and whether or not the claim is for a single and undivided debt, do one or more of the following:

(a) dismiss one or more claims in the action or give judgment for or in respect of all or part of the claim or for a lesser amount;

(b) if the only real issue to be tried is the amount of the award, determine the amount or refer the amount for determination by a referee;

(c) if judgment is given for part of a claim, refer the balance of the claim to trial or for determination by a referee, as the circumstances require.

Information note

A respondent to an application under rule 7.3 may file a response to the application under rule 6.6 *[Response and reply to applications]*.

If the amount of an award is referred for determination by a referee, rules 6.44 to 6.46 *[Referees]* apply.

Proceedings after summary judgment against party

7.4 If summary judgment is given against one or more defendants or plaintiffs, the action may be continued by or with respect to any plaintiff or defendant not bound by the judgment.

Division 3
Summary Trials

Application for judgment by way of summary trial

7.5(1) A party may apply to a judge for judgment by way of a summary trial on an issue, a question, or generally.

(2) The application must

(a) be in Form 36,

(b) specify the issue or question to be determined, or that the claim as a whole is to be determined,

(c) include reasons why the matter is suitable for determination by way of summary trial,

(d) be accompanied with an affidavit or any other evidence to be relied on, and

(e) specify a date for the hearing of the summary trial scheduled by the court clerk, which must be one month or longer after service of notice of the application on the respondent.

(3) The applicant may not file anything else for the purposes of the application except

(a) to adduce evidence that would, at trial, be admitted as rebuttal evidence, or

(b) with the judge's permission.

AR 124/2010 s7.5;143/2011

Information note

The rules anticipate that the parties will agree on how to manage applications for judgment by way of a summary trial. If the parties need assistance, they may seek a procedural order or Court assistance under Part 4 *[Managing Litigation]*.

Response to application

7.6 The respondent to an application for judgment by way of a summary trial must, 10 days or more before the date scheduled for the hearing of the application, file and serve on the applicant any affidavit or other evidence on which the respondent intends to rely at the hearing of the application.

Application of other rules

7.7(1) Part 5 *[Disclosure of Information]* Division 2 *[Experts and Expert Reports]* applies to an application under this Division unless the parties otherwise agree or the judge otherwise orders.

(2) Part 6 *[Resolving Issues and Preserving Rights]* applies to an application under this Division except to the extent that it is modified by this Division.

AR 124/2010 s7.1;143/2011

Objection to application for judgment by way of summary trial

7.8(1) The respondent to an application for judgment by way of a summary trial may object to the application at or before the hearing of the application on either or both of the following grounds:

(a) the issue or question raised in the claim, or the claim generally, is not suitable for a summary trial;

(b) a summary trial will not facilitate resolution of the claim or any part of it.

(2) Notice of the objection and anything on which the objector intends to rely must be filed and served on the applicant 5 days or more before the objection is scheduled to be heard.

(3) The judge must dismiss the objection if, in the judge's opinion,

(a) the issue or question raised in the claim, or the claim generally, is suitable for a summary trial, and

(b) the summary trial will facilitate resolution of the claim or a part of it.

AR 124/2010 s7.8;143/2011

Information note

At a hearing before or at the start of a summary trial, the judge may make a procedural order or an order under Part 4 *[Managing Litigation]*. Typical orders include those that state

- the evidence a party intends to adduce at the summary trial
- that a deponent must attend questioning
- that no further evidence be adduced
- that a party must file a brief
- time frames within which items must be concluded.

A summary trial may be conducted by an electronic hearing (see rule 6.10 *[Electronic hearings]*).

Decision after summary trial

7.9(1) After a summary trial, the judge may

(a) dismiss the application for judgment, or

(b) grant the application and give judgment in favour of a party, either on an issue or generally.

(2) Judgment must be granted after a summary trial unless

(a) the application is dismissed,

(b) on the evidence before the judge, the judge is unable to find the facts necessary to decide the issues of fact or law, or

(c) the judge is of the opinion that it would be unjust to decide the issues on the basis of the summary trial.

Judge remains seized of action

7.10 A judge who has heard an application for judgment by way of a summary trial may remain seized of the action.

Order for trial

7.11 A judge, at any stage of a summary trial application, may

(a) order the trial of the action generally or on a question or issue and give directions with respect to preparation for trial and a trial date, or

(b) give any procedural order that the circumstances require.

Part 8:
Trial

What this Part is about: This Part includes rules for obtaining a trial date, confirming the date 3 months or more before the scheduled date, and rules for the conduct of a trial.

Part 8:
Trial

	Starts at rule #
Division 1: Mode of Trial	8.1
Division 2: Scheduling of Trial Dates	8.4
Division 3: Attendance of Witnesses at Trial	8.8
Division 4: Procedure at Trial	8.10

Information note

Words and phrases used in this Part that have defined meanings in the Appendix *[Definitions]* include

- Chief Justice
- claim
- commencement document
- costs award
- Court
- court clerk
- defendant
- enactment
- expert
- file
- judge
- judgment
- lawyer
- medical examination
- order
- party
- plaintiff
- pleading
- prescribed form
- procedural order
- record
- rules

Part 8:
Trial

Division 1
Mode of Trial

Trial without jury

8.1 Unless the Chief Justice directs that the mode of trial be by jury, or in part by jury and in part by judge alone, the trial must be by judge alone.

Request for jury trial

8.2(1) An application for a jury trial under section 17 of the *Jury Act* must be made

(a) by written request to the Chief Justice, and

(b) before an application is made to the court clerk or a judge to set a trial date.

(2) The request for a jury trial must be accompanied with an affidavit that addresses the following issues to the extent that they are applicable:

(a) whether expert evidence will be called, and if so, how many experts are expected to be called;

(b) the areas of knowledge or experience on which the experts will give evidence;

(c) whether interpreters will be required;

(d) the number of court days required for the trial if a jury trial is ordered.

(3) The Chief Justice may fix a time for the hearing of an application for a jury trial and may make any directions as to the filing of materials as the Chief Justice considers appropriate.

(4) If the Chief Justice grants an order directing that a trial be by jury, the order may be with or without conditions and must set the number of days to be initially reserved for the jury trial.

(5) Within one month after an order is granted directing that a trial be by jury, the parties must apply to the Chief Justice for appointment of a case management judge.

Information note

Section 17 of the *Jury Act* sets out the right to a jury trial. It reads:

Right to jury in civil proceeding

17(1) Subject to subsections (1.1) and (2), on application by a party to the proceeding, the following shall be tried by a jury:

(a) an action for defamation, false imprisonment, malicious prosecution, seduction or breach of promise for marriage,

(b) an action founded on any tort or contract in which the amount claimed exceeds an amount prescribed by regulation, or

(c) an action for the recovery of property the value of which exceeds an amount prescribed by regulation.

(1.1) If, on an application made under subsection (1) or on a subsequent application, a judge considers it appropriate, the judge may direct that the proceeding be tried by judge alone pursuant to the summary trial procedure set out in the *Alberta Rules of Court*.

(2) If, on a motion for directions or on a subsequent application, it appears that the trial might involve

(a) a prolonged examination of documents or accounts, or

(b) a scientific or long investigation,

that in the opinion of a judge cannot conveniently be made by a jury, the judge may, notwithstanding that the proceeding has been directed to be tried by a jury, direct that the proceeding be tried without a jury.

(3) In this section, "proceeding" includes a counterclaim.

Deposit for jury

8.3(1) When the Chief Justice grants an order directing that a trial be by jury, the party who made the request must, unless otherwise ordered, within 10 days after the date the order was granted, deposit with the court clerk a sum of money that the court clerk considers sufficient to pay the jury's expenses, and if that sum is later determined to be insufficient, on notice from the court clerk, pay any further sum that the court clerk determines in accordance with the *Jury Act Regulation* (AR 68/83).

(2) Any money remaining after the court clerk pays the jury's expenses must be returned to the person who paid it.

(3) If the deposit for jury expenses is not paid, the trial must proceed without a jury unless the Chief Justice otherwise orders.

Division 2
Scheduling of Trial Dates

Trial date: scheduled by court clerk

8.4(1) The parties may, in Form 37, request the court clerk to schedule a date for trial.

(2) The request must contain at least the following information unless otherwise directed by the Court:

(a) the anticipated number of witnesses, including the number of expert witnesses;

(b) the anticipated length of trial;

(c) a copy of the pleadings and particulars, if any, for the judge's use at trial;

(d) if applicable, the order directing that the trial be by jury;

(e) the certifications required by subrule (3);

(f) any administrative requirements for the trial;

(g) any potential conflict of interest a judge may have and the reasons for it.

(3) In addition to the requirements of subrule (2), the parties requesting a trial date must

(a) provide

(i) a certificate that the parties have participated in at least one of the dispute resolution processes described in rule 4.16(1) *[Dispute resolution processes]*, or

(ii) a copy of an order made under 4.16(2) *[Dispute resolution processes]* waiving the dispute resolution process requirement,

(b) certify that questioning under Part 5 *[Disclosure of Information]* is complete,

(c) certify that any expert reports have been exchanged and the process described in Part 5 *[Disclosure of Information]*, Division 2 *[Experts and Expert Reports]*, including questioning of experts, is complete,

(d) certify that any medical examination and report under Part 5 *[Disclosure of Information]*, Division 3 *[Medical Examinations by Health Care Professionals]* is complete,

(e) certify that any undertaking given by a person questioned under Part 5 *[Disclosure of Information]* has been discharged,

(f) certify that they will be ready for trial by a specified date,

(g) in the case of a jury trial, certify that the deposit required under rule 8.3 *[Deposit for jury]* has been paid,

(h) certify that all amendments to pleadings have been filed and served, and

(i) certify that all applications related to the action have been disposed of and no other pre-trial steps are required.

(4) If the court clerk is satisfied that subrules (2) and (3) have been complied with, the court clerk must schedule a trial date.

(5) If the parties cannot certify as to the matters referred to in subrule (3) but are satisfied that the matter will be completed or undertaking discharged in a timely way, the parties must so disclose and may request the court clerk to schedule a trial date.

(6) If the court clerk is satisfied that the parties will or are likely to be ready by the proposed trial date, the court clerk may schedule a trial date, but if the court clerk is in doubt about any matter, the court clerk must refer the matter to a judge for directions or decision.

Trial date: scheduled by the judge

8.5(1) On application by a party in Form 38, the judge may set a trial date or direct the court clerk to do so if

(a) the judge

(i) is satisfied that the parties have participated in at least one of the dispute resolution processes described in rule 4.16(1) *[Dispute resolution processes]*,

(ii) has granted an order under rule 4.16(2) *[Dispute resolution processes]* waiving the dispute resolution process requirement, or

(iii) grants an order under rule 4.16(2) *[Dispute resolution processes]* in the course of an application under this rule,

(b) the judge has all the information described in rule 8.4(2) *[Trial date: scheduled by court clerk]* except the certifications referred to in rule 8.4(2)(e),

(c) with respect to the certification of matters referred to in rule 8.4(3) *[Trial date: scheduled by court clerk]*, the judge

(i) receives the necessary certifications,

(ii) has sufficient information to schedule a trial date without one or more certifications, or

(iii) gives directions as required and is satisfied that a trial date should be set,

and

(d) the judge is satisfied that the parties will or are likely to be ready for trial by the proposed trial date.

(2) The judge may make any procedural order to expedite or facilitate the activities necessary to meet or to obtain a trial date.

AR 124/2010 s8.5; 143/2011

Notice of trial date

8.6(1) When the court clerk or the judge sets a trial date, the court clerk must give notice to every party of the date, place and duration set for the trial.

(2) A trial for which a trial date has been scheduled may not be adjourned or abandoned unless

(a) a notice of discontinuance of the action has been filed,

(b) a memorandum of settlement of the action, signed by the parties, has been filed, or

(c) the judge permits.

(3) A trial date and the period of time scheduled for the trial may be changed only with the judge's permission.

(4) Subrules (2) and (3) apply whether or not the parties consent to an adjournment or to a change in the duration of the trial.

AR 124/2010 s8.6;143/2011

Confirmation of trial date

8.7(1) Three months or more before the scheduled trial date, each party must

(a) confirm to the judge, in Form 39, that the party will be ready to proceed with the trial on the scheduled trial date, and

(b) verify or modify the estimated number of witnesses and the estimated duration of the trial.

(2) If a party proposes an increase in the period of time for the trial, the court may confirm the original trial dates or schedule a new date to accommodate the increased period of time required.

(3) If only one party confirms trial readiness, the scheduled date for the trial remains unless the judge otherwise orders.

(4) If no party confirms trial readiness, the trial date is cancelled.

AR 124/2010 s8.7;163/2010;143/2011

Division 3
Attendance of Witnesses at Trial

Notice to attend as witness at trial

8.8(1) A party may serve notice in Form 40 on any person, including a party, to attend and give evidence at trial.

(2) If a person served with notice to attend is represented by a lawyer, the notice must also be served on the lawyer.

(3) The notice to attend must be served 20 days or more before the trial date and

(a) must state the date, time and place and the period during which the person must attend, and

(b) may require the person to bring any records that the person could be required to produce at trial.

(4) The notice to attend must be served in accordance with a method of service for commencement documents described in Part 11 *[Service of Documents]*.

(5) Unless these rules otherwise require or the Court otherwise orders, the notice to attend must be accompanied with an allowance determined in accordance with Schedule B *[Court Fees and Witness and Other Allowances]* or the allowance must be delivered to the person required to attend, or to a representative of the person, 10 days or more before the trial date.

(6) The plaintiff must provide a list of witnesses' names to the Court one month before the trial date.

(7) Every party other than the plaintiff must provide a list of witnesses' names to the Court 20 days before the trial date.

AR 124/2010 s8.8;128/2015

Requiring attendance of witnesses

8.9(1) The Court may order a person to attend trial as a witness, or direct a peace officer to apprehend a person anywhere in Alberta, if the Court is satisfied that

(a) proper service of the notice to attend and payment of an allowance, both of which may be proved by an affidavit, were effected in compliance with rule 8.8 *[Notice to attend as witness at trial]*,

(b) the person did not attend or remain in attendance at the trial in accordance with the notice, and

(c) the presence of the person is necessary.

(2) The Court may order one or more of the following:

(a) that the person be brought immediately, or at a time specified, before the Court or before a person named by the Court;

(b) that the person bring records described in the order that the person could be required to produce at trial;

(c) that the person be detained in custody in accordance with the order until the presence of the person is no longer required;

(d) that the person be released for a specified purpose on a recognizance, with or without sureties, on condition that the person appear as ordered;

(e) anything else necessary to ensure the attendance of the person and production of the records ordered to be produced.

Information note

Note that under rule 10.52 *[Declaration of civil contempt]* the Court may only impose a sanction under that rule if the Court order is served in the same way that a commencement document is to be served.

Division 4
Procedure at Trial

Order of presentation

8.10(1) Unless the Court directs otherwise, the order of presentation at a trial is as follows:

(a) the plaintiff may make one opening statement and, subject to clause (b), must then adduce evidence;

(b) the defendant may make one opening statement either immediately after the plaintiff's opening statement and before the plaintiff adduces evidence or at the conclusion of the plaintiff's evidence;

(c) when the plaintiff's evidence is concluded, the defendant may make an opening statement if the defendant has not already done so immediately after the plaintiff's opening statement, and the defendant must then adduce evidence, if any;

(d) when the defendant's evidence is concluded, the plaintiff may adduce evidence, if any, to rebut the defendant's evidence;

(e) when the defendant's evidence and the plaintiff's rebuttal evidence, if any, are concluded, the plaintiff may make a closing statement, followed by the defendant's closing statement, after which the plaintiff may reply;

(f) if the defendant adduces no evidence after the conclusion of the plaintiff's evidence, the plaintiff may make a closing statement, followed by the defendant's closing statement, after which the plaintiff may reply.

(2) If the burden of proof for all matters in issue in the action is on the defendant, the judge may direct a different order of presentation.

(3) If there are 2 or more plaintiffs or 2 or more defendants separately represented, the judge must determine the order of presentation.

Absence of witnesses at trial

8.11 If a person who is served with a notice to attend at trial as a witness, with or without records, does not do so, the Court may

(a) give judgment or make an order against the party whose witness does not attend,

(b) continue the trial in the absence of the witness, or

(c) adjourn the trial.

Exclusion of witnesses

8.12(1) Subject to subrule (2), the judge may exclude a witness from the courtroom, other than a party who may be called as a witness, until the witness is called to give evidence.

(2) A witness whose presence is essential to instruct a lawyer in a trial may not be excluded from the courtroom, but the judge may require that witness to give evidence before any other witnesses are called.

(3) Nothing in this rule prevents the judge from excluding from the courtroom any person who interferes with the trial.

No communication with excluded witnesses

8.13(1) If a witness is excluded from the courtroom, no person may communicate with the witness about evidence given at trial during the time that the witness is excluded, except with permission of the judge.

(2) If there is communication with a witness contrary to subrule (1), the judge may strike out or disregard all or part of the evidence of the witness or prohibit the witness from giving evidence.

Unavailable or unwilling witness

8.14(1) Subject to subrules (2) and (3), a party may, with the judge's permission, read into evidence all or part of the evidence given at questioning conducted under Part 5 *[Disclosure of Information]* as the evidence of the person questioned, to the extent that it would be admissible if the person were giving evidence in Court, if the person questioned

(a) is dead,

(b) is unable to give evidence before the Court because of accident, ill health or disability,

(c) refuses to take an oath or to answer proper questions, or

(d) for any other sufficient reason cannot be required to attend at the trial.

(2) Before deciding whether to give permission, the judge must consider

(a) the general principle that evidence should be presented orally in court,

(b) how thoroughly the person was questioned under Part 5 *[Disclosure of Information]*, and

(c) any other appropriate factor.

(3) The judge may grant permission under this rule only if

(a) the fact or facts sought to be proved through the questioning under Part 5 *[Disclosure of Information]* are important aspects of the party's case,

(b) the fact or facts cannot be proved in any other manner, and

(c) the permission is restricted to the portion or portions of the questioning that relate to the fact or facts.

Information note

See rule 5.31 *[Use of transcript and answers to written questions]* for when transcript evidence may be used.

Notice of persons not intended to be called as witnesses

8.15(1) When an adverse inference might be drawn from the failure of a party to call a person as a witness, that party may serve on every other party a notice of the names of those persons that the party does not intend to call as witnesses.

(2) The notice must be served one month or more before the date the trial is scheduled to start.

(3) The party on whom the notice is served may serve on the party who served the notice, within 10 days after service of the notice, a statement setting out any objection to the intention not to call a person as a witness.

(4) If the party on whom the notice is served does not respond to the notice of intention not to call a person as a witness, the failure to call that person as a witness is not to be considered to be adverse to the case of the party who served the notice.

(5) When a party objects to the notice of intention not to call a person, the cost of calling that person as a witness must be paid by the party who objects, regardless of the result of the claim, issue or question, unless the Court decides that the objection is reasonable.

Number of experts

8.16(1) Unless the Court otherwise permits, no more than one expert is permitted to give opinion evidence on any one subject on behalf of a party.

(2) If 2 or more corporate parties are affiliates within the meaning of the term "affiliate" in the *Business Corporations Act* and the corporate parties cannot agree, the Court may direct which of the corporate parties may call an expert witness.

Proving facts

8.17(1) A fact to be proved at trial by the evidence of a witness must be proved by questioning the witness in Court unless

(a) these rules or an enactment otherwise requires or permits,

(b) the parties agree to that fact, or

(c) the Court otherwise orders.

(2) The Court may not order that a fact be proved by affidavit evidence of a witness if

(a) a party, for good reason, wishes to cross-examine the witness, and

(b) the witness may be required to attend the trial.

(3) Evidence taken in any other action may be presented at trial but only if the party proposing to submit the evidence gives each of the other parties written notice of that party's intention 5 days or more before the trial is scheduled to start and obtains the Court's permission to submit the evidence.

Information note

Rule 5.31 *[Use of transcript and answers to written questions]* is an example of when a rule permits transcript evidence to be used.

Trial conducted by electronic hearing

8.18 On application under rule 6.10 *[Electronic hearings]*, the Court may permit an electronic hearing.

Use of trial evidence in subsequent proceedings

8.19 Evidence at trial may be used in a subsequent application or subsequent proceedings in that action.

Application for dismissal at close of plaintiff's case

8.20 At the close of the plaintiff's case, the defendant may request the Court to dismiss the action on the ground that no case has been made, without being asked to elect whether evidence will be called.

Retrials

8.21(1) The Court may order that a claim be retried if the jury

(a) is unable to reach a verdict,

(b) does not answer any question put to it or answers only some of the questions, or

(c) gives conflicting answers to questions so that judgment cannot be pronounced.

(2) If answers given by a jury entitle a party to judgment on some but not all claims, the Court may order judgment to be entered in respect of those claims for which answers are given.

Continuing trial without jury

8.22(1) If for any reason other than the misconduct of a party or the party's lawyer a jury trial would be retried, the Court, with the agreement of all parties, may continue the trial without a jury.

(2) If the misconduct of a party or the party's lawyer during a jury trial could cause a retrial, the Court, with the agreement of every party adverse in interest to the party whose conduct or whose lawyer's conduct is complained of, may continue the trial without a jury.

Judgment after jury trial

8.23(1) When considering an application for judgment following a jury trial, the Court may

(a) pronounce judgment, or

(b) make any order it considers necessary to obtain the information to pronounce judgment.

(2) In pronouncing judgment, the Court may draw inferences of fact that are not inconsistent with the jury's findings.

Accidents and mistakes

8.24(1) If by an accident, mistake or other cause a party does not prove a fact or record important to the party's case, the Court may

(a) proceed with the trial subject to the fact or record being proved as ordered by the Court, or

(b) if the action is being tried by a jury, make an order under subrule (2).

(2) The Court may

(a) adjourn the jury sittings, or

(b) if the fact or record is one the formal proof of which could not seriously be challenged,

(i) the Court may direct the jury to find a verdict as if the fact or record had been proved, and

(ii) the jury's verdict then takes effect when the fact or record is proved before the Court.

(3) If a fact or record is not proved as referred to in subrule (2)(b)(ii), judgment must be entered for the opposite party unless the Court otherwise orders.

(4) The Court may make a costs award with respect to any issue arising out of or as a result of the operation of this rule.

Part 9:
Judgments and Orders

What this Part is about: This Part describes how judgments and Court orders are prepared and how they can be corrected, varied or set aside, and contains rules applying to civil enforcement agencies. This Part also includes rules for how abandoned goods are to be dealt with and deals with how judgments and orders from jurisdictions outside Alberta may be registered in the Court.

Part 9:
Judgments and Orders

	Starts at rule #
Division 1: Preparation and Entry of Judgments and Orders	9.1
Division 2: Determination of Damages, Judgment in Counterclaims and Judgment Against Beneficiaries	9.9
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Information note

Words and phrases used in this Part that have defined meanings in the Appendix *[Definitions]* include:

- assessment officer
- civil enforcement agency
- claim
- commencement document
- Court
- court clerk
- defendant
- enactment
- encumbrance
- file
- foreclosure action
- foreclosure order
- judge
- judgment
- judgment creditor
- judgment debtor
- land
- lawyer
- master
- order
- partnership
- party
- personal representative
- plaintiff
- prescribed form
- procedural order
- property
- record
- redemption order
- remedy
- rules
- secured land
- secured property
- trustee

Part 9:
Judgments and Orders

Division 1
Preparation and Entry of Judgments and Orders

Form of judgments and orders

9.1(1) Judgments and orders must be divided into consecutively numbered paragraphs.

(2) Every judgment and order must include

(a) the date on which and the location at which it was pronounced,

(b) the name of the master or judge who made it, and

(c) the date of entry.

AR 124/2010 s9.1;143/2011

Preparation of judgments and orders

9.2(1) The Court may direct which party is to prepare a draft of the judgment or order pronounced by the Court, but if the Court does not do so, the successful party is responsible for preparing the draft.

(2) The following rules apply, unless the Court otherwise orders:

(a) within 10 days after the judgment or order is pronounced, the responsible party must prepare a draft of the judgment or order in accordance with the Court's pronouncement and serve it on every party in attendance at the hearing, but if the responsible party does not prepare and serve the draft then any other party may do so;

(b) within 10 days after the draft judgment or order is served, each party served may

(i) approve the draft, or

(ii) object to the draft, providing particulars of the objection;

(c) if a party does not approve or object to the draft judgment or order within the 10 days described in clause (b) but all other requirements are met and service of the draft is proved, the judgment or order may be signed and entered.

AR 124/2010 s9.2;122/2012

Information note

Rule 9.5(2) *[Entry of judgments and orders]* requires judgments and orders to be entered within 3 months after pronouncement unless the Court otherwise permits.

Dispute over contents of judgment or order

9.3 If there is a dispute about the contents of a judgment or order, the disputants may apply to the Court to resolve the dispute.

Signing judgments and orders

9.4(1) A judge or master may sign a judgment or order when it is pronounced.

(2) If a judge or master does not sign a judgment or order when it is pronounced, the court clerk may sign the judgment or order in any of the following circumstances:

(a) in a proceeding which a party adverse in interest did not attend;

(b) if the party adverse in interest approves the form of the judgment or order or waives approval of its form;

(c) if the Court directs that approval of the form of the judgment or order by a party is not required;

(d) if the Court directs the court clerk to sign the judgment or order.

(3) In any circumstance other than those described in subrule (2), a judgment or order must be signed by a judge or master.

Entry of judgments and orders

9.5(1) Subject to subrule (2), every judgment and every order is entered by filing it with the court clerk, who must make a note in the court file of the entry and the date of entry.

(2) A judgment or order is not to be entered more than 3 months after it is pronounced except with the Court's permission, which may only be obtained on application and after notice is served on each of the other parties.

Information note

Rule 3.7 *[Post-judgment transfer of action]* permits a judgment creditor to apply to the Court, on notice to each of the other parties, for a temporary transfer of the action to a different judicial centre for purposes of an application to enforce the judgment or order.

Effective date of judgments and orders

9.6 Every judgment and every order, whether or not it has been entered, comes into effect on

(a) the date of pronouncement, or

(b) if the Court orders the judgment or order to come into effect before or after the date of pronouncement, the date so ordered.

Certified copies

9.7(1) On entry of a judgment or order, the court clerk must, without additional charge, certify a copy of it for the party who enters the judgment or order.

(2) A certified copy of a judgment or order has the same effect as the original.

Service of judgments and orders

9.8 Unless these rules otherwise provide or the Court otherwise orders, the party who enters the judgment or order must serve a copy of the entered judgment or order on each of the other parties.

Division 2
Determination of Damages, Judgment in Counterclaims and Judgment Against Beneficiaries

Determining damages

9.9 The Court must determine damages for a continuing claim to the time the Court makes its determination of the amount.

Judgment for balance on counterclaim

9.10 The Court may give judgment for the balance of money to be paid by one party to the other when determining a counterclaim.

Judgment against beneficiaries

9.11 A personal representative or trustee entitled to a judgment or order for the administration of an estate or the execution of a trust may have the judgment or order made against any person beneficially interested in the estate or trust.

Information note

If a party dies before judgment but after all evidence is heard, rule 4.35 *[Death has no effect on an action after evidence heard]* applies.

Division 3
Corrections, Further Orders, Setting Aside, Varying and Discharging Judgments and Orders

Correcting mistakes or errors

9.12 On application, the Court may correct a mistake or error in a judgment or order arising from an accident, slip or omission.

Re-opening case

9.13 At any time before a judgment or order is entered, the Court may

(a) vary the judgment or order, or

(b) on application, and if the Court is satisfied there is good reason to do so, hear more evidence and change or modify its judgment or order or reasons for it.

Further or other order after judgment or order entered

9.14 On application, the Court may, after a judgment or order has been entered, make any further or other order that is required, if

(a) doing so does not require the original judgment or order to be varied, and

(b) the further or other order is needed to provide a remedy to which a party is entitled in connection with the judgment or order.

Information note

If an application is made under this rule, note that rule 6.3(1) *[Applications generally]* provides for an application to be made after judgment.

Setting aside, varying and discharging judgments and orders

9.15(1) On application, the Court may set aside, vary or discharge a judgment or an order, whether final or interlocutory, that was made

(a) without notice to one or more affected persons, or

(b) following a trial or hearing at which an affected person did not appear because of an accident or mistake or because of insufficient notice of the trial or hearing.

(2) Unless the Court otherwise orders, the application must be made within 20 days after the earlier of

(a) the service of the judgment or order on the applicant, and

(b) the date the judgment or order first came to the applicant's attention.

(3) The Court may, on any terms the Court considers just,

(a) permit a defence to be filed by a party who has been noted in default,

(b) set aside, vary or discharge a judgment granted upon application against a defendant who was noted in default, or whose statement of defence was struck out under rule 3.37, or

(c) set aside, vary or discharge a judgment entered in default of defence by the plaintiff for the recovery of property under rule 3.38, or for a debt or liquidated demand under rule 3.39.

(4) The Court may set aside, vary or discharge an interlocutory order

(a) because information arose or was discovered after the order was made,

(b) with the agreement of every party, or

(c) on other grounds that the Court considers just.

AR 124/2010 s9.15;122/2012

By whom applications are to be decided

9.16 An application under rule 9.12 *[Correcting mistakes or errors]*, 9.13 *[Re-opening a case]*, 9.14 *[Further or other order after judgment or order entered]* or 9.15 *[Setting aside, varying and discharging judgments and orders]* must be decided by the judge or master who granted the original judgment or order unless the Court otherwise orders.

Information note

For judgments against parties noted in default, see Part 3 *[Court Actions]*.

Division 4
Enforcement of Judgments and Orders

Enforcement: orders for payment and judgments for payment into Court

9.17(1) An order for payment may be enforced in any manner in which a judgment for the payment of money may be enforced.

(2) A judgment for the payment of money into Court may be enforced in any manner in which a judgment for the payment of money to a person may be enforced.

Information note

Rule 3.7 *[Post-judgment transfer of action]* permits a judgment creditor to apply to the Court, on notice to each of the other parties, for a temporary transfer of the action to a different judicial centre for purposes of an application to enforce the judgment or order.

Judgments and orders subject to conditions

9.18(1) If a judgment or order is made subject to conditions that a party must fulfil, a party to whom the conditions apply may not do anything further to enforce the judgment or order until

(a) the party has filed an affidavit confirming that the conditions have been met, or

(b) the Court so permits.

(2) An application to do anything further may be filed without notice to any other party unless the Court otherwise orders.

Persons who are not parties

9.19 If a person is not a party to an action but

(a) the person obtains an order or an order is obtained in the person's favour, the person may enforce the order in the same manner as if the person were a party to the action, or

(b) the person is subject to a judgment or order granted in respect of that action, the judgment or order may be enforced against the person in the same manner as if the person were a party to the action.

Time writ remains in force

9.20 Unless an enactment otherwise provides, and except for the purpose of the enactment, a writ remains in force as long as the judgment or order under which the writ was issued is in force.

Application for new judgment or order

9.21(1) On application, the Court may grant a judgment creditor a new judgment or order on a former judgment or any part of it that has not been paid.

(2) Repealed AR 128/2015 s7.

(3) Notice of the application must

(a) be filed before the expiry of the limitation period under the *Limitations Act* for an action on the judgment, and

(b) be served on the judgment debtor by the same method by which a commencement document must be served.

(4) An application under this rule is an application in the original action.

(5) If the judgment debtor does not appear at the hearing of the application, and show cause why a new judgment or order should be denied, the Court may grant the judgment creditor a new judgment or order for the amount due and a costs award if the Court is satisfied that

(a) notice of the application was served on the judgment debtor, and

(b) the amount has not been paid under the original judgment or order.

(6) If the judgment debtor opposes the judgment creditor's application in whole or in part, the Court may

(a) give directions for the trial of an issue, and

(b) make any procedural order the Court considers necessary.

AR 124/2010 s9.21;128/2015

Information note

The method of service for commencement documents (see rule 9.21(3)(b)) is set out in Part 11 *[Service of Documents]* Division 2 *[Service of Commencement Documents in Alberta]*.

Application that judgment or order has been satisfied

9.22(1) On application, the Court may make an order that a judgment or order has been satisfied.

(2) The application must

(a) be in Form 41,

(b) be filed, and

(c) be served on the affected parties by the same method by which a commencement document must be served.

(3) The court clerk must include in the court file a memorandum that a judgment or order has been satisfied if

(a) the Court so orders, or

(b) the judgment creditor or the judgment creditor's lawyer acknowledges in writing that the judgment or order has been satisfied.

Enforcement against partners' and partnership property

9.23(1) A judgment or order against a partnership in the partnership name may be enforced against the partnership's property.

(2) A judgment or order against a partnership in the partnership name may also be enforced, if the judgment or order or a subsequent judgment or order so provides, against a person who was served with a notice under rule 2.3 *[Suing individual partners]* and who, at the time specified in the notice,

(a) is presumed to be a partner under rule 2.3 *[Suing individual partners]*,

(b) admits to being a partner, or

(c) is adjudged to be a partner.

(3) If after a judgment or order has been made against a partnership in the partnership name the party obtaining it claims to be entitled to enforce it against a person alleged to be a partner who was not served in accordance with rule 2.3(1) *[Suing individual partners]*, the party may apply to the Court to enforce the order or judgment against the alleged partner, and even though no notice was served under rule 2.3(1), the Court may permit the party to enforce the judgment or order

(a) if liability of the person as a partner is not disputed, or

(b) if liability is disputed, after the liability has been determined in the manner directed by the Court.

Fraudulent preferences and fraudulent conveyances

9.24(1) If a judgment creditor claims to be entitled to relief under the *Fraudulent Preferences Act* or under the *Fraudulent Conveyances Statute*, 13 Eliz. I, Chapter 5 (U.K.), on application by the judgment creditor, the Court may order property or part of property to be sold to pay the amount to be collected under a writ of enforcement.

(2) Notice of the application must be served on

(a) the judgment debtor, and

(b) the person to whom it is alleged the property was conveyed.

(3) If a transfer or conveyance is made to defeat, defraud or hinder the rights of a judgment creditor, the judgment creditor, for the purpose of obtaining an order under subrule (1), need not have obtained judgment at the time of the impugned transfer or conveyance.

Information note

The application referred to in this rule must be made in an action started by statement of claim.

Order of possession of land

9.25(1) This rule applies when a judgment or order of possession orders a person to give up possession of land to another person.

(2) A judgment or order of possession must include a statement to the effect that a civil enforcement agency has authority, after service of the order has been effected, to evict any occupant of the land.

(3) Unless the Court otherwise orders, the judgment or order of possession must be served on every person ordered to give up possession of the land and every occupant of the land.

AR 124/2010 s9.25;143/2011

Information note

The Court may impose terms and conditions on its orders under rule 1.4 *[Procedural orders]*.

Authority to evict occupants

9.26(1) A civil enforcement agency has authority to evict a person from land the person occupies

(a) only in accordance with a judgment or order of possession, and

(b) unless the Court otherwise orders, only after the civil enforcement agency is satisfied that

(i) the judgment or order has been served on every occupant of the land, and

(ii) an affidavit of service has been filed by the person who has the judgment or order of possession.

(2) If a judgment or order of possession is stayed while payments are being made in accordance with the judgment or order granting the stay, the judgment or order of possession may not, unless the Court otherwise orders, subsequently be enforced until notice of default is served on every person ordered to give up possession of the land and every occupant of the land.

AR 124/2010 s9.26;143/2011

Removal, storage and sale of personal property

9.27(1) A person who enforces a judgment or order of possession in respect of premises need not remove personal property from the premises.

(2) If a civil enforcement agency removes and stores any personal property in connection with the enforcement of a judgment or order of possession, the owner of the personal property may, on the written authorization of the civil enforcement agency, obtain the personal property from storage by

(a) paying to the civil enforcement agency the costs, including transportation and storage costs, that were paid by the civil enforcement agency or by the person on whose behalf the judgment or order of possession was enforced, and

(b) paying to the person storing the personal property any further outstanding storage charges.

(3) If personal property is sold in accordance with an order made under an enactment, the proceeds of sale must be applied as follows:

(a) first, to pay the costs of the sale;

(b) second, to pay storage, transportation and other costs incurred in removing and storing the personal property and filing the application for the order for sale;

(c) third, unless the Court otherwise orders or an enactment otherwise provides, to pay the balance to the owner of the personal property.

Abandoned goods

9.28(1) In this rule,

(a) "abandoned goods" means personal property left on land or at premises by a person who has

(i) been evicted from the land or premises by a civil enforcement agency, or

(ii) vacated the land or premises as a result of a judgment or order of possession;

(b) "judgment holder" means a person who has a judgment or order of possession.

(2) A judgment holder may dispose of abandoned goods if the judgment holder believes on reasonable grounds that the abandoned goods have a market value of less than $2000.

(3) Even though abandoned goods have a market value of $2000 or more, a judgment holder may sell the goods by a means and for a price that the judgment holder believes is reasonable if the judgment holder believes on reasonable grounds that

(a) storing the abandoned goods would be unsanitary or unsafe or would rapidly result in total or substantial depreciation of the market value of the goods, or

(b) the cost of removing, storing and selling the goods would exceed the proceeds of their sale.

(4) If subrules (2) and (3) do not apply, the judgment holder

(a) must store or arrange for storage of the abandoned goods on behalf of the owner or person entitled to possession for one month after the date of their abandonment, and

(b) after the one month has expired, may dispose of the goods by public auction or, with the approval of the Court, by private sale.

(5) If no bid is received for the abandoned goods at a public auction held under subrule (4)(b), the judgment holder may dispose of the goods.

(6) No liability attaches to a person for

(a) selling abandoned goods under subrule (3) or (4)(b), or

(b) disposing of abandoned goods under subrule (2) or (5).

(7) If abandoned goods are disposed of or sold under this rule, the person acquiring the goods on the disposal or sale acquires the interest of the owner or person entitled to possess those goods, and the interest of any other person in those goods is extinguished.

(8) A judgment holder must give up possession of abandoned goods to the person entitled to them on payment of the costs of removing and storing them.

(9) A judgment holder

(a) may apply the proceeds of any sale of abandoned goods

(i) to the judgment holder's costs of removing, storing and selling the goods, and

(ii) to satisfy the judgment debtor's liability to the judgment holder,

and

(b) must pay the surplus of the proceeds of sale after payment under clause (a), if any, to the Crown in right of Alberta.

(10) The President of Treasury Board and Minister of Finance must retain the surplus on behalf of the judgment debtor for one year and, if the judgment debtor has not claimed it within the one-year period, must pay the surplus into the General Revenue Fund.

(11) On payment of the surplus into the General Revenue Fund the judgment debtor's claim to the surplus is extinguished.

(12) A judgment holder must keep a record of the storage and disposition or sale of abandoned goods under this rule, including

(a) a description of the goods,

(b) the period for which the goods were stored and the location,

(c) when subrule (8) applies, the costs claimed by the judgment holder and the date on which the goods were returned to the person entitled to them,

(d) if the goods are sold, the particulars of the sale, the amount claimed by the judgment holder under subrule (9) and the amount of the surplus, if any, paid to the Crown under this rule, and

(e) if the goods are neither returned to the person entitled to them nor sold, the manner in which they were disposed of.

(13) A judgment holder must keep a record referred to in subrule (12) as it relates to abandoned goods for at least 3 years after the goods were returned, sold or disposed of, as the case may be.

(14) The Court may make an order contrary to or varying any provision of this rule.

AR 124/2010 s9.28;31/2012;62/2013

Information note

Section 33 of the *Matrimonial Property Act* overrides this rule. In addition, this rule does not apply to applications for exclusive possession of the matrimonial home under Part 2 of the *Matrimonial Property Act*.

Questioning person to assist in enforcement

9.29(1) To enforce or assist in the enforcement of a judgment or order, the Court, on application, may order a person to attend before a person named by the Court to be questioned under oath about a matter in the judgment or order.

(2) The rules related to questioning under Part 5 *[Disclosure of Information]* apply to questioning conducted in accordance with an order made under this rule.

Division 5
Foreclosure Actions

When affidavit of value must be filed

9.30 Unless the Court otherwise orders, an affidavit of value must be filed before an application is filed for

(a) a redemption order,

(b) an order that secured property be offered for sale,

(c) a foreclosure order,

(d) an order confirming sale to the plaintiff or another person, or

(e) an order of possession, but not a preservation order.

Other material to be filed

9.31 Before an application is filed for a redemption order, an order that secured property be offered for sale, a foreclosure order, an order confirming sale, an order for sale to the plaintiff or an order appointing a receiver, the plaintiff must file

(a) a certified copy of all the current titles to the secured land, and

(b) if the secured property includes chattels, the results of a current Personal Property Registry search of each of the names of the registered owners of the secured land, or the purchasers of the secured land in the case of an agreement for sale.

Offer for sale of secured property

9.32(1) The Court may offer secured property for sale at a time and place, in a manner and at a price that the Court considers appropriate.

(2) If the Court orders that secured property be listed with a realtor, a listing agreement approved by the Court must, unless the Court otherwise orders, be appended to, and forms part of, the order granted.

Sale to plaintiff

9.33(1) If a plaintiff seeks an order for sale of secured property to the plaintiff and section 40(2) of the *Law of Property Act* does not apply, the Court must consider whether a public sale should be attempted before the plaintiff's application is heard.

(2) The Court must consider at least the following factors:

(a) the nature of the secured property;

(b) the value of the secured property;

(c) the existing market for the secured property;

(d) the amount owed on the plaintiff's security against the secured property;

(e) the amount owed for prior charges against the secured property, including prior encumbrances, municipal taxes and condominium assessments.

(3) In granting an order for sale of the secured property to a plaintiff who has made an offer or tender on the secured property, the Court must consider, in addition to the factors in subrule (2), all offers or tenders made with respect to the secured property.

(4) In granting an order for sale of the secured property to a plaintiff who has not made an offer or tender on the secured property or whose tender has been rejected, the Court must determine the fair value at which the plaintiff may purchase the secured property.

Order confirming sale

9.34(1) If the Court orders that secured property be offered for sale by tenders filed in Court and a tender is filed, the plaintiff must apply for either or both of the following:

(a) an order confirming sale;

(b) an order rejecting tenders and directing the return of the deposits paid in respect of the rejected tenders.

(2) The application must be scheduled for hearing not more than one month after the date set for the receipt of tenders.

(3) On granting an order confirming sale, the Court may provide any direction that the Court considers appropriate to facilitate closing the sale.

(4) Unless the order states that this subrule does not apply, an order confirming sale must state that the Registrar of Land Titles must not register the order without accompanying evidence of payment of the amount, if any, which the Court orders to be paid, and that evidence may be

(a) a certificate of the court clerk that the payment ordered has been paid into Court, or

(b) written confirmation by the plaintiff's lawyer that the plaintiff has received the payment ordered.

Checking calculations: assessment of costs and corrections

9.35(1) When in a foreclosure action the Court grants an order declaring the balance owing to the plaintiff, an order for sale to the plaintiff or an order confirming sale, or grants judgment against any party, then, before entry of the order,

(a) the plaintiff must, unless otherwise ordered by the Court, file and serve on every defendant and subsequent encumbrancer any of the following documents that are applicable:

(i) a statement of the secured indebtedness;

(ii) a statement of money received and disbursed in the sale;

(iii) a calculation of any deficiency, if a deficiency judgment or declaration of a deficiency is ordered;

(iv) a bill of costs under rule 10.35 *[Preparation of bill of costs]*;

(v) the proposed form of order,

together with a notice that any defendant and subsequent encumbrancer who considers that any of the applicable documents contains an error may file and serve on the plaintiff a written submission before a date specified in the notice,

(b) the assessment officer must assess the reasonable and proper costs under rule 10.41 *[Assessment officer's decision]* unless otherwise ordered by the Court, and

(c) the assessment officer must

(i) check the plaintiff's calculations,

(ii) review any submission by a defendant or subsequent encumbrancer,

(iii) correct the amounts in the order, if necessary,

(iv) sign the order as court clerk, and

(v) return to the plaintiff or the plaintiff's lawyer the order and a certificate under rule 10.43 *[Certification of costs payable]*.

(2) When the order and the certificate have been returned to the plaintiff or the plaintiff's lawyer, the plaintiff may enter the order and file the certified bill of costs.

(3) If the defendant did not appear at the application for the order and the plaintiff disagrees with

(a) the assessment of the reasonable and proper costs, if done without appearance, or

(b) the corrections made by the assessment officer under subrule (1)(c)(iii),

the plaintiff may, before entry of the order under subrule (2), appear before or speak to the assessment officer to explain the plaintiff's figures or costs, and the assessment officer may amend or refuse to amend the assessment or corrections.

(4) If the plaintiff is not satisfied with the assessment officer's assessment, whether amended or not, the plaintiff may, before the order is entered, re-attend before the master or judge who granted the order for the purpose of settling the costs or for further directions, at which time the plaintiff must provide to the Court any corrections, bill of costs, notes or other materials from the assessment officer.

(5) To the extent of any inconsistency with Part 10 *[Lawyers' Charges, Recoverable Costs of Litigation, and Sanctions]*, this rule prevails.

Service of certified bill of costs

9.36 The plaintiff must serve the certified bill of costs under rule 10.43 *[Certification of costs payable]* on every defendant and subsequent encumbrancer when the order referred to in rule 9.35(1) *[Checking calculations: assessment of costs and corrections]* is served.

Division 6
Sale and Disposition of Land Other than by Foreclosure Action

Application of this Division

9.37 This Division

(a) is subject to the *Civil Enforcement Act*, and

(b) does not apply to foreclosure actions.

Sale and disposition of land

9.38(1) If land is to be sold, mortgaged, partitioned or exchanged as a result of an action, the Court may make that order and specify the time and place of, the manner of, and the price or sum associated with the transaction that the Court considers appropriate.

(2) If the Court is satisfied that all interested parties are before the Court or bound by the order, the Court may order

(a) the sale, mortgage, partition or exchange of land, and

(b) the procedure to be carried out to give effect to the order.

(3) Any money produced as a result of carrying out an order under this rule must

(a) be paid into Court,

(b) be paid to persons specified in the order, or

(c) otherwise be dealt with in accordance with the order.

(4) If a judgment or order states that land is to be sold,

(a) the sale must be approved by the Court before the sale is completed, and

(b) the persons necessary to complete the sale must join the sale and conveyance in accordance with the Court's order.

Information note

Rules about payment into Court and out of Court are contained in Part 13 *[Technical Rules]* Division 7 *[Payment into Court and Payment out of Court]*.

Terms, conditions and limitations on orders

9.39 In an order under this Division the Court may include one or more of the following terms, conditions or directions:

(a) that a person pay or account for rent or profit, or both, to another person;

(b) the manner in which the transaction is to be carried out;

(c) the person or persons who are to carry out or facilitate compliance with the order;

(d) that any proceeds of the transaction be paid into Court or otherwise paid to or disposed of by the Court.

Division 7
Reciprocal Enforcement of United Kingdom Judgments

Definitions

9.40 In this Division,

(a) "Act" means Part 3 of the *International Conventions Implementation Act* and includes the Convention;

(b) "certified copy" means the original document or a copy of the document certified as being a true copy by the original or facsimile signature of a proper officer of the foreign court;

(c) **"**Convention" means the *Convention Between Canada and the United Kingdom of Great Britain and Northern Ireland Providing for the Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters* in Schedule 3 to the Act;

(d) "convention judgment", "convention judgment creditor", "convention judgment debtor" and "original court" have the same meanings respectively as "judgment", "judgment creditor", "judgment debtor" and "original court" have in the Convention.

Scope

9.41(1) This Division is subject to the Act.

(2) Nothing in this Division affects any other rights, remedies or proceedings provided by law.

Application to Court

9.42(1) A convention judgment creditor may apply to the Court by originating application for an order to register a convention judgment.

(2) The application must be brought within the time specified in the Act.

(3) The originating application and affidavit in support and notices and documents related to the originating application under this Division must be titled as follows:

In the matter of the International Conventions Implementation Act,

And in the matter of a convention judgment of (describe court) dated . . .

Affidavit in support of application for order to register convention judgment

9.43(1) An originating application for an order to register a convention judgment must be supported by an affidavit

(a) stating that the applicant is entitled to enforce the convention judgment and, where applicable, providing full particulars of the entitlement, whether by assignment or otherwise,

(b) stating in the original currency of the convention judgment

(i) the unpaid balance and interest as of a fixed date that is within 2 months before the date of the originating application, and

(ii) the daily interest payable after that fixed date,

(c) if applicable, stating the provisions of the convention judgment that are sought to be registered,

(d) stating the manner in which the convention judgment debtor submitted to the jurisdiction of the original court, if the convention judgment debtor appeared, defended, attorned or otherwise submitted to the jurisdiction of the original court,

(e) listing the reasonable costs of and incidental to registration and certifying that the applicant has incurred, is liable to pay or is otherwise entitled to collect them, as the case may be, and

(f) containing or to which is attached any other information or document that the Court may require.

(2) The affidavit referred to in subrule (1) must have attached to it

(a) a certified copy of the convention judgment and, where applicable, a translation into English authenticated by affidavit or any other method acceptable to the Court, and

(b) proof acceptable to the Court that the initiating documents were served on the convention judgment debtor in the original application, if the convention judgment debtor was served personally with the originating documents in the original action, unless this information appears in the convention judgment.

(3) An affidavit may contain statements made on the information and belief of the person swearing the affidavit, but must state the source and grounds for the information and belief.

When application may be filed without notice

9.44(1) An originating application for an order to register a convention judgment may be filed without notice to any other party if the convention judgment debtor

(a) was personally served with the initiating documents in the original action, or

(b) appeared, defended, attorned or otherwise submitted to the jurisdiction of the original court.

(2) If subrule (1) does not apply, the originating application and affidavit must be served on the convention judgment debtor personally or as the Court may otherwise direct.

Order to register convention judgment

9.45(1) On hearing an originating application for an order to register a convention judgment, the Court, after considering the Act, may order that the convention judgment be registered for an amount to be calculated under subrule (2).

(2) On presentation of an order referred to in subrule (1) and a copy of the convention judgment, the court clerk must register the convention judgment by

(a) writing on the copy of the convention judgment

(i) the unpaid balance and interest to the date the court clerk registers the convention judgment,

(ii) the reasonable costs of and incidental to registration, and

(iii) the following notation:

Registered in the Court of Queen's Bench of Alberta on [date] pursuant to the Order of _____ dated . . .

and

(b) filing the order made under subrule (1) and the copy of the convention judgment marked in accordance with clause (a).

(3) If necessary the court clerk must convert the amounts referred to in subrule (2) to Canadian currency at the exchange rate prevailing at any branch of any bank.

Information note

Bank is defined in the *Interpretation Act* as "a bank named in Schedule I or II of the *Bank Act* (Canada)".

Convention judgment debtor's application to set aside

9.46(1) If the Court hears an originating application without notice under rule 9.44 *[When application may be filed without notice]* and makes an order granting part or all of the relief claimed, the convention judgment debtor may, within 2 months after being served with the order and registered convention judgment, apply to the Court to set aside that order and the registration of the convention judgment.

(2) The time period set out in subrule (1) may not be extended under rule 13.5 *[Variation of time periods]*.

(3) After hearing an originating application under this rule, the Court may make any order it thinks fit that is consistent with this Division.

(4) An order under this rule may be appealed to the Court of Appeal.

Convention judgment creditor's appeal

9.47(1) If the Court hears an originating application without notice under rule 9.44 *[When application may be filed without notice]* and makes an order refusing to grant part or all of the relief claimed, the convention judgment creditor may appeal the order to the Court of Appeal.

(2) The convention judgment debtor must be a party to an appeal under this rule.

Appeal when order is made on notice

9.48 When the Court hears an originating application of which notice was served on the convention judgment debtor, the convention judgment creditor or the convention judgment debtor may appeal to the Court of Appeal from any order made.

Factors to be considered

9.49 In any proceeding under this Division, the Court or the Court of Appeal, as the case may be, must apply all of the factors listed in Article IV of the Convention and may consider any other proper grounds.

Division 8
Registration of Judgments under Reciprocal Enforcement of Judgments Act

Originating application to register judgment from reciprocating jurisdiction

9.50(1) An application for registration of a judgment under the *Reciprocal Enforcement of Judgments Act* must be made by originating application.

(2) The originating application must be supported by an affidavit that includes, as an exhibit, an exemplification or certified copy of the judgment to be registered.

Notice of registration

9.51 The notice of registration of a judgment under section 6 of the *Reciprocal Enforcement of Judgments Act* must

(a) contain particulars of the judgment registered and the order for registration,

(b) state the name and address of the judgment creditor or the lawyer or agent for the judgment creditor on whom service of any notice given by the judgment debtor may be served, and

(c) state that the judgment debtor, within one month after receipt of notice of the registration, may apply to the registering Court to set aside the registration on any ground set out in section 2(6) of the *Reciprocal Enforcement of Judgments Act*.

Part 10: Lawyers' Charges, Recoverable Costs of Litigation, and Sanctions

What this Part is about: This Part deals with 3 matters:

- lawyers' retainer agreements (including contingency fee agreements), and lawyers' charges – how each can be reviewed for reasonableness by a review officer at the request of a client or lawyer
- how the Court and assessment officers assess the costs of litigation that are payable by one party to another
- the sanctions the Court may impose for contravention of the rules and the Court's authority to declare a person in civil contempt of Court, including the penalties that may be imposed as a result of the declaration.

Part 10:
Lawyers' Charges, Recoverable Costs of Litigation, and Sanctions

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Information note

Words and phrases in this Part that have defined meanings in the Appendix *[Definitions]* include:

- assessment officer
- claim
- client
- commencement document
- contingency fee agreement
- costs award
- Court
- court clerk
- defendant
- enactment
- expert
- file
- judge
- judgment
- lawyer
- lawyer's charges
- medical examination
- order
- party
- personal representative
- plaintiff
- pleading
- prescribed form
- property
- record
- retainer agreement
- review officer
- rules
- trustee

Part 10: Lawyers' Charges, Recoverable Costs of Litigation, and Sanctions

Division 1 Lawyers' Charges, Retainer Agreements and Right of Review

Definitions

10.1 In this Part,

(a) "assessment officer" means the court clerk for the judicial centre in which the action is located;

(b) "review officer" means an assessment officer who, in the opinion of the clerk of the Court, has for the purpose of reviewing contingency fee or retainer agreements and lawyers' charges

(i) an acceptable degree in law, and

(ii) sufficient experience in the practice of law,

and who is designated as a review officer by

(iii) the clerk of the Court for the judicial centre in which the action is located, or

(iv) if there is no clerk of the Court for the judicial centre in which the action is located, the Minister.

Subdivision 1 Lawyers' Charges

Payment for lawyer's services and contents of lawyer's account

10.2(1) Except to the extent that a retainer agreement otherwise provides, a lawyer is entitled to be paid a reasonable amount for the services the lawyer performs for a client considering

(a) the nature, importance and urgency of the matter,

(b) the client's circumstances,

(c) the trust, estate or fund, if any, out of which the lawyer's charges are to be paid,

(d) the manner in which the services are performed,

(e) the skill, work and responsibility involved, and

(f) any other factor that is appropriate to consider in the circumstances.

(2) A lawyer may be paid in advance or take security for future lawyer's charges.

(3) Every lawyer's account must

(a) contain a reasonable statement or description of the services performed,

(b) show the fee for the service, and

(c) set out separately the details of any disbursements paid or to be paid by the lawyer or any other charges of the lawyer in performing the lawyer's services.

Lawyer acting in representative capacity

10.3(1) A lawyer may charge lawyer's fees for services performed as a lawyer whether or not the lawyer is also acting in the capacity of a guardian, mortgagee, personal representative or trustee.

(2) Despite subrule (1), a lawyer acting as a guardian, mortgagee, personal representative or trustee is not entitled to be paid out of or to charge to a trust, an estate, a fund, mortgaged property or a mortgage loan for which the lawyer performs lawyer's services unless

(a) the Court orders the amount paid or charged,

(b) every person interested in the trust, estate, fund, mortgaged property or mortgage loan is legally competent and agrees to the payment or the charge, or

(c) the lawyer's charges have been reviewed and certified by a review officer.

(3) This rule does not apply to client funds held by a lawyer in the lawyer's trust account.

Charging order for payment of lawyer's charges

10.4(1) On application by a lawyer, the Court may declare property specified in its order, including property that may be subsequently recovered in an action, to be subject to a charge as security for payment of the lawyer's charges.

(2) The order referred to in subrule (1) may only be made if

(a) the lawyer establishes to the Court's satisfaction that the lawyer's charges will not be or are unlikely to be paid unless the order is made, and

(b) the property to be the subject of the charge is associated with

(i) the action conducted by the lawyer on the client's behalf, and

(ii) the lawyer's services result in the recovery or preservation of the client's property.

(3) An order may also be made under this rule if

(a) a lawyer who performed services for a client in the recovery or preservation of property under a contingency fee agreement ceases to be the client's lawyer before the event or contingency occurs and those services are likely to, or might, result in the recovery or preservation of the client's property, and

(b) the requirements of subrule (2)(a) and (b) are met.

(4) On application, the Court may make any other order necessary to obtain the amount required to pay the lawyer's charges from the property subject to the charge.

(5) An order must not be made under this rule if in all the circumstances the Court considers that to make the order would be unfair.

(6) Nothing defeats or affects a charge on property imposed under this rule unless the property is disposed of to a bona fide purchaser for value without notice of the charge.

Subdivision 2
Retainer Agreements

Retainer agreements

10.5(1) A lawyer may make an agreement with a client about the amount and manner of payment of the whole or any part of past or future lawyer's charges for services performed by the lawyer.

(2) The amount a lawyer is to be paid may be determined in any appropriate way, including

(a) a gross sum,

(b) commission,

(c) percentage,

(d) salary, or

(e) an hourly rate.

(3) The amount payable may be at the same or at a greater or lesser rate than the rate to which the lawyer would be entitled under rule 10.2 *[Payment for lawyer's services and contents of lawyer's account]* if no retainer agreement were entered into.

Void provisions

10.6(1) In a retainer agreement or otherwise, a provision is void if the provision

(a) purports to relieve a lawyer from liability for negligence or any other liability to which the lawyer might be subject as a lawyer, or

(b) purports to provide that an action, application or proceeding cannot be abandoned, discontinued or settled without a lawyer's consent.

(2) Despite any agreement to the contrary, a client may change the client's lawyer or act on the client's own behalf before a retainer agreement ends.

Information note

The rules about self-representing are in rule 2.28 *[Change in lawyer of record or self-representation]*.

Subdivision 3
Contingency Fee Agreements

Contingency fee agreement requirements

10.7(1) A contingency fee agreement must

(a) be in writing, and

(b) be signed by the lawyer and the lawyer's client or by their authorized agents.

(2) To be enforceable, a contingency fee agreement must contain the following particulars in precise and understandable terms:

(a) the name and address of each client;

(b) the name and address of the lawyer;

(c) a statement of the nature of the claim;

(d) a statement of the event or contingency on which the lawyer's fees are to be paid to the lawyer;

(e) a statement about

(i) the manner in which the contingency fee is to be calculated, provided that no fee, calculated as a percentage or otherwise, may be payable on disbursements or other charges recovered,

(ii) the maximum fee payable, or the maximum rate calculated, detailing the disbursements and other charges that are included in that fee or rate or indicating that disbursements and other charges are in addition to that fee or rate, and

(iii) whether the client is responsible to pay disbursements and other charges, and if so, a general description of the types of disbursements and other charges likely to be incurred, other than relatively minor disbursements;

(f) if the lawyer is to receive any amount from a costs award, a statement that

(i) the cost award is intended to be a complete or partial reimbursement of the lawyer's charges to the client,

(ii) the cost award is owned by the client and that by signing the contingency fee agreement the client is waiving the right to any amount from the costs award that is payable to the lawyer in accordance with subclause (iv),

(iii) the amount from the costs award retained by the lawyer will be in addition to the lawyer's percentage, fixed fees or other form of legal fees, and

(iv) the percentage of the costs award that the lawyer may receive may not exceed the percentage of the judgment or settlement that the lawyer is entitled to;

(g) a statement that, if the client gives notice in writing to the lawyer within 5 days after the client's copy of the contingency fee agreement is served on the client, the client may terminate the contingency fee agreement without incurring any liability for the lawyer's fees, but that the client is liable to reimburse the lawyer for reasonable disbursements;

(h) a statement that

(i) at the request of the client, a review officer may review either or both of the contingency fee agreement and any lawyer's charges in an account rendered under the agreement, and

(ii) either or both of the contingency fee agreement or any lawyer's charges may be further reviewed by way of an appeal from a review officer's decision to a judge.

(3) The contingency fee agreement must be witnessed by a person who sees the client sign the agreement, and that person must then swear an affidavit of execution.

(4) The client must be served with a copy of the signed contingency fee agreement within 10 days after the date on which the agreement is signed, and an affidavit of service to that effect must be executed by the person who served the agreement.

(5) A client may terminate a contingency fee agreement without incurring any liability for the lawyer's fees under the agreement if the client, within 5 days after service on the client of the copy of the contingency fee agreement, gives written notice of the termination to the lawyer, but the client is liable to reimburse the lawyer for reasonable disbursements incurred by the lawyer.

(6) If a contingency fee agreement provides that a lawyer is entitled to an amount from a costs award, the lawyer is not entitled to receive from the costs award any higher percentage of the judgment or settlement than the lawyer is entitled to receive under the contingency fee agreement.

(7) Every account rendered under a contingency fee agreement must contain a statement that at the client's request a review officer may determine both the reasonableness of the account and the reasonableness of the contingency fee agreement.

(8) An account that does not contain the statement required by subrule (7) is of no effect unless the Court

(a) is satisfied

(i) that the omission of the statement was inadvertent, and

(ii) the client has not been misled or prejudiced,

and

(b) the Court waives the requirement for the statement.

AR 124/2010 s10.7;128/2015

Information note

The transitional provisions of these rules contain rules protecting former contingency fee agreements entered into before these rules come into force. See Part 15 *[Transitional Provisions and Coming Into Force]*.

Lawyer's non-compliance with contingency fee agreement

10.8 If a lawyer does not comply with rule 10.7(1) to (4), (6) and (7) *[Contingency fee agreement requirements]*, the lawyer is, on successful accomplishment or disposition of the subject-matter of the contingency fee agreement, entitled only to lawyer's charges determined in accordance with rule 10.2 *[Payment for lawyer's services and contents of lawyer's account]* as if no contingency fee agreement had been entered into.

Subdivision 4
Right of Review

Reasonableness of retainer agreements and charges subject to review

10.9 The reasonableness of a retainer agreement and the reasonableness of a lawyer's charges are subject to review by a review officer in accordance with these rules, despite any agreement to the contrary.

Time limitation on reviewing retainer agreements and charges

10.10(1) A retainer agreement may not be reviewed if 6 months has passed after the date on which the retainer agreement terminated.

(2) A lawyer's charges may not be reviewed, whether at the request of the lawyer or the client, if 6 months has passed after the date on which the account was sent to the client.

AR 124/2010 s10.10;140/2013

Who may request review of lawyer's charges

10.11 A lawyer's charges may be reviewed in Alberta

(a) at the request of a client if

(i) the lawyer resides in Alberta,

(ii) the lawyer's principal office is in Alberta,

(iii) the lawyer's charges specify an Alberta address for the lawyer or the law firm of the lawyer,

(iv) most of the services were performed in Alberta,

(v) the services were performed in connection with legal proceedings commenced in Alberta in which the lawyer was a lawyer of record, or

(vi) the retainer agreement between the lawyer and the client so provides,

and

(b) at the request of the lawyer if

(i) the client resides in Alberta,

(ii) the principal office or place of business of the client is in Alberta,

(iii) most of the services were performed in Alberta and the lawyer has no office in the jurisdiction outside Alberta where the client resides or carries on business, or

(iv) the retainer agreement between the lawyer and the client so provides.

Location of review

10.12(1) Where a lawyer carries on business in Alberta, the lawyer's charges may be reviewed by a review officer at the judicial centre nearest to where the lawyer carries on business.

(2) Where a lawyer does not carry on business in Alberta but the client resides in Alberta, the lawyer's charges may be reviewed by a review officer at the judicial centre nearest to where the client resides.

(3) Notwithstanding subrules (1) and (2), and in any other case, the Court may designate a location for the review of the lawyer's charges.

Appointment for review

10.13(1) A lawyer or a client may, by request, obtain from a review officer an appointment date for a review of a retainer agreement or a lawyer's charges, or both.

(2) If a lawyer obtains an appointment date, the lawyer must file

(a) a notice of the appointment in Form 42,

(b) a copy, in a sealed envelope, of any retainer agreement between the lawyer and the client, and

(c) if the appointment is for a review of the lawyer's charges, a copy of a signed account of the lawyer's charges that are to be reviewed.

(3) If a client obtains an appointment date, the client must file

(a) a notice of the appointment in Form 42,

(b) a copy, in a sealed envelope, of any retainer agreement between the lawyer and the client, if a copy is available, and

(c) if the appointment is for a review of a lawyer's charges, a copy of the lawyer's account that is to be reviewed, if a copy is available.

(4) The client or the lawyer who obtains an appointment date for review must serve copies of the documents filed under subrule (2) or (3) on the other party to the review and any other interested party 10 days or more before the appointment date, or within any other period specified by a review officer.

AR 124/2010 s10.13;140/2013

Client-obtained appointment: lawyer's responsibility

10.14(1) If a lawyer is served with notice of an appointment for a review of the lawyer's charges or retainer agreement, or both, the lawyer must file

(a) a copy of the account, appropriately signed, in respect of which the client seeks a review,

(b) a copy of any time records upon which the account is based, and

(c) a copy, in a sealed envelope, of any retainer agreement between the lawyer and the client whether or not the lawyer intends to rely on them.

(2) The documents must be filed 5 days or more before the appointment date or within any other period specified by a review officer, and the review officer may vary the period before or after the time limit has passed.

(3) If the lawyer does not comply with this rule, the lawyer forfeits the right to payment of the lawyer's charges in any account that is the subject of a review unless the review officer otherwise directs.

AR 124/2010 s10.14;140/2013;128/2015

Retainer agreement confidentiality

10.15 The content of a retainer agreement filed under rule 10.13 *[Appointment for review]* or 10.14 *[Client obtained appointment: lawyer's responsibility]* is confidential and, unless otherwise ordered by the Court,

(a) the court clerk, a review officer and any person under their supervision must not disclose to any person the information in the agreement and

(b) the copy of the agreement or information that is filed is not available for inspection by any person other than

(i) a party to the agreement,

(ii) a review officer, or

(iii) the Court.

AR 124/2010 s10.15;140/2013

Absence of person at appointment for review

10.16 A review officer may, on proof of service of the notice of appointment for review, proceed with the review of a retainer agreement or a lawyer's charges despite the absence of the person served.

Review officer's authority

10.17(1) For the purpose of conducting a review under this Division, a review officer may do all or any of the following:

(a) take evidence either by affidavit or orally under oath, or both;

(b) direct the production of records;

(c) require notice of the appointment for the review to be served on persons who may be affected by the review or who have an interest in the trust, estate, fund or property from which the lawyer's charges are or may be paid or charged;

(d) give directions about how notice of the appointment for the review is to be served;

(e) allow a party to be represented by a lawyer;

(f) require details of a retainer agreement, or of the services provided, money collected and expended, disbursements or other charges claimed or any other matter necessary to understand the agreement or charges and decide whether the agreement or charges, or both, are reasonable;

(g) validate service of the notice of the appointment or, if service is impractical or impossible, dispense with service.

(2) A review officer may not review either a retainer agreement or a lawyer's charges that have previously been reviewed by a review officer unless the Court so orders or the parties agree.

Reference to Court

10.18(1) A review officer

(a) must refer any question arising about the terms of a retainer agreement to the Court for a decision or direction, and

(b) may refer any question arising about a lawyer's charges to the Court for a decision or direction.

(2) The review officer may do all or any of the following:

(a) require one party to serve another party or other interested person with notice of the reference;

(b) specify how a reference to the Court is to be prepared and by whom;

(c) prescribe time limits;

(d) specify any other matter for the effective and efficient disposition of the reference.

(3) On considering a question referred to it, the Court may make any order it considers appropriate in the circumstances, including

(a) an order to enforce a direction given under rule 10.17 *[Review officer's authority]* , or

(b) with respect to a review of the terms of a retainer agreement, an order approving the agreement or varying or disallowing the agreement in whole or in part.

(4) If a contingency fee agreement is disallowed, the amount payable to the lawyer for the lawyer's charges must be determined under rule 10.2 *[Payment for lawyer's services and contents of lawyer's account]*.

Review officer's decision

10.19(1) A review of a lawyer's charges must take into consideration the factors described in rule 10.2 *[Payment for lawyer's services and contents of lawyer's account]*, except to the extent that a retainer agreement otherwise provides.

(2) A review of a retainer agreement must be based on the circumstances that existed when the retainer agreement was entered into.

(3) The review officer may, in a review of a lawyer's charges, allow the charges, or vary, reduce or disallow all or any of the charges, and certify the amount payable for and against each party, and may issue an interim certificate.

(4) A review officer's decision must be given by an interim or final certificate, which may be endorsed on a copy of the lawyer's account, and the certificate must

(a) certify the amount to be paid by each party or person,

(b) certify any special circumstance and the amount to be paid by each party or person with respect to the special circumstance, and

(c) be dated and signed by the review officer.

(5) An interim or final certificate of a review officer that meets the requirements set out in subrule (4) is conclusive proof of the amount that a party or person who had notice of the review must pay.

Enforcement of review officer's decision

10.20(1) The Court may direct a decision of a review officer to be entered as a judgment or order.

(2) No direction may be made under subrule (1) before the time for an appeal of the review officer's decision has expired or, if the decision is being appealed, before a decision is made under rule 10.27 *[Decision of the judge]*.

Repayment of charges

10.21 On application by a client, the Court may order a lawyer whose charges are disallowed, reduced, varied or forfeited to repay to the client all or any part of the lawyer's charges paid by the client.

Action for payment of lawyer's charges

10.22 If an action is brought for payment of a lawyer's charges,

(a) despite rule 3.36 *[Judgment in default of defence and noting in default]*, no judgment may be entered in default of defence without the Court's permission, and

(b) no costs award with respect to the action is to be made unless the Court specifically so orders.

Information note

This rule is an exception to

- the general rule that judgment may be entered against a defendant who does not file a statement of defence or demand for notice (see rule 3.36 *[Judgment in default of defence and noting in default]*, and
- the general rule that a successful party is entitled to a costs award.

A lawyer who obtains a default judgment gets costs only if the Court so orders.

Costs of review

10.23 A review officer may allow or disallow the reasonable and proper costs of a review and fix the amount but may not make a costs award

(a) against the client as a result of a client-requested review unless the client's request was unreasonable or the client acts improperly or unreasonably at the review, or

(b) against the client as a result of a lawyer-requested review unless the client acts improperly or unreasonably at the review and the Court approves the costs award.

Reviewing lawyer's charges: incomplete services and particular events

10.24(1) If any of the following events occurs, a lawyer, the lawyer's personal representative or a client may make an appointment with a review officer for the purpose of determining the amount of the lawyer's charges payable by the client:

(a) the lawyer dies;

(b) the lawyer is suspended, disbarred or incapacitated;

(c) the lawyer ceases to be the client's lawyer or the client ceases to be the lawyer's client;

(d) a dispute arises about the apportionment of contingency fees under a contingency fee agreement under which 2 or more lawyers are engaged, whether or not the contingency has occurred;

(e) the client retains a new lawyer in the action;

(f) the client unreasonably discontinues or abandons any matter to which a contingency fee agreement applies;

(g) any other event that creates uncertainty about a lawyer's charges or who is to pay them or to whom they are to be paid.

(2) When making a decision under this rule, the review officer must take into consideration the factors described in rule 10.2 *[Payment for lawyer's services and contents of lawyer's account]*, except to the extent that a retainer agreement otherwise provides.

Order to return records

10.25 On application by a client, the Court may order a lawyer to deliver to a person named in the order any record of the client under the lawyer's control.

Subdivision 5
Appeal from Review Officer's Decision

Appeal to judge

10.26(1) A party to a review officer's decision under this Division may appeal the decision to a judge.

(2) The appeal from a review officer's decision is an appeal on the record of proceedings before the review officer.

(3) The record of proceedings is

(a) Form 42 served under rule 10.13(2),

(b) the material the parties filed to support or oppose, or that was required for, the review,

(c) the transcript of the proceedings before the review officer, unless the judge waives this requirement, and

(d) the review officer's certificate.

(4) The appellant must file and serve on the respondent to the appeal, within one month after the date of the review officer's decision,

(a) notice of the appeal in Form 43 including the date, time and place of the hearing,

(b) the record of proceedings described in subrule (3) or, if the transcript is not available at the time of filing, confirmation that the transcript of the proceedings has been ordered, and

(c) any further written argument.

(5) The respondent to the appeal must, within 10 days after service of the notice of appeal, file and serve on the appellant any written argument the respondent wishes to make.

Decision of judge

10.27(1) After hearing an appeal from a review officer's decision, the judge may, by order, do one or more of the following:

(a) confirm, vary or revoke the decision;

(b) revoke the decision and substitute a decision;

(c) revoke all or part of the decision and refer the matter back to the review officer or to another review officer;

(d) make any other order the judge considers appropriate.

(2) If the amount of lawyer's charges payable pursuant to the decision of the review officer has been paid and, after payment, is reduced on appeal, the lawyer may be ordered to return the excess and, if the lawyer fails to do so, the lawyer, in addition to being liable for that amount, may be found guilty of a civil contempt.

AR 124/2010 s10.27;163/2010

Division 2
Recoverable Costs of Litigation

Subdivision 1
General Rule, Considerations and Court Authority

Definition of "party"

10.28 In this Division, "party" includes a person filing or participating in an application or proceeding who is or may be entitled to or subject to a costs award.

Information note

Party is defined in the Appendix *[Definitions]* as a party to an action. There are other Court proceedings that are not "actions" and so the definition of *party* is expanded to allow a costs award against anyone participating in an application or proceeding that is not an action started by statement of claim or originating application.

General rule for payment of litigation costs

10.29(1) A successful party to an application, a proceeding or an action is entitled to a costs award against the unsuccessful party, and the unsuccessful party must pay the costs forthwith, notwithstanding the final determination of the application, proceeding or action, subject to

(a) the Court's general discretion under rule 10.31 *[Court-ordered costs award]*,

(b) the assessment officer's discretion under rule 10.41 *[Assessment officer's decision]*,

(c) particular rules governing who is to pay costs in particular circumstances,

(d) an enactment governing who is to pay costs in particular circumstances, and

(e) subrule (2).

(2) If an application or proceeding is heard without notice to a party, the Court may

(a) make a costs award with respect to the application or proceeding, or

(b) defer making a decision on who is liable to pay the costs of the application or proceeding until every party is served with notice of the date, time and place at which the Court will consider who is liable to pay the costs.

When costs award may be made

10.30(1) Unless the Court otherwise orders or these rules otherwise provide, a costs award may be made

(a) in respect of an application or proceeding of which a party had notice, after the application has been decided,

(b) in respect of a settlement of an action, application or proceeding, or any part of any of them, in which it is agreed that one party will pay costs without determining the amount, and

(c) in respect of trials and all other matters in an action, after judgment or a final order has been entered.

(2) If the Court does not make a costs award or an order for an assessment officer to assess the costs payable when an application or proceeding is decided or when judgment is pronounced or a final order is made, either party may request from an assessment officer an appointment date for an assessment of costs under rule 10.37 *[Appointment for assessment]*.

Court-ordered costs award

10.31(1) After considering the matters described in rule 10.33 *[Court considerations in making a costs award]*, the Court may order one party to pay to another party, as a costs award, one or a combination of the following:

(a) the reasonable and proper costs that a party incurred to file an application, to take proceedings or to carry on an action, or that a party incurred to participate in an application, proceeding or action, or

(b) any amount that the Court considers to be appropriate in the circumstances, including, without limitation,

(i) an indemnity to a party for that party's lawyer's charges, or

(ii) a lump sum instead of or in addition to assessed costs.

(2) Reasonable and proper costs under subrule (1)(a)

(a) include the reasonable and proper costs that a party incurred to bring an action;

(b) unless the Court otherwise orders, include costs incurred by a party

(i) in an assessment of costs before the Court, or

(ii) in an assessment of costs before an assessment officer;

(c) do not include costs related to a dispute resolution process described in rule 4.16 *[Dispute resolution processes]* or a judicial dispute resolution process under an arrangement described in rule 4.18 *[Judicial dispute resolution arrangement]* unless a party engages in serious misconduct in the course of the dispute resolution process or judicial dispute resolution process;

(d) do not include, unless the Court otherwise orders, the fees and other charges of an expert for an investigation or inquiry or the fees and other charges of an expert for assisting in the conduct of a summary trial or a trial.

(3) In making a costs award under subrule (1)(a), the Court may order any one or more of the following:

(a) one party to pay to another all or part of the reasonable and proper costs with or without reference to Schedule C *[Tariff of Recoverable Fees]*;

(b) one party to pay to another an amount equal to a multiple, proportion or fraction of an amount set out in any column of the tariff in Division 2 of Schedule C *[Tariff of Recoverable Fees]* or an amount based on one column of the tariff, and to pay to another party or parties an amount based on amounts set out in the same or another column;

(c) one party to pay to another party all or part of the reasonable and proper costs with respect to a particular issue, application or proceeding or part of an action;

(d) one party to pay to another a percentage of assessed costs, or assessed costs up to or from a particular point in an action.

(4) The Court may adjust the amount payable by way of deduction or set-off if the party that is liable to pay a costs award is also entitled to receive an amount under a costs award.

(5) In appropriate circumstances, the Court may order, in a costs award, payment to a self-represented litigant of an amount or part of an amount equivalent to the fees specified in Schedule C *[Tariff of Recoverable Fees]*.

(6) The Court's discretion under this rule is subject to any specific requirement of these rules about who is to pay costs and what costs are to be paid.

Costs in class proceeding

10.32 In a proceeding under the *Class Proceedings Act* or in a representative action, the Court, in determining whether a costs award should be made against the unsuccessful representative party, may take into account one or more of the following factors, in addition to any other factors the Court considers appropriate:

(a) the public interest;

(b) whether the action involved a novel point of law;

(c) whether the proceeding or action was a test case;

(d) access to justice considerations.

Court considerations in making costs award

10.33(1) In making a costs award, the Court may consider all or any of the following:

(a) the result of the action and the degree of success of each party;

(b) the amount claimed and the amount recovered;

(c) the importance of the issues;

(d) the complexity of the action;

(e) the apportionment of liability;

(f) the conduct of a party that tended to shorten the action;

(g) any other matter related to the question of reasonable and proper costs that the Court considers appropriate.

(2) In deciding whether to impose, deny or vary an amount in a costs award, the Court may consider all or any of the following:

(a) the conduct of a party that was unnecessary or that unnecessarily lengthened or delayed the action or any stage or step of the action;

(b) a party's denial of or refusal to admit anything that should have been admitted;

(c) whether a party started separate actions for claims that should have been filed in one action or whether a party unnecessarily separated that party's defence from that of another party;

(d) whether any application, proceeding or step in an action was unnecessary, improper or a mistake;

(e) an irregularity in a commencement document, pleading, affidavit, notice, prescribed form or document;

(f) a contravention of or non-compliance with these rules or an order;

(g) whether a party has engaged in misconduct.

Information note

The Court has complete discretion over what to order in a costs award unless a specific rule limits that discretion.

The typical starting point will be to decide what are the reasonable and proper costs incurred in carrying on litigation: see rule 10.31 *[Court-ordered costs award]*. Rule 10.33(1) *[Court considerations in making a costs award]* sets out a list of matters the Court may consider related to the litigation (degree of success, amount involved, complexity and so on) and under subrule (2) the Court may consider matters related to the conduct of the parties, including unnecessary steps or delay, misconduct, and contravention of the rules or contravention of Court orders. If the conduct of a party is found to be inappropriate, the Court can impose, deny or vary an amount that otherwise would have been allowed in the costs award.

Note that some rules have immediate costs consequences; for example, rule 5.12 *[Penalty for not serving affidavit of records]* contains a specific sanction for not serving an affidavit of records in accordance with the rules.

Court-ordered assessment of costs

10.34(1) The Court may order an assessment of costs by an assessment officer and may give directions to the assessment officer about the assessment.

(2) The Court must keep a record on the court file of a direction

(a) given to an assessment officer,

(b) requested by a party and refused by the Court, or

(c) requested by a party that the Court declines to make but leaves to an assessment officer's discretion.

Subdivision 2
Assessment of Costs by Assessment Officer

Preparation of bill of costs

10.35(1) A party entitled to payment of costs must prepare a bill of costs in Form 44

(a) if that party wishes or is required to have the costs assessed by an assessment officer, or

(b) on request of a party who is required to pay the costs.

(2) The bill of costs must

(a) itemize all the costs sought to be recovered, distinguishing between fees, disbursements and other charges, and

(b) be signed by the person responsible for its preparation.

Assessment of bill of costs

10.36(1) After a judgment or order has been entered, an assessment officer, in accordance with any Court direction or order, may make an assessment of costs payable in accordance with rule 10.41 *[Assessment officer's decision]* in any of the following circumstances:

(a) under rule 3.36(3) *[Judgment in default of defence and noting in default]*;

(b) under rule 3.37(1) *[Application for judgment against defendant noted in default]*;

(c) under rule 3.38 *[Judgment for recovery of property]*;

(d) under rule 3.39 *[Judgment for debt or liquidated demand]*.

(2) In cases other than those referred to in subrule (1), the amount assessed under rule 10.41 *[Assessment officer's decision]* as payable by one party to another must be determined by way of an appointment with an assessment officer unless the Court or the assessment officer otherwise permits.

(3) Despite subrules (1) and (2), if one party approves a bill of costs prepared by another party adverse in interest, an assessment officer must certify the bill of costs under rule 10.43 *[Certification of costs payable]*, without change.

Appointment for assessment

10.37(1) A party entitled to payment of costs may obtain from an assessment officer an appointment date for an assessment of costs.

(2) If a party entitled to payment of costs makes the appointment, that party must, 10 days or more before the appointment date,

(a) file a proposed bill of costs, and

(b) serve every party affected by the appointment with notice of the appointment date in Form 45 and the proposed bill of costs.

(3) If any other party obtains an appointment date, that party must

(a) 20 days or more before the appointment date, serve notice of the appointment date in Form 45 on every party affected, and

(b) serve on the party entitled to payment of costs a request that the entitled party prepare a proposed bill of costs.

(4) The recipient of the request to prepare a proposed bill of costs must do so as soon as practicable and file it and serve it on every other party 10 days or more before the appointment date.

(5) An assessment officer may vary a time period referred to in this rule whether or not the period has passed.

Assessment officer's authority

10.38(1) For the purpose of assessing costs payable, an assessment officer may do all or any of the following:

(a) take evidence either by affidavit or orally under oath, or both;

(b) direct the production of records;

(c) require notice of the appointment for the assessment to be served on persons who may be affected by the assessment or who have an interest in the trust, estate, fund or property from which the costs are or may be paid or charged;

(d) give directions about how a notice of the appointment for the assessment is to be served;

(e) allow a party to be independently represented by a lawyer;

(f) require details of the services provided and disbursements or other charges claimed or require information about any other matter necessary to understand the reason for an item in the bill of costs and to decide whether the item and charge is reasonable and proper;

(g) validate service of the notice of the appointment or, if service is impractical or impossible, dispense with service.

(2) An assessment officer may not conduct an assessment of costs that have previously been assessed by an assessment officer unless the Court so orders or the parties agree.

Reference to Court

10.39(1) An assessment officer may direct any question arising about the assessment of costs payable to be referred to the Court for a decision or direction.

(2) The assessment officer may do all or any of the following:

(a) require one party to serve another party or other interested person with notice of the reference;

(b) specify how a reference to the Court is to be prepared and by whom;

(c) prescribe time limits;

(d) specify any other matter for the effective and efficient disposition of the reference.

(3) On considering a question referred to it, the Court may make any order it considers appropriate in the circumstances, including an order to enforce a direction given under rule 10.38 *[Assessment officer's authority]*.

Absence of person served with notice of appointment for assessment

10.40 An assessment officer may, on proof of service of the notice of appointment and proposed bill of costs, proceed with the assessment of costs payable despite the absence of the person served.

Assessment officer's decision

10.41(1) Subject to an order, if any, an assessment officer may, with respect to an assessment of costs payable, determine whether the costs that a party incurred to

(a) file an application,

(b) take proceedings,

(c) carry on an action, or

(d) participate in an action, application or proceeding,

are reasonable and proper costs.

(2) Reasonable and proper costs of a party under subrule (1)

(a) include the reasonable and proper costs that a party incurred to bring an action,

(b) unless the Court otherwise orders, include costs that a party incurred in an assessment of costs before the Court,

(c) unless the Court or an assessment officer otherwise directs, include costs that a party incurred in an assessment of costs before an assessment officer,

(d) do not include costs related to a dispute resolution process described in rule 4.16 *[Dispute resolution processes]* or a judicial dispute resolution process under an arrangement described in rule 4.18 *[Judicial dispute resolution arrangement]* unless a party engages in serious misconduct in the course of the dispute resolution process or the judicial dispute resolution process, and

(e) do not include, unless the Court otherwise orders, the fees and other charges of an expert for an investigation or inquiry, or the fees and other charges of an expert for assisting in the conduct of a summary trial or a trial.

(3) In making an assessment under subrule (1) and taking into account the conduct of the parties, the assessment officer

(a) may decide whether an item in the bill of costs is reasonably and properly incurred,

(b) may disallow an item in a bill of costs that is improper, unnecessary, excessive or a mistake,

(c) may fix the amount recoverable for services performed by a lawyer that are not specified or described in Schedule C *[Tariff of Recoverable Fees]*,

(d) may not allow lawyer's fees at more than the amounts specified in Schedule C *[Tariff of Recoverable Fees]* except when these rules, including the Schedule, explicitly permit or a written agreement expressly provides for a different basis for recovery,

(e) may not reduce an amount provided for in Schedule C *[Tariff of Recoverable Fees]*

(i) unless Schedule C *[Tariff of Recoverable Fees]* so permits, or

(ii) except in exceptional circumstances,

and

(f) may, in exceptional circumstances, reduce an amount, or allow a fraction of an amount, if the services were incomplete or limited.

(4) If the assessment officer disallows or reduces a fee specified in Schedule C *[Tariff of Recoverable Fees]*, the assessment officer must give reasons for doing so.

(5) If a party that is liable to pay costs is also entitled to payment of costs, the assessment officer may

(a) adjust the amount payable by way of deduction or set-off, or

(b) delay ordering the payment of costs to a party until that party has paid any costs for which that party is liable.

Actions within Provincial Court jurisdiction

10.42(1) This rule applies only to actions the subject-matter of which is within the jurisdiction of the Provincial Court.

(2) Despite anything in this Division or Schedule C *[Tariff of Recoverable Fees]*, unless the Court otherwise orders,

(a) in the case of an action brought in the Court of Queen's Bench for which the amount sued for or the amount of the judgment or order does not exceed the amount for which the Provincial Court has jurisdiction under section 9.6 of the *Provincial Court Act*, the costs to and including judgment or order must be assessed, if at all, at not more than 75% of the amount specified in Column 1 of the tariff in Division 2 of Schedule C *[Tariff of Recoverable Fees]*;

(b) in the case of an action described in clause (a), post-judgment matters are to be assessed, if at all, at not more than 100% of the amount specified in Column 1 of the tariff in Division 2 of Schedule C *[Tariff of Recoverable Fees]*.

Certification of costs payable

10.43(1) An assessment officer's decision must be given by an interim or final certificate, which may be endorsed on a bill of costs, and which must

(a) certify the amount to be paid by each party or person,

(b) certify any special circumstance and the amount to be paid by each party or person with respect to the special circumstance, and

(c) be dated and signed by the assessment officer.

(2) A certificate that meets the requirements stated in subrule (1) is conclusive proof of the amount that a party or person who had notice of the assessment must pay.

Subdivision 3
Appeal from Assessment Officer's Decision

Appeal to judge

10.44(1) A party to an assessment officer's decision under this Division or a party to an assessment officer's decision under rule 9.35 *[Checking calculations: assessment of costs and corrections]* may appeal the decision to a judge.

(2) The appeal from an assessment officer's decision is an appeal on the record of proceedings before the assessment officer.

(3) The record of proceedings is

(a) Form 45 served under rule 10.37(2),

(b) the material the parties filed to support or oppose, or that was required for, the assessment,

(c) the transcript of the proceedings before the assessment officer, unless the judge waives this requirement, and

(d) the assessment officer's certificate.

(4) The appellant must file and serve on the respondent to the appeal, within one month after the date of the assessment officer's decision,

(a) notice of the appeal in Form 46,

(b) the record of proceedings described in subrule (3) or, if the transcript is not available at the time of filing, confirmation that the transcript of the proceedings has been ordered, and

(c) any further written argument.

(5) The respondent to the appeal must, within 10 days after service of the notice of appeal, file and serve on the appellant any written argument the respondent wishes to make.

Decision of the judge

10.45(1) After hearing an appeal from an assessment officer's decision, the judge may, by order, do one or more of the following:

(a) confirm, vary or revoke the decision;

(b) revoke the decision and substitute a decision;

(c) revoke all or part of the decision and refer the matter back to the same or another assessment officer;

(d) make any other order the judge considers appropriate.

(2) If the amount of costs payable as originally assessed by the assessment officer has been paid and, after payment, is reduced on appeal, the judge hearing the appeal may order the return of the excess by the party who has received it and the order may be enforced as an order of the Court.

AR 124/2010 s10.45;163/2010

Division 3
Other Matters Related to Lawyers' Charges and Litigation Costs

Review and assessment under enactments

10.46(1) If an enactment requires or authorizes an amount to be considered, taxed, assessed or reviewed under these rules, a review officer or an assessment officer, as the circumstances require, must consider, tax, assess or review the amount

(a) in accordance with the enactment, and

(b) in accordance with any of these rules that apply or that can be applied or should be applied by analogy.

(2) If an enactment requires or authorizes both lawyers' charges and other costs of proceedings to be considered, taxed, assessed or reviewed under these rules, a review officer must perform the function

(a) in accordance with the enactment, and

(b) in accordance with any of these rules that apply or that can be applied or should be applied by analogy.

(3) A review officer or assessment officer acting under this rule has all the powers that the officer has in carrying out a review or an assessment of costs under this Part in addition to any powers that the officer has under the enactment.

(4) A decision of a review officer or an assessment officer may be appealed under rule 10.26 *[Appeal to judge]* or 10.44 *[Appeal to judge]*, as circumstances permit, and rule 10.27 *[Decision of the judge]* or 10.45 *[Decision of the judge]* applies as the case requires.

Liability of litigation representative for costs

10.47(1) A litigation representative for a plaintiff is liable to pay a costs award against the plaintiff.

(2) A litigation representative for a defendant is not liable to pay a costs award against the defendant unless

(a) the litigation representative has engaged in serious misconduct, and

(b) the Court so orders.

Information note

For rules about litigation representatives see Part 2 *[The Parties to Litigation]* Division 2 *[Litigation Representatives]*.

Recovery of goods and services tax

10.48(1) Unless the Court otherwise orders, a party entitled to a costs award is entitled to an additional amount on account of goods and services tax

(a) on the fees portion of the costs award, and

(b) on those disbursements, if any, that are taxable supplies under the *Excise Tax Act* (Canada).

(2) Notwithstanding subrule (1), no additional amount on account of goods and services tax is recoverable where the tax is refundable or rebateable pursuant to the *Excise Tax Act* (Canada).

AR 124/2010 s10.48;140/2013

Division 4
Sanctions

Subdivision 1
Penalty

Penalty for contravening rules

10.49(1) The Court may order a party, lawyer or other person to pay to the court clerk a penalty in an amount determined by the Court if

(a) the party, lawyer or other person contravenes or fails to comply with these rules or a practice note or direction of the Court without adequate excuse, and

(b) the contravention or failure to comply, in the Court's opinion, has interfered with or may interfere with the proper or efficient administration of justice.

(2) The order applies despite

(a) a settlement of the action, or

(b) an agreement to the contrary by the parties.

Costs imposed on lawyer

10.50 If a lawyer for a party engages in serious misconduct, the Court may order the lawyer to pay a costs award with respect to a person named in the order.

Subdivision 2
Civil Contempt of Court

Order to appear

10.51 The Court may grant an order in Form 47 that requires a person to appear before it, or may order a peace officer to take a person into custody and to bring the person before the Court, to show cause why that person should not be declared to be in civil contempt of Court.

Declaration of civil contempt

10.52(1) Except when a person is before the Court as described in subrule (3)(a)(ii) or (v), before an order declaring a person in civil contempt of Court is made, notice of the application in Form 27 for a declaration of civil contempt must be served on the person in the same manner as a commencement document.

(2) If a lawyer accepts service of a notice of an application seeking an order declaring the lawyer's client to be in civil contempt of Court, the lawyer must notify the client of the notice as soon as practicable after being served.

(3) A judge may declare a person to be in civil contempt of Court if

(a) the person, without reasonable excuse,

(i) does not comply with an order, other than an order to pay money, that has been served in accordance with the rules for service of commencement documents or of which the person has actual knowledge,

(ii) is before the Court and engages in conduct that warrants a declaration of civil contempt of Court,

(iii) does not comply with an order served on the person, or an order of which the person has actual knowledge, to appear before the Court to show cause why the person should not be declared to be in civil contempt of Court,

(iv) does not comply with an order served on the person, or an order of which the person has actual knowledge, to attend for questioning under these rules or to answer questions the person is ordered by the Court to answer,

(v) is a witness in an application or at trial and refuses to be sworn or refuses to answer proper questions, or

(vi) does not perform or observe the terms of an undertaking given to the Court,

or

(b) an enactment so provides.

Punishment for civil contempt of Court

10.53(1) Every person declared to be in civil contempt of Court is liable to any one or more of the following penalties or sanctions in the discretion of a judge:

(a) imprisonment until the person has purged the person's contempt;

(b) imprisonment for not more than 2 years;

(c) a fine and, in default of paying the fine, imprisonment for not more than 6 months;

(d) if the person is a party to an action, application or proceeding, an order that

(i) all or part of a commencement document, affidavit or pleading be struck out,

(ii) an action or an application be stayed,

(iii) a claim, action, defence, application or proceeding be dismissed, or judgment be entered or an order be made, or

(iv) a record or evidence be prohibited from being used or entered in an application, proceeding or at trial.

(2) The Court may also make a costs award against a person declared to be in civil contempt of Court.

(3) If a person declared to be in civil contempt of Court purges the person's contempt, the Court may waive or suspend any penalty or sanction.

(4) The judge who imposed a penalty or sanction for civil contempt may, on notice to the person concerned, increase, vary or remit the penalty or sanction.

Division 5
Medical Examination

Mental disorder

10.54(1) In this rule,

(a) "examination" means a medical examination conducted for the purpose of determining a person's mental state;

(b) "facility" means

(i) a facility as defined in the *Mental Health Act*, or

(ii) a correctional institution as defined in the *Corrections Act*.

(2) If a person is declared to be in civil contempt of Court and the judge is satisfied that there are reasonable and probable grounds to believe that the person is

(a) suffering from a mental disorder, or

(b) likely to cause harm to himself or herself or others or to suffer substantial mental or physical deterioration or serious physical impairment,

and would otherwise be unwilling, on that person's own initiative, to attend an examination, the judge may order that the person be taken into custody by a peace officer and taken to a facility for the purpose of examination and a report to the Court, as directed by the Court.

(3) An order made under subrule (2) is sufficient authority to detain, control, transport, examine, care for, observe, assess and prepare a report for the Court about the person named in the order.

Division 6
Inherent Jurisdiction

Inherent jurisdiction

10.55 Nothing in these rules prevents or is to be interpreted as preventing the Court, as a superior court, from exercising its inherent power to cite in contempt and punish those who disobey the Court's lawful orders or who otherwise display contempt for its process.

Part 11:
Service of Documents

What this Part is about: Many rules require documents to be served on parties to a Court action. This Part describes how the documents that start Court actions (*commencement documents*) and all other documents must be served. Special rules describe how documents are to be served outside Alberta. This Part also includes rules

- for situations that require service to be validated, other methods of service to be used (substitutional service), or service to be dispensed with
- describing how service of documents is proved and the time within which a defendant must apply to set aside service of a commencement document.

Part 11:
Service of Documents

	Starts at rule #
Division 1: General Provisions	11.1
Division 2: Service of Commencement Documents in Alberta	11.3
Division 3: Service of Documents, Other than Commencement Documents, in Alberta	11.20
Division 4: Service of Documents, Other than Commencement Documents, in Foreclosure Actions	11.23
Division 5: Service of Documents Outside Alberta	11.25
Division 6: Validating, Substituting, Dispensing with and Setting Aside Service	11.27
Division 7: Service of Foreign Process	11.32

Information note

Words and phrases used in this Part that have defined meanings in the Appendix *[Definitions]* include:

- claim
- commencement document
- Court
- court clerk
- defendant
- enactment
- file
- foreclosure action
- judgment centre
- land
- lawyer
- order
- partnership
- party
- personal representative
- plaintiff
- property
- recorded mail
- rules
- secured land
- secured property
- trustee

Part 11:
Service of Documents

Division 1
General Provisions

Service of original documents and copies

11.1 When a document must or may be served under these rules, either the original document or a copy of the original document may be served unless the Court otherwise orders.

Service not invalid

11.2 Service by mail or recorded mail is not invalid by reason only that

(a) the addressee refuses to accept the mail,

(b) the addressee returns the mail,

(c) in the case of recorded mail, the addressee refuses to take delivery of the recorded mail, or

(d) the addressee no longer resides or is otherwise not present at the address and has not provided the postal service with a current mailing address.

Division 2
Service of Commencement Documents in Alberta

Agreement between parties

11.3(1) If, in a contract that is the subject of an action, the parties agree on

(a) a place for service,

(b) a mode of service, or

(c) a person on whom service may be effected,

service of a document may be made in accordance with the agreement, and service is effected when so made.

(2) An agreed method of service described in subrule (1) that applies outside Alberta must comply with rule 11.26 *[Methods of service outside Alberta]*.

(3) An agreement about service of documents under this rule does not invalidate the service of a document that otherwise complies with the rules in this Part.

AR 124/2010 s11.3;163/2010

Methods of service in Alberta

11.4 Unless the Court otherwise orders or these rules otherwise provide, a commencement document must be served in Alberta and in accordance with

(a) a method of service provided by an enactment, or

(b) this Division *[Service of Commencement Documents in Alberta]*.

Information note

Several Acts set out methods of service of documents which could be used under rule 11.4(a); for example,

- section 256 of the *Business Corporations Act*
- section 92 of the *Partnership Act*.

When an enactment refers to service by double, single, registered or certified mail, section 24 of the *Interpretation Act* says that this includes

> "any form of mail for which the addressee or a person on behalf of the addressee is required to acknowledge receipt of the mail by providing a signature".

Section 23 of the *Interpretation Act* deals with presumption of service of documents served under an enactment.

Sections 43 to 48 of the *Judicature Act* deal with service of documents during periods of postal interruption.

For service of documents outside Alberta, see rule 11.25 *[Real and substantial connection]* and rule 11.26 *[Methods of service outside Alberta]*.

Note that *recorded mail* is a defined term in the Appendix *[Definitions]* and that *commencement document* means a statement of claim, an originating application, a counterclaim and a third party claim.

Service on individuals

11.5(1) A commencement document may be served on an individual who is not required to be served by another method under this Division by

(a) being left with the individual, or

(b) being sent by recorded mail addressed to the individual.

(2) Service is effected under this rule,

(a) if the document is left with the individual, on the date it is left, or

(b) if the document is sent by recorded mail, on the date acknowledgment of receipt is signed by the individual to whom it is addressed.

Information note

Individuals may be required to be served by other methods in their capacity as trustees or personal representatives (see rule 11.6 *[Service on trustees and personal representatives]*), as litigation representatives (see rule 11.7 *[Service on litigation representatives]*), and as missing persons (see rule 11.8 *[Missing persons]*). Individuals operating a business in a trade name may be served under rule 11.12 *[Service on individuals using another name]*.

Service on trustees and personal representatives

11.6(1) A commencement document may be served on a trustee or personal representative who is an individual

(a) by being left with the trustee or personal representative, or

(b) by being sent by recorded mail addressed to the trustee or personal representative.

(2) Service is effected under subrule (1),

(a) if the document is left with the trustee or personal representative, on the date it is left, or

(b) if the document is sent by recorded mail, on the date acknowledgment of receipt is signed by the trustee or personal representative to whom it is addressed.

(3) A commencement document may be served on a trustee or personal representative that is a corporation in accordance with rule 11.9(1) *[Service on corporations],* and service on the trustee or personal representative is effected in accordance with rule 11.9(2).

Information note

See also rule 2.1 *[Actions by or against personal representatives and trustees]*.

Service on litigation representatives

11.7(1) A commencement document may be served on a litigation representative who is an individual

(a) by being left with the litigation representative, or

(b) by being sent by recorded mail addressed to the litigation representative.

(2) Service is effected under subrule (1),

(a) if the document is left with the litigation representative, on the date it is left, or

(b) if the document is sent by recorded mail, on the date acknowledgment of receipt is signed by the litigation representative to whom it is addressed.

(3) A commencement document may be served on a litigation representative that is a corporation in accordance with rule 11.9(1) *[Service on corporations]*, and service on the litigation representative is effected in accordance with rule 11.9(2).

Information note

Rule 2.12(2) *[Types of litigation representatives and service of documents]* requires documents to be served on litigation representatives and not on the person the litigation representative represents.

Missing persons

11.8(1) A commencement document may be served on an individual who is declared to be a missing person under the *Public Trustee Act*

(a) by being left at the office of the Public Trustee with an individual who appears to have management or control responsibilities in that office, or

(b) by being sent by recorded mail to the Public Trustee.

(2) Service is effected under this rule,

(a) if the document is left with an individual in accordance with subrule (1)(a), on the date it is left, or

(b) if the document is sent by recorded mail, on the date acknowledgment of receipt is signed.

Service on corporations

11.9(1) A commencement document may be served on a corporation

(a) by being left

(i) with an officer of the corporation who appears to have management or control responsibilities with respect to the corporation, or

(ii) with an individual who appears to have management or control responsibilities with respect to the corporation at its principal place of business or activity in Alberta, or at the corporation's place of business or activity in Alberta where the claim arose,

or

(b) by being sent by recorded mail, addressed to the corporation, to the principal place of business or activity in Alberta of the corporation.

(2) Service is effected under this rule,

(a) if the document is left with an individual in accordance with subrule (1)(a), on the date it is left, or

(b) if the document is sent by recorded mail, on the date acknowledgment of receipt is signed.

Information note

The *Business Corporations Act* and the *Companies Act* provide methods for service on corporations and companies incorporated under those Acts and foreign business corporations.

Service on limited partnerships

11.10(1) A commencement document may be served on a limited partnership that is the subject of a claim in the name of the limited partnership

(a) by being left

(i) with an individual who is a general partner, or

(ii) with an individual who appears to have management or control responsibilities with respect to the limited partnership at its principal place of business or activity in Alberta, or at the limited partnership's place of business or activity in Alberta where the claim arose,

or

(b) by being sent by recorded mail, addressed to the limited partnership, to the principal place of business or activity in Alberta of the limited partnership.

(2) Service is effected under subrule (1),

(a) if the document is left with an individual, on the date it is left, or

(b) if the document is sent by recorded mail, on the date acknowledgment of receipt is signed.

(3) If a general partner is a corporation, the commencement document may be served on that general partner in accordance with rule 11.9(1) *[Service on corporations],* and service on the general partner is effected in accordance with rule 11.9(2).

Information note

Rule 2.2 *[Actions by or against partners and partnerships]* authorizes actions by and against partnerships and partners. For service rules on partnerships other than limited partnerships, see rule 11.11 *[Service on partnerships other than limited partnerships]*.

Service on partnerships other than limited partnerships

11.11(1) A commencement document may be served in the name of the partnership on every partnership other than a limited partnership that is the subject of a claim,

(a) by being left

(i) with an individual who is a partner, or

(ii) with an individual who appears to have management or control responsibilities with respect to the partnership at its principal place of business or activity in Alberta, or at the partnership's place of business or activity in Alberta where the claim arose,

or

(b) by being sent by recorded mail, addressed to the partnership, to the principal place of business or activity in Alberta of the partnership.

(2) Service is effected under subrule (1),

(a) if the document is left with an individual in accordance with subrule (1)(a), on the date it is left, or

(b) if the document is sent by recorded mail, on the date acknowledgment of receipt is signed.

(3) If a partner is a corporation, the commencement document may be served on that partner in accordance with rule 11.9(1) *[Service on corporations]*, and service on the partner is effected in accordance with rule 11.9(2).

Service on individuals using another name

11.12(1) If a claim is made against a single individual carrying on business, operating or engaged in an activity under another name, a commencement document may be served on the individual

(a) by being left

(i) with the individual, or

(ii) with an individual who appears to have management or control responsibilities with respect to the business, operation or activity at the principal place of business, operation or activity in Alberta, or at the place of business, operation or activity in Alberta where the claim arose,

or

(b) by being sent by recorded mail, addressed to the business, operation or activity name, to the principal place of business or activity in Alberta of the business, operation or activity.

(2) Service is effected under subrule (1),

(a) if the document is left with an individual in accordance with subrule (1)(a), on the date it is left, or

(b) if the document is sent by recorded mail, on the date acknowledgment of receipt is signed.

Service on a corporation using another name

11.13(1) If a claim is made against a single corporation carrying on business or operating in a name other than its own, a commencement document may be served on that corporation

(a) by being left

(i) with an officer of the corporation who appears to have management or control responsibilities with respect to the corporation, or

(ii) with an individual who appears to have management or control responsibilities with respect to the corporation at the principal place of business or activity in Alberta of the corporation, or at the place of business or activity in Alberta of the corporation at which the claim arose,

or

(b) by being sent by recorded mail, addressed to the business or operating name of the corporation, to the principal place of business or activity in Alberta of the corporation.

(2) Service is effected under this rule,

(a) if the document is left with an individual in accordance with subrule (1)(a), on the date it is left, or

(b) if the document is sent by recorded mail, on the date acknowledgment of receipt is signed.

Information note

See rule 2.5 *[Actions by and against sole proprietors]*.

Service on statutory and other entities

11.14(1) A commencement document may be served on an entity established by or under an enactment, or an entity not otherwise described in this Part, that is capable of being the subject of an action,

(a) by being left

(i) with an officer or administrator of the entity who appears to have management or control responsibilities with respect to the entity, or

(ii) with an individual who appears to have management or control responsibilities with respect to the entity at the entity's principal place of business or activity in Alberta, or at the entity's place of business or activity in Alberta where the claim arose,

or

(b) by being sent by recorded mail, addressed to the entity, to the entity's principal place of business or activity in Alberta.

(2) Service is effected under this rule,

(a) if the document is left with an individual in accordance with subrule (1)(a), on the date it is left, or

(b) if the document is sent by recorded mail, on the date acknowledgment of receipt is signed.

Service on person providing an address for service

11.15(1) In an action, a commencement document may be served on a person who has provided an address for service on a filed document

(a) by being left, addressed to the person, at that address, or

(b) by being sent by recorded mail, addressed to the person, at that address.

(2) Service is effected under subrule (1),

(a) if the document is left at the address, on the date it is left, or

(b) if the document is sent by recorded mail, on the date acknowledgment of receipt is signed.

Service on lawyer

11.16(1) If a lawyer acts for a person in an action and the person must be served with a commencement document, the lawyer may, in writing, accept service on behalf of the person.

(2) Service is effected under this rule on the date service of the commencement document is accepted in writing by the lawyer.

Service on lawyer of record

11.17(1) A commencement document may be served on a party by being served on the lawyer of record for the party

(a) by being left with the lawyer, being left at the lawyer's office, or being left at another address specified by the lawyer, or

(b) by being sent by recorded mail, addressed to the lawyer, to the lawyer's office.

(2) Service is effected under this rule,

(a) if the document is left with the lawyer or at the lawyer's office or at another address specified by the lawyer, on the date it is left, or

(b) if the document is sent by recorded mail, on the date acknowledgment of receipt is signed.

Information note

A lawyer of record is a lawyer whose name appears on a document filed in an action. For rules about lawyers of record, see Part 2 *[The Parties to Litigation]*, starting at rule 2.24 *[Lawyer of record]*.

The lawyer may designate a document exchange facility as the lawyer's address for service.

Service on self-represented litigants

11.18(1) A self-represented litigant may accept, in writing, service of a commencement document.

(2) Service is effected under this rule on the date that the self-represented litigant accepts service of the document in writing.

Information note

Proving service of a document is dealt with in rule 11.30 *[Proving service of documents]*.

Service on business representatives of absent parties

11.19(1) A commencement document may be served on a party who is out of Alberta but who has a representative who resides and carries on the absent party's business in Alberta, if the claim arose in respect of that business,

(a) by being left with the representative, or

(b) by being sent by recorded mail addressed to the representative.

(2) Service is effected under subrule (1),

(a) if the document is left with the representative, on the date it is left, or

(b) if the document is sent by recorded mail, on the date acknowledgment of receipt is signed by the representative.

(3) If the representative described in subrule (1) is a corporation, the corporation may be served in accordance with rule 11.9(1) *[Service on corporations],* and service is effected on the representative in accordance with rule 11.9(2).

Division 3
Service of Documents, Other than Commencement Documents, in Alberta

Service of documents, other than commencement documents, in Alberta

11.20 Unless the Court otherwise orders or these rules or an enactment otherwise provides, every document, other than a commencement document, that is to be served in Alberta may only be served by

(a) a method of service described in Division 2 *[Service of Commencement Documents in Alberta]* for service of a commencement document,

(b) a method of service described in rule 11.21 *[Service by an electronic method]*,

(c) recorded mail under rule 11.22 *[Recorded mail service]*, or

(d) a method of service agreed to under rule 11.3 *[Agreement between parties]*.

Information note

There are a few occasions when non-commencement documents must be served in the same way as commencement documents, for example

- rule 9.21(3)(b) *[Application for new judgment or order]*
- rule 9.22(2)(c) *[Application that judgment or order has been satisfied]*
- rule 10.52(3)(a) *[Declaration of civil contempt]*.

The methods of service described by rule 11.20(a) include service at an address for service on a filed document (under rule 11.15 *[Service on a person providing an address for service]*).

Either the original document or a copy of the original document may be served: see rule 11.1 *[Service of original documents and copies]*.

Service by electronic method

11.21(1) A document, other than a commencement document, may be served by electronic method on a person who has specifically provided an address to which information or data in respect of an action may be transmitted, if the document is sent to the person at the specified address, and

(a) the electronic agent receiving the document at that address receives the document in a form that is usable for subsequent reference, and

(b) the sending electronic agent obtains or receives a confirmation that the transmission to the address of the person to be served was successfully completed.

(2) Service is effected under subrule (1) when the sending electronic agent obtains or receives confirmation of the successfully completed transmission.

(3) In this rule, "*electronic*" and "*electronic agent*" have the same meanings as they have in the *Electronic Transactions Act*.

AR 124/2010 s11.21;163/2010

Information note

Section 1(1)(a) and (b) of the *Electronic Transactions Act*, which define "electronic" and "electronic agent", read as follows:

(a) "electronic" includes created, recorded, transmitted or stored in digital form or in any other intangible form by electronic, magnetic or optical means or by any other means that have similar capabilities for creation, recording, transmission or storage;

(b) "electronic agent" means a computer program or any other electronic means used to initiate an act or to respond to electronic information, records or acts, in whole or in part, without review by an individual at the time of the initiation or response;

Rule 11.21 allows service by fax if the conditions described in the rule are met.

Recorded mail service

11.22(1) A document, other than a commencement document, may be served on a party by being sent by recorded mail, addressed to the party at the address for service provided in the most recently filed document in the action.

(2) Service is effected under this rule on the earlier of

(a) the date acknowledgment of receipt is signed, and

(b) 7 days after the date on which the recorded mail is sent.

AR 124/2010 s11.22;143/2011

Information note

See also rule 11.31(3) *[Setting aside service]* for when service under subrule (2) may be set aside.

Division 4
Service of Documents, Other than Commencement Documents, in Foreclosure Actions

Additional service options in foreclosure actions

11.23(1) In addition to the other methods of service described in this Part, service of every document in a foreclosure action, other than a commencement document, may be effected, unless the Court otherwise orders,

(a) by leaving the document, addressed to the person to be served, at an address described in subrule (2), or

(b) by sending the document by recorded mail, addressed to the person to be served, to an address described in subrule (2).

(2) The addresses referred to in subrule (1) are

(a) the address of the place where the person to be served resides,

(b) if the person to be served carries on business at the address of secured land that is the subject of the action, that address,

(c) if the address of the place where the person to be served resides is not known to the person attempting service or if the person to be served does not carry on business at the address of the secured land that is the subject of the action, then

(i) the address of the person to be served shown on the current title to the secured land, or

(ii) if the person to be served is named as a secured party in a current registration of a security interest in the Personal Property Registry, the address of that person as shown in the registration,

or

(d) in the case of an offeror or tenderer, the address of the offeror or tenderer shown in the offer or tender for secured property.

(3) Service is effected under this rule,

(a) if the document is left at the address, on the date it is left, or

(b) if the document is sent by recorded mail, on the earlier of

(i) the date acknowledgment of receipt is signed, and

(ii) 7 days after the date on which the recorded mail is sent.

Notice of address for service in foreclosure actions

11.24 In a foreclosure action, encumbrancers, tenants, offerors, tenderers, and defendants whether or not they have been noted in default may file and serve on any plaintiff, encumbrancer, tenant, offeror, tenderer or defendant in the action a notice in Form 48 giving an address for service in Alberta, including an address described in rule 11.21 *[Service by electronic method]*, at which any document that is required to be served on them in the action may be served.

Information note

See also rule 3.41 *[When no defence is filed in a foreclosure action]* and rule 3.77 *[Subsequent encumbrancers not parties in a foreclosure action]*.

Division 5
Service of Documents Outside Alberta

Real and substantial connection

11.25(1) A commencement document may be served outside Alberta and in Canada only if

(a) a real and substantial connection exists between Alberta and the facts on which a claim in the action is based, and

(b) the commencement document discloses the facts in support and specifically refers to the grounds for service of the document outside Alberta and in Canada.

(2) A commencement document may be served outside Canada only if

(a) a real and substantial connection exists between Alberta and the facts on which a claim in an action is based and the commencement document is accompanied with a document or affidavit that sets out the grounds for service of the document outside Canada,

(b) the Court, on application supported by an affidavit satisfactory to the Court, permits service outside Canada, and

(c) the person served with the commencement document is also served with a copy of the order permitting service outside Canada.

(3) Without limiting the circumstances in which a real and substantial connection may exist between Alberta and the facts on which a claim in an action is based, in the following circumstances a real and substantial connection is presumed to exist:

(a) the claim relates to land in Alberta;

(b) the claim relates to a contract or alleged contract made, performed or breached in Alberta;

(c) the claim is governed by the law of Alberta;

(d) the claim relates to a tort committed in Alberta;

(e) the claim relates to the enforcement of a security against property other than land by the sale, possession or recovery of the property in Alberta;

(f) the claim relates to an injunction in which a person is to do or to refrain from doing something in Alberta;

(g) the defendant is resident in Alberta;

(h) the claim relates to the administration of an estate and the deceased died while ordinarily resident in Alberta;

(i) the defendant, although outside Alberta, is a necessary or proper party to the action brought against another person who was served in Alberta;

(j) the claim is brought against a trustee in relation to the carrying out of a trust in any of the following circumstances:

(i) the trust assets include immovable or movable property in Alberta and the relief claimed is only as to that property;

(ii) the trustee is ordinarily resident in Alberta;

(iii) the administration of the trust is principally carried on in Alberta;

(iv) by the express terms of a trust document, the trust is governed by the law of Alberta;

(k) the action relates to a breach of an equitable duty in Alberta.

AR 124/2010 s11.25;122/2012

Methods of service outside Alberta

11.26(1) Unless the Court otherwise orders, if a document may be served outside Alberta under these rules, the document must be served

(a) by a method provided by these rules for service of the document in Alberta,

(b) in accordance with a method of service of documents under the *Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters* that is allowed by the jurisdiction in which the document is to be served, if the Convention applies, or

(c) in accordance with the law of the jurisdiction in which the person to be served is located.

(2) Service is effected under this rule,

(a) if the document is served by a method of service provided for service of documents in Alberta, on the date specified by these rules for when service is effected,

(b) if the document is served under the *Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters*, on the date service is effected under the Convention, or

(c) in accordance with the law of the jurisdiction in which the person is served.

Information note

Note that rule 11.26 *[Methods of service outside Alberta]* does not authorize service of non-commencement documents outside Alberta, and neither does rule 11.20 *[Service of documents, other than commencement documents, in Alberta]*. Authority for service outside Alberta for non-commencement documents is found in rule 11.25 *[Real and substantial connection]*.

Division 6
Validating, Substituting, Dispensing with and Setting Aside Service

Validating service

11.27(1) On application, the Court may make an order validating the service of a document served inside or outside Alberta in a manner that is not specified by these rules if the Court is satisfied that the method of service used brought or was likely to have brought the document to the attention of the person to be served.

(2) On application, the Court may make an order validating the service of a document served inside or outside Alberta if the Court is satisfied that the document would have been served on the person or would have come to the attention of the person if the person had not evaded service.

(3) If service is validated by the Court under this rule, service is effected on the date specified in the order.

(4) Subrules (1) to (3) apply despite

(a) any previous order that permitted or directed service of the document by a particular method, and

(b) the fact that the *Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters* applies to service of the document.

AR 124/2010 s11.27;140/2013

Substitutional service

11.28(1) If service of a document, inside or outside Alberta, is impractical, the Court may, on application, make an order for substitutional service.

(2) The application must be supported by an affidavit

(a) setting out why service is impractical,

(b) proposing an alternative method of service, and

(c) stating why the alternative method of service is likely to bring the document to the attention of the person to be served.

(3) Unless otherwise ordered, an order for substitutional service of a document must be served with the document except when substitutional service is by advertisement, in which case the advertisement must contain a reference to the order.

(4) If a document is served in accordance with an order for substitutional service, service is effected on the date specified in the order.

Dispensing with service

11.29(1) On application, the Court may make an order dispensing with service, inside or outside Alberta, if service of a document by a method prescribed by these rules is impractical or impossible.

(2) The application must be supported by an affidavit

(a) setting out that all reasonable efforts to serve the document have been exhausted or are impractical or impossible,

(b) stating why there is no or little likelihood that the issue will be disputed, and

(c) stating that no other method of serving the document is or appears to be available.

Information note

Rule 2.32(2) *[Automatic termination of lawyer of record and resolving difficulties]* provides that a party may apply to the Court for directions concerning service of documents if a lawyer stops acting for a client.

Proving service of documents

11.30(1) Service of a document in Alberta and service of documents other than commencement documents outside Alberta may be proved to have been effected

(a) by an affidavit

(i) stating that the person was served,

(ii) describing the method of service, and

(iii) stating the date and place of service,

(b) by an acknowledgment or acceptance of service in writing by the person served or by a lawyer on the person's behalf, or

(c) by an order validating service under rule 11.27 *[Validating service]*.

(2) Service of a commencement document outside Alberta may be proved to have been effected

(a) by an affidavit

(i) stating the real and substantial connection between Alberta and the claim,

(ii) stating that the person was served,

(iii) describing the method of service, and

(iv) stating the date and place of service,

(b) by an acknowledgment or acceptance of service in writing by the person served or by a lawyer on the person's behalf, or

(c) by an order validating service under rule 11.27 *[Validating service]*.

AR 124/2010 s11.30;143/2011

Setting aside service

11.31(1) A defendant may apply to the Court to set aside

(a) service of a commencement document,

(b) an order for substitutional service of a commencement document, or

(c) an order dispensing with service of a commencement document,

only before the defendant files a statement of defence or a demand for notice.

(2) An application under this rule is not an acknowledgment by the defendant that the Court has jurisdiction with respect to a claim, counterclaim or third party claim in respect of which the application is filed.

(3) If the Court is satisfied that

(a) the addressee did not receive a document, other than a commencement document, sent by recorded mail within 7 days after the date on which the recorded mail was sent,

(b) the failure of the addressee to receive the document is not attributable to the addressee's own efforts to avoid receiving the document, and

(c) the addressee would be prejudiced by the application of rule 11.22(2) *[Recorded mail service]*,

the Court may make any order that the Court considers appropriate in respect of any matter relating to the document, including setting aside service.

Division 7
Service of Foreign Process

Procedure for service

11.32 If the court clerk receives a written request from a court or tribunal in a foreign country to serve on a person in Alberta a process or citation in respect of a civil or commercial matter, the following rules apply:

(a) 2 copies of the process or citation to be served must be provided to the court clerk;

(b) if the request, process or citation is not in the English language, 2 copies of an English translation of any document that is not in the English language must be provided to the court clerk;

(c) service may be effected in accordance with the Alberta rules for service of the same or a similar document, or in a manner directed in the request of the foreign court or tribunal to the court clerk;

(d) after service has been effected, the person effecting service must return to the court clerk of the appropriate judicial centre one copy of the process or citation, together with an affidavit of service and particulars of the cost of service;

(e) the court clerk must return the request, together with the affidavit of service, to the foreign court or tribunal that made the request, and must certify

(i) the amount properly payable for service,

(ii) that the affidavit of service is sufficient proof of service as required by these rules, and

(iii) if it is the case, that the service is effective under these rules.

Part 12:
Family Law Rules

What this Part is about: This Part applies to proceedings under the *Divorce Act*, the *Family Law Act*, the *Matrimonial Property Act*, the *Protection Against Family Violence Act*, the *Extra-provincial Enforcement of Custody Orders Act*, and to family law matters under the *Change of Name Act* and the *Law of Property Act*.

This Part also applies to restraining orders and to actions for unjust enrichment in the family law context.

Unless a different procedure is specified in this Part, the other Parts of the rules also apply to family law matters. This Part is divided into Divisions which correspond to the other Parts of the rules, so that one can quickly identify any exceptions which apply to family law matters.

Part 12:
Family Law Rules

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Part 12:
Family Law Rules

Division 1
Foundational Rules

Definitions

12.1 In this Part,

(a) "action for unjust enrichment" means an action that is based on the equitable doctrine of unjust enrichment between 2 parties who have lived together in a relationship of interdependence;

(b) "party", in respect of a proceeding under the *Family Law Act*, includes a public official, including the Director acting under Part 5 of the *Income and Employment Supports Act*, who, pursuant to any enactment, has the right to commence, defend, intervene in or take any step in respect of the application and exercises that right;

(c) "provisional order" means a provisional order under the *Divorce Act* (Canada).

What this Part applies to

12.2 Unless otherwise specified, this Part applies to the following:

(a) a proceeding under the *Divorce Act* (Canada);

(b) a proceeding under the *Family Law Act*;

(c) a proceeding under the *Matrimonial Property Act*;

(d) a proceeding under the *Protection Against Family Violence Act*;

(e) a proceeding under the *Change of Name Act*;

(f) a proceeding under the *Extra-provincial Enforcement of Custody Orders Act*;

(g) an action for unjust enrichment between 2 parties who have lived together in a relationship of interdependence;

(h) an application for partition and sale pursuant to Part 3 of the *Law of Property Act* between 2 parties who have lived together in a relationship of interdependence;

(i) an application for a restraining order between 2 parties who have lived together in a relationship of interdependence;

(j) an application to vary, suspend or rescind a corollary relief order granted by another court under the *Divorce Act* (Canada).

Information note

The Court of Queen's Bench Family Law Practice Notes contain requirements that must be met in specific types of proceedings prior to filing commencement documents or prior to attending Court, including

- attendance at the Parenting after Separation Seminar, and
- participation in the Dispute Resolution Officer Program or the Child Support Resolution Officer Program.

Application of other Parts

12.3 Subject to this Part and any enactment, other Parts of these rules apply to proceedings and appeals under this Part.

Forms

12.4 In this Part, a reference to a form with the prefix "FL" is a reference to a form set out in Schedule A, Division 2.

Division 2
The Parties to Litigation

Requirement that parties be spouses

12.5(1) Unless otherwise ordered, in a proceeding under the *Divorce Act* (Canada), including a counterclaim, the parties to the proceeding must be spouses or former spouses of one another.

(2) In a proceeding, including a counterclaim or third party claim, that is

(a) both a proceeding under the *Divorce Act* (Canada) and a proceeding under the *Matrimonial Property Act*, or

(b) a proceeding that combines a proceeding under the *Divorce Act* (Canada), a proceeding under the *Matrimonial Property Act* and an action for unjust enrichment,

the only parties to the proceeding may be the spouses or former spouses of one another unless another person is a necessary party for the disposition of the property issues.

Exception to rule 2.11(a)

12.6(1) Subject to the *Minors' Property Act*, if an individual who is under 18 years of age is or has been a spouse or adult interdependent partner, as those terms are defined in the *Adult Interdependent Relationships Act*, that individual need not have a litigation representative as required under rule 2.11(a) *[Litigation representative required]*.

(2) A child is not considered to be participating in a proceeding for the purposes of rule 2.11(a) *[Litigation representative required]* merely by virtue of

(a) being the subject of a guardianship, custody, access, parenting or contact dispute, or

(b) being served with a notice of a proceeding pursuant to an enactment that requires a person under 18 years of age to be served with notice of a proceeding.

Information note

Rule 2.29(4) *[Withdrawal of lawyer of record]* provides that the Court may grant an order that a lawyer need not disclose the last known address of a client but may instead provide an alternate address for service for the client in a notice of withdrawal where the Court considers it necessary to protect the safety and well-being of the client.

Division 3
Court Actions

Subdivision 1
Actions Relating to Proceedings Under the Divorce Act (Canada) and Proceedings Under the Matrimonial Property Act

Starting proceeding under Divorce Act (Canada)

12.7 Subject to rule 12.13 *[Joint proceeding under the Divorce Act (Canada)]*, a proceeding under the *Divorce Act* (Canada) must be started by filing a statement of claim for divorce in Form FL-1 and serving it in accordance with rule 12.55 *[Service of documents]*.

Starting proceeding under Matrimonial Property Act

12.8 A proceeding under the *Matrimonial Property Act* must be started by filing a statement of claim for division of matrimonial property in Form FL-2 and serving it in accordance with rule 12.55 *[Service of documents]*.

Starting combined proceeding

12.9(1) A proceeding that is both a proceeding under the *Divorce Act* (Canada) and a proceeding under the *Matrimonial Property Act* may be started by filing a statement of claim for divorce and division of matrimonial property in Form FL-3 and serving it in accordance with rule 12.55 *[Service of documents]*.

(2) The statement of claim for divorce and division of matrimonial property must set out separately

(a) the claim under the *Divorce Act* (Canada) proceeding, and

(b) the claim under the *Matrimonial Property Act* proceeding.

Action for unjust enrichment

12.10(1) A claim for an action for unjust enrichment may be included in

(a) a statement of claim for divorce and division of matrimonial property referred to in rule 12.9 *[Starting a combined proceeding]*, or

(b) a statement of claim for division of matrimonial property referred to in rule 12.8 *[Starting a proceeding under the Matrimonial Property Act]*.

(2) A statement of claim for divorce and division of matrimonial property that includes an action for unjust enrichment must set out separately

(a) the claim under the *Divorce Act* (Canada) proceeding,

(b) the claim under the *Matrimonial Property Act* proceeding, and

(c) the claim in the action for unjust enrichment.

Information note

There is no special form provided for an action for unjust enrichment when it is commenced on its own. Other rules apply, such as rule 3.2 *[How to start an action]*, rule 3.25 *[Contents of statement of claim]* and rule 3.31 *[Statement of defence]*.

Statement of defence, counterclaim and demand for notice

12.11(1) Where a defendant wishes to oppose a statement of claim referred to in this Part, the defendant must file a statement of defence in Form FL-4.

(2) Where a defendant wishes to receive notice of any hearing but does not wish to oppose a statement of claim referred to in this Part, the defendant must file a demand for notice in Form 13.

(3) Where a defendant wishes to file a claim against the plaintiff, the defendant must file

(a) a counterclaim for divorce in Form FL-5,

(b) a counterclaim for division of matrimonial property in Form FL-6,

(c) a counterclaim for divorce and division of matrimonial property in Form FL-7, or

(d) a counterclaim in Form 21 for unjust enrichment.

Time for service of documents filed under rule 12.11

12.12(1) A person who files a document in accordance with rule 12.11*[Statement of defence, counterclaim and demand for notice]* must serve the filed document on the plaintiff within the applicable time after service of the statement of claim.

(2) The applicable time is

(a) 20 days if service is effected in Alberta,

(b) one month if service is effected outside Alberta but in Canada, and

(c) 2 months if service is effected outside Canada.

Joint proceeding under Divorce Act (Canada)

12.13(1) Spouses may jointly commence a proceeding under the *Divorce Act* (Canada) by filing a joint statement of claim for divorce in Form FL-8.

(2) A joint statement of claim for divorce need not be served.

(3) A party may withdraw from a joint proceeding under the *Divorce Act* (Canada) by filing a notice of withdrawal in Form FL-9.

(4) If a party who withdraws from a joint proceeding under the *Divorce Act* (Canada) wishes to oppose a claim in the joint statement of claim for divorce, that party must, at the time of filing the notice of withdrawal, file a statement of defence as set out in rule 12.11(1) *[Statement of defence, counterclaim and demand for notice]*.

(5) If a party who withdraws from a joint proceeding under the *Divorce Act* (Canada) wishes to receive notice of any hearing but does not wish to oppose the joint statement of claim for divorce, that party must, at the time of filing the notice of withdrawal, file a demand of notice as set out in rule 12.11(2) *[Statement of defence, counterclaim and demand for notice]*.

(6) If a party who withdraws from a joint proceeding under the *Divorce Act* (Canada) wishes to file a claim against the other spouse, that party must, at the time of filing the notice of withdrawal, file a counterclaim as set out in rule 12.11(3) *[Statement of defence, counterclaim and demand for notice]*.

(7) A party who withdraws from a joint proceeding under the *Divorce Act* (Canada) must serve a copy of the filed notice of withdrawal, and any document filed in accordance with rule 12.11 *[Statement of defence, counterclaim and demand for notice]*, within 20 days of the filing of the notice.

(8) If a notice of withdrawal is filed under subrule (3), this Part applies to the proceeding under the *Divorce Act* (Canada) referred to in subrule (1) as if it were not a joint proceeding, except as set out in this rule.

Transfer of divorce proceedings under Divorce Act (Canada) from court outside Alberta

12.14 Where proceedings under the *Divorce Act* (Canada) are transferred from a court outside Alberta, the transfer must be effected by filing with the court clerk certified copies of all pleadings and orders made in the transferred proceedings, and the transferred proceedings must then be carried forward as if the proceedings had been commenced under these rules.

Central Divorce Registry

12.15 The court clerk must

(a) complete the forms required by the regulations under the *Divorce Act* (Canada), and

(b) forward the forms referred to in clause (a) to the Central Divorce Registry in Ottawa as required by the regulations under the *Divorce Act* (Canada).

Subdivision 2
Actions Relating to Proceedings Under the Family Law Act

Starting proceeding under Family Law Act

12.16(1) Despite rule 3.2(1) *[How to start an action]*, a proceeding under the *Family Law Act* must be started by filing a claim in Form FL-10.

(2) Evidence in support of the claim may be provided by filing one or more statements in Forms FL-34 to FL-56 or an affidavit, or both.

(3) If a statement or affidavit is filed to support a claim, the statement or affidavit must be confined to

(a) a statement of facts within the personal knowledge of the person swearing the statement or affidavit, and

(b) any other evidence that the person swearing the statement or affidavit could give at trial.

(4) Despite subrules (1) to (3), an application under section 80.1 of the *Family Law Act* may be started by filing in accordance with rule 70.1(2) of the *Surrogate Rules* (AR 130/95), and in that case the procedure for the application is governed by the *Surrogate Rules*.

AR 124/2012 s12.16;122/2012

Information note

A claim used to commence a proceeding under the *Family Law Act* is heard in chambers. Parties must consult the Court of Queen's Bench Practice Notes regarding hearings in chambers.

Service of documents filed under rule 12.16

12.17 A claim and any statements or affidavits in support of the claim filed under rule 12.16(1) and (2) *[Starting proceeding under Family Law Act]* must be served on each person named as a respondent in the claim and any person who is required by the *Family Law Act* to be served in the manner set out in rule 12.55 *[Service of documents]*.

(a) 20 days or more before the date on which the application is scheduled to be heard or considered if service is effected in Alberta,

(b) one month or more before the date referred to in clause (a) if service is effected outside Alberta but within Canada, and

(c) 2 months or more before the date referred to in clause (a) if service is effected outside Canada.

AR 124/2010 s12.17;122/2012

Response to proceeding under Family Law Act

12.18(1) A person required to be served pursuant to rule 12.17 *[Service of documents filed under rule 12.16]* who wishes to respond to a claim must file a response in Form FL-11.

(2) Evidence in support of the response may be provided by filing one or more reply statements in Forms FL-57 to FL-78 or an affidavit, or both.

(3) The response may include a request that the Court grant one or more additional orders and, in that event, evidence in support of the request may be provided by filing one or more statements in Forms FL-34 to FL-56 or an affidavit, or both.

(4) If a reply statement or affidavit is filed to support a response, the reply statement or affidavit must be confined to

(a) a statement of facts within the personal knowledge of the person swearing the reply statement or affidavit, and

(b) any other evidence that the person swearing the reply statement or affidavit could give at trial.

Service of documents filed under rule 12.18

12.19(1) A response and any statements, reply statements or affidavits in support of the response filed under rule 12.18 must be served on each person named as an applicant or respondent in the claim and any person required by the *Family Law Act* to be served.

(2) The documents referred to in subrule (1) must be served within a reasonable time before the claim is scheduled to be heard or considered, but anything less than 10 days' notice will be presumed to be prejudicial to any person entitled to be served.

Response to respondent's request for additional order

12.20 A person required to be served pursuant to rule 12.19 *[Service of documents filed under rule 12.18]* who wishes to respond to the respondent's request that the Court grant one or more additional orders may file one or more reply statements in Forms FL-57 to FL-78 or an affidavit, or both.

Service of documents filed under rule 12.20

12.21(1) A reply statement or affidavit filed under rule 12.20 *[Response to respondent's request for additional order]* must be served on each person named as an applicant or respondent in the claim and any person required by the *Family Law Act* to be served.

(2) The documents referred to in subrule (1) must be served within a reasonable time before the claim is scheduled to be heard or considered, but anything less than 5 days' notice will be presumed to be prejudicial to the person entitled to be served.

New evidence

12.22(1) In this rule, "new evidence" means evidence that was not available to a party at the time when the party filed and served the party's statement or reply statement, as the case may be.

(2) If, subsequent to filing and serving a statement or reply statement, a party wishes to rely on new evidence when the application is heard or considered, the party must file an update statement in Form FL-79, or an affidavit, containing the new evidence.

(3) The party must serve the party's update statement or affidavit, as the case may be, on each person named as an applicant or respondent in the claim and any other person required by the *Family Law Act* to be served, within a reasonable time before the claim is scheduled to be heard or considered.

Questioning on statement, reply statement or affidavit

12.23(1) A person who makes a statement, reply statement or affidavit in support of a claim or response in a proceeding under the *Family Law Act* may be questioned by a party adverse in interest.

(2) A person may be questioned under oath as a witness for the purpose of obtaining a transcript of the person's evidence required for use at the hearing of a proceeding under the *Family Law Act*.

(3) A party may question a person that that party is entitled to question under this rule by serving on the person a notice of appointment for questioning.

(4) Rules 6.16 *[Contents of appointment notice]* to 6.20 and *[Form of questioning and transcript]* and 6.38 *[Requiring attendance for questioning]* apply for the purposes of this rule.

(5) The questioning party must file the transcript of the questioning unless the parties to the proceeding agree it is not necessary to do so.

Certificate of lawyer

12.24(1) A lawyer who is required to provide a statement that the lawyer has complied with section 5(1) of the *Family Law Act* must do so by filing a certificate in Form FL-12.

(2) Subrule (1) does not apply where the lawyer is legal counsel for a director under an enactment.

Subdivision 3
Actions Commenced by Originating Application

Information note

Proceedings listed in rule 12.2 *[What this Part applies to]* that are to be commenced by originating application but are not otherwise provided for in this Subdivision must be commenced in accordance with Division 2 *[Actions Started by Originating Application]* of Part 3 *[Court Actions]*. These proceedings include

- an application for partition and sale under Part 3 of the *Law of Property Act* between 2 parties who have lived together in a relationship of interdependence,
- proceedings under the *Change of Name Act*, and
- proceedings for exclusive possession of the matrimonial home under Part 2 of the *Matrimonial Property Act*.

Exception to rule 3.13(5)

12.25 In an action started by an originating application, where a person is questioned by a party adverse in interest, the questioning party need not file the transcript of the questioning pursuant to rule 3.13(5) *[Questioning on an affidavit and questioning witnesses]* if the parties to the proceeding agree it is not necessary to do so.

Application respecting order made by court outside Alberta under Divorce Act (Canada)

12.26(1) An application to vary, rescind or suspend an order for corollary relief made by a court outside Alberta under the *Divorce Act* (Canada) must be commenced by filing

(a) subject to subrule (2), an originating application in accordance with rule 3.8(1) *[Originating applications and associated evidence]*,

(b) a supporting affidavit in accordance with rule 3.8(2) *[Originating applications and associated evidence]*, and

(c) copies of any orders that have been made relating to the corollary relief that is the subject of the application.

(2) If the order for corollary relief referred to in subrule (1) has been previously filed for the purposes of enforcement in accordance with rule 12.52 *[Enforcement of an order made by a court outside Alberta under the Divorce Act (Canada)]*, the application to vary, rescind or suspend it must be commenced by filing a family application in Form FL-18 in accordance with rule 12.44 *[Application within the course of a proceeding]*.

(3) Despite rules 3.9 *[Service of originating application and evidence]* and 12.44(1)(b) *[Application within the course of a proceeding]*, the filed documents referred to in subrule (1) or (2) must be served on the respondent

(a) 20 days or more before the date on which the application is scheduled to be heard or considered if service is effected in Alberta,

(b) one month or more before the date on which the application is scheduled to be heard or considered if service is effected outside Alberta but within Canada, and

(c) 2 months or more before the date on which the application is scheduled to be heard or considered if service is effected outside Canada.

(4) Despite rule 3.11(1) *[Service and filing of affidavits and other evidence in reply and response]* and 12.44(2) *[Application within the course of a proceeding]*, if the respondent to the application under this rule intends to rely on an affidavit or other evidence when the application is heard or considered, the respondent must reply by serving on the applicant a copy of the affidavit or other evidence within a reasonable time before the application is scheduled to be heard or considered, but anything less than 10 days' notice will be presumed to be prejudicial to the applicant.

(5) Where the Court grants a variation order under this rule, the court clerk must send a certified copy of the variation order to any court outside Alberta that granted the original order and any other court outside Alberta that has varied the original order.

Information note

If, in an application under this rule to vary, rescind or suspend an order under the *Divorce Act* (Canada) in respect of support, the respondent who has been served outside Alberta does not respond, the applicant must proceed under 12.46 *[Provisional order to vary a support order under the Divorce Act (Canada)]* to obtain a provisional order instead.

Applications under Extra-provincial Enforcement of Custody Orders Act

12.27(1) An application to register, enforce or vary a custody order under the *Extra-provincial Enforcement of Custody Orders Act* must be commenced by filing an originating application in accordance with rule 3.8(1) *[Originating applications and associated evidence]*.

(2) An affidavit may be filed in support of the originating application in accordance with rule 3.8(2) *[Originating applications and associated evidence]*.

(3) Despite rule 3.9 *[Service of originating application and evidence]*, the originating application to vary a custody order referred to in subrule (1) and any affidavit filed in support of the originating application must be served

(a) 20 days or more before the date on which the application is scheduled to be heard or considered if service is effected in Alberta,

(b) one month or more before the date on which the application is scheduled to be heard or considered if service is effected outside Alberta but within Canada, and

(c) 2 months or more before the date on which the application is scheduled to be heard or considered if service is effected outside Canada.

(4) Despite rule 3.11(1) *[Service and filing of affidavits and other evidence in reply and response]*, if the respondent to an application to vary a custody order referred to in subrule (1) intends to rely on an affidavit or other evidence when the application is heard or considered, the respondent must reply by serving on the applicant a copy of the affidavit or other evidence within a reasonable time before the application is scheduled to be heard or considered, but anything less than 10 days' notice will be presumed to be prejudicial to the applicant.

Information note

For applications to register or enforce a custody order under the *Extra-provincial Enforcement of Custody Orders Act*, the rules in Division 2 *[Actions Started by Originating Application]* of Part 3 *[Court Actions]* apply, as for applications commenced by originating application. However, rule 3.10 *[Application of Part 4 and Part 5]* does not apply to an application to vary a custody order under the *Extra-provincial Enforcement of Custody Orders Act*.

Subdivision 4
Actions Relating to Proceedings Under the Protection Against Family Violence Act

Application of Part 3, Division 2

12.28 Part 3, Division 2 *[Actions Started by Originating Application]* of these rules applies to a review of an emergency protection order under this Subdivision.

Information note

The fact that the parties may be involved in another proceeding listed in rule 12.2 *[What this Part applies to]* does not prevent a party from making an application under the *Protection Against Family Violence Act*.

Affidavit of evidence for review

12.29 Unless the Court orders otherwise, when an emergency protection order is scheduled for review, the claimant and respondent must, if they intend to present affidavit evidence at the review,

(a) file the affidavit at the judicial centre where the emergency protection order is scheduled for review, and

(b) serve the affidavit on the other party

within a reasonable time before the review is scheduled to be heard or considered.

Information note

Emergency protection orders granted pursuant to section 2 of the *Protection Against Family Violence Act* are granted by the Provincial Court. Each emergency protection order must indicate the date, time and place at which the order is scheduled to be reviewed by a justice of the Court of Queen's Bench.

The hearing to review the emergency protection order takes place in chambers and Division 1 *[Applications to the Court]* of Part 6 *[Resolving Issues and Preserving Rights]* of these rules applies to it except to the extent that this rule or the Court of Queen's Bench Practice Notes regarding hearings in chambers provide otherwise.

Section 3(3) of the *Protection Against Family Violence Act* provides that the Justice of the Court of Queen's Bench must consider all of the evidence that was before the Provincial Court Judge or Justice of the Peace who made the emergency protection order, and may allow additional evidence to be presented. Other procedural requirements in the *Protection Against Family Violence Act* and the *Protection Against Family Violence Regulation* may also apply.

Application for Queen's Bench protection order

12.30 An application for a Queen's Bench protection order must be made

(a) by filing an originating application in accordance with rule 3.8(1) *[Originating applications and associated evidence]*, or

(b) where a proceeding has already been commenced, by filing a family application in accordance with rule 12.44(1) *[Application within the course of a proceeding]*,

accompanied with an affidavit in support of the application.

Alternative to affidavit

12.31 Despite rule 12.30 *[Application for Queen's Bench protection order]*, an applicant for a Queen's Bench protection order may, instead of filing an affidavit in support of the application, file a Queen's Bench protection order questionnaire in Form FL-13.

Actual notice of protection order

12.32 A respondent is considered to have actual notice of the provisions of an order granted after the review of an emergency protection order or of a Queen's Bench protection order if

(a) the respondent was served with a copy of the order,

(b) the respondent was in attendance in person or by conference telephone call when the order was granted, or

(c) there are any other circumstances that, in the opinion of the Court, would have provided the respondent with actual notice.

Subdivision 5
Actions Relating to Restraining Orders

Application for restraining order

12.33(1) An application for a restraining order must be made

(a) by filing an originating application in accordance with rule 3.8(1) *[Originating applications and associated evidence]*, or

(b) where a proceeding has already been commenced, by filing a family application in accordance with rule 12.44(1) *[Application within the course of a proceeding]*,

accompanied with an affidavit in support of the application.

(2) Despite subrule (1), where an application for a restraining order is made without notice to the respondent, the application may be made by filing either an affidavit in support of the application or Form FL-14.

Information note

Where an application for a restraining order is made in the course of an action or proceeding listed in rule 12.2 *[What this Part applies to]*, the service requirements in rule 12.44 *[Application within course of a proceeding]* apply to the application.

Rule 13.37 *[Fee waiver: restraining orders]* provides that the fee for an application for a restraining order may be waived by the court clerk.

Division 4
Managing Litigation

Application of Part 4

12.34(1) Despite Rule 3.10 *[Application of Part 4 and Part 5]*, Part 4 *[Managing Litigation]* applies to

(a) a proceeding under the *Family Law Act*,

(b) an application to vary a custody order under the *Extra-provincial Enforcement of Custody Orders Act*, and

(c) an application to vary, suspend or rescind a corollary relief order granted by another court under the *Divorce Act* (Canada),

except as modified by a rule in this Division.

(2) Unless the context otherwise provides, a reference in an applicable rule in Part 4 *[Managing Litigation]*

(a) to a statement of claim must be read to include a reference to a claim under the *Family Law Act* or an originating application,

(b) to a statement of defence must be read to include a reference to a response under the *Family Law Act* or an affidavit made by a respondent in response to an originating application,

(c) to a plaintiff must be read to include a reference to an applicant, and

(d) to a defendant must be read to include a reference to a respondent.

Information note

Part 4 *[Managing Litigation]* of these rules applies to proceedings listed in rule 12.2 *[What this Part applies to]* that are commenced by statement of claim including

- proceedings under the *Divorce Act* (Canada),
- proceedings under the *Matrimonial Property Act*, and
- actions for unjust enrichment.

Part 4 *[Managing Litigation]* does not apply to proceedings listed in rule 12.2 *[What this Part applies to]* that are commenced by originating application except for those specified in this rule, unless the Court orders or the parties agree otherwise.

Operation of rule 4.34 under this Part

12.35 Rule 4.34 *[Stay of proceeding on transfer or transmission of interest]* does not operate to stay

(a) a proceeding under the *Divorce Act* (Canada), notwithstanding that that proceeding may be combined with a proceeding under the *Matrimonial Property Act*, or

(b) an application for exclusive possession of the home or residence under

(i) the Matrimonial Property Act,

(ii) the *Family Law Act*, or

(iii) the Protection Against Family Violence Act.

Advance payment of costs

12.36 The Court may, in addition to an order under rule 4.22 *[Considerations for a security for costs order]*, make any order that it thinks fit for the advance payment of the costs of either party.

Division 5
Disclosure of Information

Application of Part 5

12.37(1) Despite rule 3.10 *[Application of Part 4 and Part 5]*, Part 5 *[Disclosure of Information]* of these rules applies to

(a) a proceeding under the *Family Law Act*,

(b) an application to vary a custody order under the *Extra-provincial Enforcement of Custody Orders Act*, and

(c) an application to vary, suspend or rescind a corollary relief order granted by another court under the *Divorce Act* (Canada),

except as modified by a rule in this Division.

(2) Unless the context otherwise provides, a reference in an applicable rule in Part 5 *[Disclosure of Information]*

(a) to a statement of claim must be read to include a reference to a claim under the *Family Law Act* or an originating application,

(b) to a statement of defence must be read to include a reference to a response under the *Family Law Act* or an affidavit made by a respondent in response to an originating application,

(c) to a plaintiff must be read to include a reference to an applicant, and

(d) to a defendant must be read to include a reference to a respondent.

Information note

Part 5 *[Disclosure of Information]* of these rules applies to proceedings listed in rule 12.2 *[What this Part applies to]* that are commenced by statement of claim including

- proceedings under the *Divorce Act* (Canada),
- proceedings under the *Matrimonial Property Act*, and
- actions for unjust enrichment.

Part 5 *[Disclosure of Information]* does not apply to proceedings listed in rule 12.2 *[What this Part applies to]* that are commenced by originating application except for those specified in this rule, unless the Court orders or the parties agree otherwise.

Affidavit of records

12.38(1) Despite rule 5.5 *[When an affidavit of records must be served]*, this rule applies in the following proceedings:

(a) a proceeding under the *Divorce Act* (Canada);

(b) a proceeding that is both a proceeding under the *Divorce Act* (Canada) and a proceeding under the *Matrimonial Property Act*;

(c) a proceeding under the *Matrimonial Property Act*;

(d) a proceeding under the *Family Law Act*;

(e) an application to vary a custody order under the *Extra-provincial Enforcement of Custody Orders Act*;

(f) an application to vary, suspend or rescind a corollary relief order granted by another court under the *Divorce Act* (Canada);

(g) an action for unjust enrichment;

(h) any other proceeding under this Part where the Court orders that Part 5 applies.

(2) In order to compel production of an affidavit of records, a party must file and serve a notice to produce an affidavit of records in Form FL-15 on the party from whom the affidavit of records is required.

(3) In the proceedings to which this rule applies, every party must serve an affidavit of records on every other party

(a) within 3 months after the notice referred to in subrule (2) is served,

(b) in the case of the party serving the notice, within 3 months after service of the first notice, or

(c) if no notice is served under subrule (2), before the later of

(i) the filing of Form 37 under rule 8.4 *[Trial date: scheduled by court clerk]* or the scheduling of a trial under rule 8.5 [*Trial date: scheduled by the Court*], and

(ii) 3 months before the trial date.

(4) If a party fails to comply with subrule (3), the Court may impose a penalty on that party in accordance with rule 5.12 *[Penalty for not serving affidavit of records]*.

(5) Despite rule 5.20(1) *[When questioning is to take place]*, questioning may proceed in accordance with these rules although the questioning party has not served an affidavit of records on the party adverse in interest.

Oral and written questioning

12.39(1) Despite rule 5.24(b) *[Oral and written questioning limitations]*, in the proceedings listed in rule 12.38(1)(a) to (h) *[Affidavit of records]*, a party may question a person both orally and by written questioning in accordance with rule 12.40 *[Written interrogatories]*.

(2) Where, in any of the proceedings referred to in subrule (1), a person provides an answer or produces a record under rule 5.30 *[Undertakings]*, the questioning party may ask questions of that person in respect of that answer or record both orally and by written questioning.

Written interrogatories

12.40(1) The procedure set out in this rule applies in place of rule 5.28 *[Written questions]* in the proceedings listed in rule 12.38(1)(a) to (h) *[Affidavit of records]*.

(2) A party may file a notice to reply to written interrogatories in Form FL-16, and set out a maximum of 30 numbered and succinct questions to be answered.

(3) The procedure may only be used once before a final determination has been made in the proceeding.

(4) If a final determination has been made in the proceeding, the procedure may only be used once in an outstanding application to vary, rescind or suspend an order made in that proceeding.

(5) A notice filed by a party under subrule (2) must be served on the respondent at least one month before the application is scheduled to be heard or considered as set out in the notice to reply to written interrogatories.

(6) The answers to the questions must be in the form of an affidavit and must state the questions being answered.

(7) The affidavit must be filed and served on the applicant within one month after the respondent is served with the notice to reply to written interrogatories.

(8) If the respondent objects to answering any of the questions set out, the respondent must file and serve on the applicant an affidavit setting out the objection and the reasons for the objection within a reasonable time before the application is scheduled to be heard or considered, but anything less than 10 days' notice will be presumed to be prejudicial to the applicant.

(9) An applicant may, in addition to the applicant's written questions filed under subrule (2), file and serve a further set of written questions arising from the answers provided by the respondent, and subrules (2) to (8) and (11) apply in respect of the written questions under this subrule.

(10) If the answers to the further written questions referred to in subrule (9) are unsatisfactory, the applicant may apply to the Court for an order that the respondent answer further written questions.

(11) If the respondent fails to comply with subrule (7) or (8), the Court may

(a) order the respondent to answer the questions before a specified date, or

(b) order the respondent to pay costs to the applicant,

and the Court may grant any other remedy the Court considers appropriate.

Information note

Division 1 *[Applications to the Court]* of Part 6 *[Resolving Issues and Preserving Rights]* applies to this rule except to the extent that this Part or the Court of Queen's Bench Family Law Practice Note respecting applications in chambers provides otherwise.

Notice to disclose documents

12.41(1) The procedure set out in this rule is in addition to any other disclosure procedure or obligation under any Part of these rules or under any enactment.

(2) The procedure set out in this rule applies to the proceedings listed in rule 12.38(1)(a) to (h) *[Affidavit of records]*.

(3) A party may file a notice to disclose, in Form FL-17, requesting only those documents that are relevant and material to the proceeding.

(4) If a final determination has been made in a proceeding relating to

(a) child support,

(b) spousal support, or

(c) adult interdependent partner support,

the procedure may be used only once per year without the requirement for a variation application to be commenced.

(5) Where the notice is filed under subrule (4), only the documents referred to in items 1 to 9 on the form may be requested, unless the Court orders otherwise.

(6) The notice to disclose under subrule (3) and any documents required to be disclosed to the other party pursuant to subsection 21(1) or 25(4) of the *Federal Child Support Guidelines* (SOR/97-175) or section 21(1) or 22(4) of the *Alberta Child Support Guidelines* (AR 147/2005) must be served on the respondent in the manner set out in rule 12.55 *[Service of documents]* not later than one month before the application is scheduled to be heard or considered as set out in the notice to disclose.

(7) If the respondent fails to provide the documents requested within one month of being served with the notice to disclose, the Court may

(a) order the respondent to provide the documents requested in the notice to disclose by a specified date,

(b) draw an adverse inference against and impute income to the respondent and order the respondent to pay support in an amount the Court considers appropriate, or

(c) order the respondent to pay costs to the applicant in an amount that fully compensates the applicant for all costs incurred in the proceeding,

and the Court may grant any other remedy the Court considers appropriate.

AR 124/2010 s12.41;140/2013

Information note

The *Federal Child Support Guidelines* and the *Alberta Child Support Guidelines* both place an obligation on the applicant applying for child support or applying to vary child support to provide the applicant's financial information to the respondent at the time of the application, if the applicant's income is relevant to the calculation of child support.

Division 1 *[Applications to the Court]* of Part 6 *[Resolving Issues and Preserving Rights]* applies to this rule except to the extent that this rule or the Court of Queen's Bench Family Law Practice Note respecting applications in chambers provides otherwise.

Request for financial information

12.42(1) Where a written request for financial information has been made under section 65(1) or (4) of the *Family Law Act*, the information must be provided within one month after the request is received.

(2) For the purposes of section 65(1) and (4) of the *Family Law Act*, the following documents may be requested under this rule:

(a) with respect to an application or order for child support, those documents listed in section 21(1) of the *Alberta Child Support Guidelines* (AR 147/2005);

(b) with respect to an application or order for spousal support or adult interdependent partner support, those documents listed in section 4(1) of the *Family Law Act General Regulation* (AR 148/2005).

Division 6
Resolving Issues and Preserving Rights

Application of Part 6, Division 1

12.43(1) Despite rule 6.1(b), Part 6, Division 1 *[Applications to the Court]* applies to

(a) a proceeding under the *Family Law Act*,

(b) an application to vary a custody order under the *Extra-provincial Enforcement of Custody Orders Act*, and

(c) an application to vary, suspend or rescind a corollary relief order granted by another court under the *Divorce Act* (Canada),

except as modified by a rule in this Division.

(2) Unless the context otherwise requires, a reference in a rule in Part 6, Division 1 *[Applications to the Court]* to an affidavit must be read to include a reference to a statement or a reply statement.

(3) Despite rule 6.20(5)(b) *[Form of questioning and transcript]*, where under this Part a person is questioned on an affidavit, statement or reply statement in accordance with Part 6, Division 1, Subdivision 5 *[Procedure for Questioning]*, the questioning party need not file the transcript of the questioning if the parties agree it is not necessary to do so.

Information note

Division 1 *[Applications to the Court]* of Part 6 *[Resolving Issues and Preserving Rights]* does not apply to proceedings listed in rule 12.2 *[What this Part applies to]* that are commenced by originating application except for those proceedings specified in this rule.

Application within course of proceeding

12.44(1) Unless otherwise specified, an application in the course of a proceeding or action must be made in accordance with Part 6, Division 1 *[Applications to the Court]*, subject to the following requirements:

(a) the application must be made by filing a family application in Form FL-18 and an affidavit in support of the application;

(b) the family application and the affidavit in support must be served on the respondent 5 days or more before the date the application is scheduled to be heard or considered.

(2) If the respondent to an application referred to in subrule (1) intends to rely on an affidavit or other evidence when the application is heard or considered, the respondent must reply by filing and serving on the applicant a copy of the affidavit or other evidence within a reasonable time before the application is scheduled to be heard or considered.

Information note

This rule applies to applications within the course of a proceeding, including applications within the course of a *Family Law Act* proceeding.

An applicant who wishes to respond to the respondent's affidavit referred to in subrule (2) may do so in accordance with rule 6.6(2) *[Response and reply to applications]*.

The Court of Queen's Bench Family Law Practice Note regarding applications in chambers contains additional requirements that apply to applications commenced pursuant to this rule.

Application after order or judgment under *Divorce Act* (Canada)

12.45(1) An application

(a) to vary, suspend or rescind an order of the Court in a proceeding under the *Divorce Act* (Canada), or

(b) for corollary relief after the Court has rendered a divorce judgment

must be made by filing a family application in Form FL-18 accompanied with an affidavit in support of the application in accordance with rule 12.44(1)(a) *[Application within the course of a proceeding]*.

(2) Despite rules 6.3(3) *[Applications generally]* and 12.44(1)(b) *[Application within the course of a proceeding]*, the family application and affidavit and any other evidence in support of the application must be served on the respondent in the manner set out in rule 12.55 *[Service of documents]* 20 days or more before the date the application is scheduled to be heard or considered.

(3) Despite rules 6.6(1) *[Response and reply to applications]* and 12.44(2) *[Application within the course of a proceeding]*, if the respondent to the application intends to rely on an affidavit or other evidence when the application is heard or considered, the respondent must reply by serving on the applicant a copy of the affidavit or other evidence within a reasonable time before the date the application is scheduled to be heard or considered, but anything less than 10 days' notice will be presumed to be prejudicial to the applicant.

Information note

An application to vary an order under the *Family Law Act* must be commenced by filing a claim in form FL-10 in accordance with rule 12.16 *[Starting a proceeding under the Family Law Act]*.

An application to vary a custody order under the *Extra-provincial Enforcement of Custody Orders Act* must be commenced in accordance with rule 12.27 *[Applications under the Extra-provincial Enforcement of Custody Orders Act]*.

Provisional order to vary a support order under Divorce Act (Canada)

12.46(1) An application made pursuant to section 18 of the *Divorce Act* (Canada) for a provisional order to vary a support order must be started

(a) in accordance with rule 12.45, where the divorce judgment was granted in Alberta, or

(b) in accordance with rule 12.26(1) or (2), as the circumstances require, *[Application respecting an order made by a court outside Alberta under the Divorce Act (Canada)]* where the divorce judgment was granted by a court outside Alberta,

and must be accompanied with the required provisional order information in Form FL-19.

(2) Where the Court makes a provisional order under section 18 of the *Divorce Act* (Canada), the provisional order must be marked "Provisional" and must contain a clause indicating it is of no force or effect until confirmed.

(3) Where a provisional order referred to in subrule (2) is filed, the court clerk must, on behalf of the Court, forward to the Minister of Justice and Solicitor General of Alberta

(a) the material required to be forwarded under subsection 18(3) of the *Divorce Act* (Canada), and

(b) a copy of any material in support of the application for the provisional order that is not included in the material referred to in clause (a).

(4) Where a provisional order is remitted back to the Alberta Court under subsection 18(5) of the *Divorce Act* (Canada) for further evidence, the court clerk must send to the applicant by ordinary mail a notice of a court date for the applicant to provide that further evidence to the Court.

(5) Where the Court receives a confirmation order in respect of the provisional order referred to in subrule (2), the court clerk must send a copy of the confirmation order to the applicant by regular mail.

AR 124/2010 s12.46;143/2011;128/2015

Information note

Section 18 of the *Divorce Act* (Canada) states that provisional applications may proceed without service on the party in the other jurisdiction. However, there may be a requirement to serve the Maintenance Enforcement Program in some circumstances.

Where further evidence is provided to the Court pursuant to subrule (2) by the applicant for confirmation of a provisional order, the Court is required by the *Divorce Act* (Canada) to forward that further evidence to the court that made the provisional order.

Confirmation hearing

12.47(1) Where the Court receives a provisional order for confirmation in a proceeding under the *Divorce Act* (Canada), the court clerk must serve the respondent with

(a) a notice of confirmation hearing in Form FL-20, and

(b) the documents, including the provisional order for confirmation, received from the other jurisdiction,

and may also serve a notice to disclose in Form FL-17 in accordance with rule 12.41 *[Notice to disclose documents]*.

(2) Where the Court makes an order under subsection 19(6) or 19(8) of the *Divorce Act* (Canada) that further evidence from the applicant is required, the court clerk must provide a copy of the order to the court that made the provisional order and to the applicant by ordinary mail.

(3) Where the Court receives the applicant's further evidence, the court clerk must serve the respondent with the evidence and with

(a) a notice of confirmation hearing in Form FL-20 if no adjournment date was set by the Court when the Court made the order referred to in subrule (2), or

(b) a reminder of the confirmation hearing date if an adjournment date was set by the Court when the Court made the order referred to in subrule (2).

(4) Unless otherwise ordered, the court clerk must provide to the Minister of Justice and Solicitor General of Alberta and to the courts entitled under subsection 19(12) of the *Divorce Act* (Canada)

(a) a copy of any orders granted pursuant to subsection 19(7), (9) or (9.1) of the *Divorce Act* (Canada),

(b) a copy of any evidence given by the respondent, and

(c) the Court's reasons, if required by paragraph 19(12)(c) of the *Divorce Act* (Canada).

AR 124/2010 s12.47;128/2015

Information note

Where the Alberta Court requires further evidence from the party in the other jurisdiction, the party must provide that further evidence to the court in the other jurisdiction that granted the provisional order and that court is required by the *Divorce Act* (Canada) to forward that further evidence to the Alberta Court.

Division 7
Resolving Claims Without Full Trial

Availability of application for summary judgment

12.48 Despite rule 7.3 *[Application and decision]*, an application for summary judgment

(a) is not available in

(i) a proceeding under the *Divorce Act* (Canada), notwithstanding that the corollary relief has been severed,

(ii) a proceeding that is both a proceeding under the *Divorce Act* (Canada) and a proceeding under the *Matrimonial Property Act*, or

(iii) a proceeding under the *Family Law Act*,

but

(b) is available in proceedings under the *Matrimonial Property Act*, including a proceeding under the *Matrimonial Property Act* that was combined with a proceeding under the *Divorce Act* (Canada) and then separated from the proceeding under the *Divorce Act* (Canada) under rule 3.71 *[Separating claims]*.

Evidence in summary trials

12.49 An application for permission of the Court to adduce oral evidence in a summary trial must be made before the date of the summary trial and on notice to the other party.

AR 124/2010 s12.49;85/2016

Information note

Summary trial is available for all proceedings under the *Family Law Act* listed in rule 12.2 *[What this Part applies to]*.

Divorce without appearance by parties or counsel

12.50(1) A party may apply for a judgment of divorce pursuant to this rule with such corollary relief as is claimed in the statement of claim or counterclaim where

(a) both parties have consented to the matter proceeding under this rule,

(b) the defendant has not filed and served a statement of defence or a demand for notice pursuant to rules 12.11 *[Statement of defence, counterclaim and demand for notice]* and 12.12 *[Time for service of documents filed under rule 12.11]* and has been noted in default,

(c) the Court, on application by either party, orders that the matter proceed under this rule, or

(d) a joint statement of claim for divorce has been filed under rule 12.13(1) *[Joint proceeding under the Divorce Act (Canada)]* and no party has subsequently filed a notice of withdrawal.

(2) The consent of a self-represented litigant to proceed under this rule must be accompanied with an affidavit of execution.

(3) A party may apply for a judgment of divorce and corollary relief by filing the following:

(a) a request for divorce in Form FL-21 or, where a joint statement of claim for divorce has been filed under rule 12.13(1) *[Joint proceeding under the Divorce Act (Canada)]*, a joint request for divorce in Form FL-22, requesting the rendering of a judgment without an oral hearing being held;

(b) an affidavit of the applicant in Form FL-23 or, where a joint statement of claim for divorce has been filed under rule 12.13(1) *[Joint proceeding under the Divorce Act (Canada)]*, a joint affidavit of the applicants in Form FL-24;

(c) the proposed divorce judgment in Form FL-25 or divorce judgment and corollary relief order in Form FL-26;

(d) in the case where a party does not have a solicitor, a stamped envelope addressed to that party at the address shown in the affidavit of the applicant.

(4) Where the court clerk

(a) has received documents referred to in subrule (3), and

(b) is satisfied that those documents meet the requirements of these rules and the practice of the Court,

the court clerk must place those documents before the Court.

(5) On considering the documents referred to in subrule (3), the Court may do one or more of the following:

(a) render any judgment to which the parties are entitled;

(b) direct an appearance before the Court;

(c) direct that further evidence be presented;

(d) direct the applicant to enter the case for trial on oral evidence;

(e) grant any other order or give any other direction that the Court considers appropriate.

(6) The Court may grant any corollary relief that has been agreed on or consented to, whether or not a request for that relief was made in the statement of claim or counterclaim.

(7) On hearing an application under subrule (1)(c), the Court may

(a) refuse to allow the matter to proceed under this rule, and in doing so the Court may make any further order or give any other direction that the Court considers appropriate,

(b) authorize the applicant to proceed under this rule without any further notice to the other party, or

(c) in a case where corollary relief has been claimed but not resolved, authorize the applicant to sever the corollary relief and then proceed under this rule with regard to the application for a divorce judgment, and in doing so the Court may make any further order or give any other direction that the Court considers appropriate.

(8) On a divorce judgment being rendered and entered, the court clerk must mail a copy of the divorce judgment to each person in respect of whom an envelope is supplied by the applicant under subrule (3)(d).

(9) A judge is not seized with any proceeding merely by exercising the powers set out in subrule (5) or (7).

Information note

This rule does not apply to proceedings under the *Matrimonial Property Act*. Rules 3.36 *[Judgment in default of defence and noting in default]*, 3.37 *[Application for judgment against defendant noted in default]* and 3.42 *[Limitation on when judgment or noting in default can occur]* apply to those proceedings. Rule 3.36(1)(b) provides that when a defendant does not file a statement of defence or demand for notice a plaintiff may, on filing an affidavit of service of the plaintiff's statement of claim, require the court clerk to note the defendant in default. Rule 3.60(2) *[Application of rules to counterclaims]* provides that where a defendant by counterclaim has not filed a statement of defence or demand for notice in the counterclaim, a judgment on the counterclaim may only be obtained with the Court's permission on an application served on the defendant by counterclaim. For the purposes of this rule, the application must be made under subrule (1)(c).

Division 8
Trial

Appearance before the Court

12.51 In a proceeding under the *Family Law Act* , the Court may, whether or not the respondent has complied with rules 12.18 *[Response to a proceeding under the Family Law Act]* and 12.19 *[Service of documents filed under rule 12.18]*,

(a) decide all or part of the matter on an interim or final basis,

(b) adjourn all or part of the matter to a later date, or

(c) set all or part of the matter down for a short oral hearing or trial,

and the Court may give any direction and grant any interim or procedural order that the Court considers appropriate.

Division 9
Judgments and Orders

Enforcement of order made by court outside Alberta under Divorce Act (Canada)

12.52 Where an order has been made by a court outside Alberta under sections 15.1, 15.2, 16 or 17 or subsections 19(7), 19(9) or 19(9.1) of the *Divorce Act* (Canada), the registration of that order must be effected by filing with a clerk of the Court of Queen’s Bench a certified copy of that order, and on that being done the order must be entered as an order of the Court of Queen’s Bench.

Information note

To enforce a custody or access order granted in another jurisdiction, an application must be made to the Court under section 2 of the *Extra-provincial Enforcement of Custody Orders Act.*

The *Interjurisdictional Support Orders Act* applies to support orders granted in another jurisdiction. To enforce such a support order, a certified copy of the support order must be sent to the designated authority in Alberta, who will then send a copy of the support order to the court clerk, who will register the order. From the date of registration the order has the same effect as if it were a support order made by the Court.

Form of orders

12.53 Where the Court grants

(a) a divorce judgment, the order must be in Form FL-25,

(b) a divorce judgment and corollary relief order, the order must be in Form FL-26 and include the relevant provisions respecting corollary relief from Form FL-27,

(c) an order for corollary relief, the order must be in Form FL-27,

(d) a variation order, the order must be in Form FL-28, and include the relevant provisions respecting corollary relief from Form FL-27,

(e) an order for exclusive possession of the home or residence under the *Matrimonial Property Act* or the *Family Law Act*, the order must be in Form FL-29,

(f) a restraining order without notice, the order must be in Form FL-30, and

(g) a restraining order with notice, the order must be in Form FL-31.

Information note

Other requirements respecting the contents of orders are found in

- rule 9.1 *[Form of judgments and orders]*,
- section 13 of the *Federal Child Support Guidelines* and the *Alberta Child Support Guidelines*, and
- section 7 of the *Maintenance Enforcement Act*.

The requirement in Rule 12.53(c) with regard to Form FL-27 is applicable to child support orders granted under the *Family Law Act*.

Certificate of divorce

12.54(1) After a divorce judgment takes effect, any person may request a certificate of divorce.

(2) Where a request for a certificate of divorce is received by the court clerk and the court clerk is satisfied that no appeal from the divorce judgment is pending, the court clerk must issue a certificate of divorce in Form FL-32.

Division 10
Service of Documents

Service of documents

12.55(1) Despite Part 11, Division 2 *[Service of Commencement Documents]*, unless the Court otherwise orders, the following documents must be served by leaving a copy with the individual being served and not on the individual's lawyer of record, if any:

(a) a statement of claim for divorce and a statement of claim for divorce and division of matrimonial property;

(b) a notice of withdrawal under rule 12.13(3) *[Joint proceeding under the Divorce Act (Canada)]* and any document filed under rule 12.13(4), (5) or (6);

(c) a statement of claim for division of matrimonial property;

(d) a family application to vary, rescind or suspend an order for corollary relief after a divorce judgment has been rendered and any affidavit in support of the application;

(e) a family application for corollary relief after a divorce judgment has been rendered and any affidavit in support of the application;

(f) a claim under the *Family Law Act*, including an application to vary, rescind or suspend an order made under the *Family Law Act*, and any statement or affidavit in support of the application;

(g) a notice to disclose where a final determination has been made in a proceeding relating to

(i) child support,

(ii) spousal support, or

(iii) support for an adult interdependent partner.

(2) Service of the documents referred to in subrule (1)(a) must be made by a person other than the plaintiff.

Information note

Division 2 *[Service of Commencement Documents in Alberta]* of Part 11 *[Service of Documents]* applies in respect of service of documents, including responding documents, in the proceedings listed in rule 12.2 *[What this Part applies to]*, unless otherwise provided by a rule in this Part.

Address for service

12.56 The address for service of an individual who is not represented by a lawyer of record and is not required to be served in accordance with rule 12.55 *[Service of documents]* is the most recent of

(a) an address provided to the Court and all other parties by the individual in writing,

(b) an address provided on the record during a Court appearance, and

(c) the address provided in the most recently filed document in the proceeding.

Proof of service

12.57 Proof of the service of a statement of claim for divorce or a statement of claim for divorce and division of matrimonial property must include a picture of the individual served, unless the Court otherwise orders.

Rules that do not apply

12.58 Rule 11.25(1) *[Real and substantial connection]* does not apply to service of

(a) a statement of claim for divorce, or

(b) a statement of claim for divorce and division of matrimonial property.

Information note

Rule 11.25(2) *[Real and substantial connection]* applies to the service outside Canada of statements of claim for divorce and statements of claim for divorce and division of matrimonial property. Rule 11.25 applies to service of commencement documents for all other proceedings listed in rule 12.2 *[What this Part applies to]*.

Division 11
Appeals

Subdivision 1
Appeal from Divorce Judgment

Appeal from divorce judgment

12.59 Notwithstanding Part 14 and rule 13.5 *[Variation of time periods]*,

(a) no appeal lies from a judgment granting a divorce on or after the day on which the divorce takes effect, and

(b) subject to the Court of Appeal or a judge of the Court of Appeal extending the time, no appeal lies from an order made in a divorce proceeding more than 30 days after the day on which the order was made.

AR 124/2010 s12.59;143/2011

Subdivision 2
Appeals Under the Family Law Act

Appeal from decision of Court of Queen's Bench sitting as original court

12.60(1) A decision of the Court sitting as an original court under the *Family Law Act* may be appealed to the Court of Appeal in accordance with Part 14.

(2) Repealed AR 41/2014 s2.

AR 124/2010 s12.60;41/2014

Appeal from Provincial Court order to Court of Queen's Bench

12.61(1) To appeal an order of the Provincial Court to the Court of Queen's Bench pursuant to section 9 of the *Provincial Court Procedures (Family Law) Regulation* (AR 149/2005), a party must

(a) file a notice of appeal in Form FL-33 with the Court of Queen's Bench court clerk at the judicial centre where the appeal is to be heard, and

(b) serve a copy of the filed notice of appeal on the respondent in accordance with rule 11.5 *[Service on individuals]* or as directed by the Court of Queen's Bench.

(2) The notice of appeal must be filed and served

(a) within one month following the date on which the order being appealed was pronounced, or

(b) if the appellant is able to establish to the Court's satisfaction the date on which the appellant received notice of the order, within one month following that date.

Duty of court clerks

12.62(1) The Court of Queen's Bench court clerk must promptly give a copy of the notice of appeal filed under rule 12.61 *[Appeal from Provincial Court order to Court of Queen's Bench]* to the clerk of the Provincial Court that made the order.

(2) Immediately on receipt of the notice of appeal filed under rule 12.61 *[Appeal from Provincial Court order to Court of Queen's Bench]*, the clerk of the Provincial Court must forward the order, together with the filed documents relating to the order, including exhibits, to the Court of Queen's Bench court clerk.

Transcript

12.63(1) The appellant must

(a) order and pay for a transcript of the hearing before the Provincial Court, and

(b) at the time of filing of the notice of appeal pursuant to rule 12.61 *[Appeal from Provincial Court order to Court of Queen's Bench]*, provide to the Court of Queen's Bench court clerk a receipt evidencing the ordering of the transcript.

(2) The appellant must file a copy of the transcript with the Court of Queen's Bench court clerk and serve a copy on the respondent not later than 3 months following the filing of the notice of appeal unless an order has been made by a judge of the Court of Queen's Bench prior to the expiration of the 3-month period extending the time for filing the transcript.

Filing of affidavits of service

12.64 The appellant must file a copy of the affidavit of service of the notice of appeal filed under rule 12.61 *[Appeal from Provincial Court order to Court of Queen's Bench]* and the transcript of the hearing before the Provincial Court.

Non-compliance by appellant

12.65(1) If the appellant does not comply with rule 12.63(2) *[Transcript]*, the Court must order that the appeal be dismissed, with or without costs, without further notice to the appellant.

(2) The Court may, on application, reinstate an appeal that has been dismissed under this rule.

Speaking to list

12.66 Unless otherwise directed by the Court, before the hearing of the appeal pursuant to rule 12.61 *[Appeal from Provincial Court order to Court of Queen's Bench]* is scheduled the parties must appear before the Court

(a) to agree on a date and time for the hearing of the appeal,

(b) to receive direction from the Court regarding the manner in which the appeal will be heard, and

(c) to address any other preliminary matters that may need to be decided before the hearing of the appeal, including the evidence that the Court may allow the parties to present at the hearing.

Scheduling appeal

12.67 On receiving all necessary documents, transcripts and affidavits of service, and on being satisfied that the appellant has complied with rule 12.63 *[Transcript]*, the Court of Queen's Bench court clerk must

(a) schedule the hearing of the appeal, and

(b) if directed by the Court, send notice of the date, time and place to all parties by recorded mail at least one month before the date fixed for the hearing of the appeal.

Evidence

12.68 The documents provided by the clerk of the Provincial Court pursuant to rule 12.62(2) *[Duty of court clerks]* and the transcript of the hearing before the Provincial Court form the record for the hearing of the appeal, and no other evidence may be considered by the Court unless otherwise ordered by the Court.

Appeal memoranda

12.69(1) The appellant must, not later than noon on the 20th day before the date scheduled for the hearing of the appeal, file and serve on the respondent an appeal memorandum setting out

(a) the facts in brief,

(b) the relief sought by the appellant,

(c) the argument and authorities on which the appellant intends to rely in support of the grounds set out in the notice of appeal, and

(d) particular references to the evidence to be discussed in relation to the grounds or arguments.

(2) The respondent must, not later than noon on the 10th day before the date scheduled for the hearing of the appeal, file and serve on the appellant an appeal memorandum setting out

(a) the respondent's position on the relief sought by the appellant,

(b) the relief, if any, sought by the respondent by way of cross appeal,

(c) the argument and authorities on which the respondent intends to rely, and

(d) particular references to the evidence to be discussed in relation to the grounds or arguments.

Powers of Court on appeal

12.70 After hearing the appeal, the Court may do one or more of the following:

(a) confirm the order of the Provincial Court;

(b) set aside the order of the Provincial Court;

(c) make any order that the Provincial Court could have made;

(d) direct the Provincial Court to conduct a new hearing.

Appeal from decision of Court of Queen's Bench sitting as appeal court

12.71(1) No appeal lies to the Court of Appeal from a decision of the Court of Queen's Bench sitting as an appeal court for decisions made under the *Family Law Act* except on a question of law or jurisdiction, or both, with permission of a judge of the Court of Appeal.

(2) Part 14 *[Appeals]* applies in respect of an appeal under subrule (1).

(3) Repealed AR 41/2014 s3.

AR 124/2010 s12.71;41/2014;85/2016

Part 13:
Technical Rules

What this Part is about: This Part contains rules calculating time and various administrative matters, including the filing of documents and certification of copies of original documents. The Part also deals with the contents of pleadings, affidavits, exhibits, payments into and out of Court, and the responsibilities of Court officers and Court reporters.

Part 13:
Technical Rules

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Information note

Words and phrases used in this Part that have defined meanings in the Appendix *[Definitions]* include

- assessment officer
- Attorney General for Alberta
- Chief Justice
- claim
- commencement document
- Court
- court clerk
- court reporter
- defendant
- enactment
- file
- judge
- judgment
- judgment centre
- lawyer
- order
- party
- plaintiff
- pleading
- prescribed form
- property
- record
- remedy
- rules
- trustee

Part 13:
Technical Rules

Division 1
Judge Unable to Continue

When one judge may act in place of or replace another

13.1 One judge may act in place of or replace another judge if

(a) that other judge dies,

(b) that other judge ceases to be a judge, or

(c) it is inconvenient, improper, inappropriate or impossible for that other judge to act.

Information note

Section 7 of the *Court of Queen's Bench Act* also provides for a judge to give judgment in a case fully heard by him or her for up to 3 months after ceasing to hold office. Section 7 reads:

Judgment by former judge

7 If a judge ceases to hold office without giving a judgment in any matter that was fully heard by him or her, the judge may, within 3 months after ceasing to hold office, give judgment in that matter as if the judge were still a judge of the Court and that judgment has the same effect as though given by a judge of the Court.

Section 18(3) of the *Interpretation Act* may also be applicable; it reads:

(3) If an enactment provides that a proceeding, matter or thing is to be done by or before a judge, the proceeding, matter or thing, if properly commenced before a judge, may be continued or completed before any other judge of the same court**.**

Division 2
Calculating Time

Application of these rules for calculating time

13.2 This Division describes how to calculate periods of time and applies to

(a) these rules, and

(b) judgments and orders.

Information note

The convention used in these rules is that

- time periods of less than one month are expressed in days and in multiples of 5, 10 or 20 days

- longer time periods are expressed in months or years.

Counting days

13.3 When counting to or from an event or activity in days, the date on which the event or activity occurs is not counted.

Information note

The basic rule can be illustrated as follows:

Counting forwards

In rule 3.31(3)(a) *[Statement of defence]* the defendant must file and serve a statement of defence in Alberta within 20 days after service of the statement of claim.

If the effective date of service of the statement of claim is January 4 (the event referred to in rule 13.3 *[Counting days]*), the statement of defence must be filed and served on or before January 24. The day of the event – the date service of the statement of claim is effected – is not counted.

Counting backwards

Rule 3.9 *[Service of originating application and evidence]* requires certain documents to be filed and served on parties 10 days or more before the date scheduled for hearing the application.

If the scheduled date is May 15, the materials must be filed and served on or before May 5. The day of the event – the scheduled hearing day – is not counted).

The rule for counting months is different; see rule 13.4 *[Counting months and years]*.

Holidays, Sundays, etc.

Note that where a time period expires on a Sunday, a holiday or a day on which an office or place of business where something must be registered, filed or done is not open for business during its regular business hours, section 22(1) and (2) of the *Interpretation Act* apply, as follows:

Computation of time

22(1) If in an enactment the time limited for the doing of a thing expires or falls on a holiday, the thing may be done on the day next following that is not a holiday.

(2) If in an enactment the time limited for registration or filing of an instrument, or for the doing of anything, expires or falls on a day on which the office or place in which the instrument or thing is required to be registered, filed or done is not open during its regular hours of business, the instrument or thing may be registered, filed or done on the day next following on which the on which the office or place is open.

Counting months and years

13.4(1) When counting to or from a date in months, time is calculated from the date on which the event or activity occurs in the month to the same-numbered day in a subsequent or previous month, as the case requires.

(2) If the count ends on the 29th, 30th or 31st and there is no same-numbered date in the subsequent or previous month, the count ends on the last day of the subsequent or previous month, as the case requires.

(3) When counting to or from an event or activity in years, time is calculated from the date on which the activity or event occurs in a year to the same-numbered date in a subsequent or previous year, as the case requires.

(4) If the count starts on February 29th and ends in a year that is not a leap year, the count ends on February 28th of that year.

AR 124/2010 s13.4;143/2011

Information note

For example:

(i) a time period of 3 months counted forward from an event or activity on January 15 ends on April 15;

(ii) a time period of 3 months counted forward from an event or activity on January 31 ends on April 30;

(iii) a time period of 3 months counted backwards from an event or activity on April 30 ends on January 30;

(iv) a time period of one year counted from an event or activity on January 15 of a year ends on January 15 of the next year.

Variation of time periods

13.5(1) Unless the Court otherwise orders or a rule otherwise provides, the parties may agree to extend any time period specified in these rules.

(2) The Court may, unless a rule otherwise provides, stay, extend or shorten a time period that is

(a) specified in these rules,

(b) specified in an order or judgment, or

(c) agreed on by the parties.

(3) The order to extend or shorten a time period may be made whether or not the period has expired.

Information note

Examples of where the rules prohibit time from being extended by the Court or the parties include:

- the time for service of a statement of claim under rule 3.26(3) *[Time for service of statement of claim]*
- the time for bringing most originating applications for judicial review under rule 3.15(2) *[Originating application for judicial review]*.

Division 3
Pleadings

Pleadings: general requirements

13.6(1) A pleading must be

(a) succinct, and

(b) divided into consecutively numbered paragraphs, with dates and numbers expressed in numerals unless words or a combination of words and numerals makes the meaning clearer.

Information note

Very large numbers are better expressed in a combination of numerals and words, for example, $25 billion. The first word of a sentence is usually better expressed as a word than a numeral. For dates, unless the pleading is clear about the convention being used, the month should be stated as a word.

(2) A pleading must state any of the following matters that are relevant:

(a) the facts on which a party relies, but not the evidence by which the facts are to be proved;

(b) a matter that defeats, or raises a defence to, a claim of another party;

(c) the remedy claimed, including

(i) the type of damages claimed,

(ii) to the extent known, the amount of general and special damages claimed, or if either or both are not known, an estimate of the amount or the total amount that will be claimed,

(iii) a statement of any interest claimed, including the basis for the interest, and the method of calculating the interest, and

(iv) costs, including any known special costs.

(3) A pleading must also include a statement of any matter on which a party intends to rely that may take another party by surprise, including, without limitation, any of the following matters:

(a) breach of trust;

(b) duress;

(c) estoppel;

(d) fraud;

(e) illegality or invalidity of a contract, including the grounds;

(f) malice or ill will;

(g) misrepresentation;

(h) payment;

(i) performance;

(j) release;

(k) undue influence;

(l) voluntary assumption of risk;

(m) waiver;

(n) lack of capacity or authority;

(o) wilful default;

(p) tender of payment;

(q) a limitation period;

(r) a provision of an enactment.

(4) If the defendant proposes to produce evidence about the plaintiff's reputation in mitigation of damages, the defendant must include in a pleading the facts on which the defendant intends to rely.

Pleadings: other requirements

13.7 A pleading must give particulars of any of the following matters that are included in the pleading:

(a) breach of trust;

(b) fraud;

(c) misrepresentation;

(d) wilful default;

(e) undue influence;

(f) defamation.

Pleadings: other contents

13.8(1) A pleading may include all or any of the following:

(a) alternative claims or defences;

(b) a statement of a point of law, and if so, the facts that make the point of law applicable;

(c) a matter that arose after the commencement document was filed.

(2) A general or other remedy claimed by a party need not be claimed in a pleading.

Defence of tender

13.9 Tender before action may not be pleaded as a defence in an action unless, before the defence is filed, the defendant pays into Court the amount alleged to have been tendered.

Pleadings: specific requirements for replies

13.10 In addition to the other requirements of these rules, in a reply to

(a) a statement of defence,

(b) a statement of defence to a counterclaim, or

(c) a statement of defence to a third party claim,

the reply may only make admissions or respond to matters raised for the first time in the statement of defence.

Information note

The "other requirements" for pleadings are mainly contained in rule 13.6 *[Pleadings: general requirements]*, rule 13.7 *[Pleadings: other requirements]*, rule 13.8 *[Pleadings: other contents]* and rule 13.13 *[Requirements for all filed documents]*.

Pleadings: specific requirements for class proceedings

13.11(1) The title of a proceeding under the *Class Proceedings Act* must include the words "*Brought under the Class Proceedings Act*" immediately below the listed parties

(a) if it is intended, when the proceeding starts, that a certification order will be sought under the Act, or

(b) if a certification order is subsequently made in respect of the proceeding under the Act.

(2) If a certification order is refused in respect of the proceeding or the proceeding is decertified, the words "*Brought under the Class Proceedings Act*" must not be included in the title in any subsequent pleadings and documents filed in the proceeding.

Pleadings: denial of facts

13.12(1) Every fact in a pleading is denied if the fact is not admitted in another pleading filed by a party opposite in interest.

(2) A denial of a fact in a pleading must meet the point of substance.

Division 4
Filed Documents

Subdivision 1
Contents and Filing

Requirements for all filed documents

13.13(1) Every document filed in an action must be in the appropriate form set out in Schedule A to these rules, if any, which may be modified as circumstances require.

(2) Whether or not a form is prescribed, each document must begin with the following:

(a) the name of the Court;

(b) the name of the judicial centre;

(c) the names of the parties as determined by subrules (3) and (4);

(d) the action number;

(e) the nature of the document;

(f) an address for service of documents;

(g) the name, address and contact information of the party or lawyer of record who prepared the document;

(h) once filed, the date the document was filed;

(i) anything required by these rules to be included.

(3) The names of all the parties must be used in

(a) a commencement document,

(b) a document that changes any party,

(c) an order, judgment or pronouncement of the Court that grants relief, or

(d) a document that in the opinion of the person filing the document should contain the names of all the parties.

(4) In any document other than those specified in subrule (3), the names of the first 4 parties of any group that contains more than 4 parties may be used, with the remainder being omitted and replaced by the words "and others".

(5) Every document filed and every exhibit to an affidavit must be legible.

(6) When a document is filed, the court clerk must retain the original of the document.

(7) Authorities referred to in a document provided to the Court must be cited in accordance with rule 14.31(a) and (d).

AR 124/2010 s13.13;143/2011;85/2016

Information note

When a form is prescribed for use under these rules keep in mind rule 13.16 *[Deviations from and changes to prescribed forms]*. Rules for affidavits and exhibits are contained in rule 13.18 *[Types of affidavit]* to rule 13.26 *[Exhibits: filing and return]*.

Endorsements on documents

13.14(1) When the court clerk is presented with a commencement document for filing, the court clerk must

(a) endorse on the document an action number assigned to the action by the court clerk, and the date that the document is filed,

(b) ensure that the document to be filed has endorsed on it the name of the judicial centre where the document is filed, and

(c) stamp the document as filed.

(2) If a lawyer is acting for a person on whose behalf the action is started, when the court clerk is presented with a commencement document for filing, the court clerk must ensure that the lawyer has endorsed on the document

(a) the name and address of the law firm,

(b) the name of the lawyer in the law firm in charge of the action, and

(c) the lawyer's telephone number.

(3) When the court clerk is presented with a statement of defence or a demand for notice for filing, the court clerk must ensure that the document has endorsed on it

(a) the name of the person filing the document and, if the person filing the document is a lawyer, the same information as is required under subrule (2)(a) to (c), and

(b) the defendant's address for service.

(4) When the court clerk is presented with a document that is to be filed in an action after the action has started, the court clerk must

(a) endorse on the document the date that the document is filed, and

(b) ensure that the document to be filed has endorsed on it

(i) the name of the judicial centre at which the document is filed, and

(ii) the appropriate action number.

(5) If the court clerk is presented with a document that is to be filed after an action has started, the court clerk must also, if a lawyer is acting in respect of the person on whose behalf the document is filed, ensure that the lawyer has endorsed on the document the same information as is required under subrule (2)(a) to (c).

(6) When a document is filed, the court clerk must note in the Court file, under the action number assigned to the action by the court clerk, the fact that the document was filed.

When document is filed

13.15 A document is filed when the court clerk of the judicial centre acknowledges on the document that the document is filed in the action.

Information note

The appropriate judicial centre is determined under rule 3.3 *[Determining the appropriate judicial centre]* and rule 3.4 *[Claim for possession of land]*.

Deviations from and changes to prescribed forms

13.16 A prescribed form or a document prepared in place of a prescribed form is not invalidated nor is there any contravention of these rules if there is a deviation from or an addition to or omission from the form or document that

(a) does not adversely affect the substance of the information required to be provided or that the Court requires to be provided, and

(b) is not intended to mislead.

Amendments to records other than commencement documents, pleadings or affidavits

13.17 If the Court orders that an amendment be made to a document or other record filed with the Court, other than a commencement document, pleading, or affidavit,

(a) a note of the amendment must be attached to, made on, or made in the document or record,

(b) the amendment must

(i) be dated and identified, and each amended version must be identified, and

(ii) be endorsed by the court clerk in the following form:

Amended on [date] by [order]

Dated . . .

and

(c) except as required by this rule, the document or other record must not be otherwise physically altered.

Subdivision 2
Form and Contents of Affidavits and Exhibits

Types of affidavit

13.18(1) An affidavit may be sworn

(a) on the basis of personal knowledge, or

(b) on the basis of information known to the person swearing the affidavit and that person's belief.

(2) If an affidavit is sworn on the basis of information and belief, the source of the information must be disclosed in the affidavit.

(3) If an affidavit is used in support of an application that may dispose of all or part of a claim, the affidavit must be sworn on the basis of the personal knowledge of the person swearing the affidavit.

Information note

Under section 28(1)(ll) of the *Interpretation Act*, references to affidavits and to sworn statements permit a person to make a solemn affirmation or solemn declaration instead of an affidavit.

Requirements for affidavits

13.19(1) In addition to complying with rule 13.13 *[Requirements for all filed documents]*, an affidavit under these rules must comply with all of the following:

(a) be in Form 49,

(b) state, on the front page, the full name of the person swearing the affidavit and the date the affidavit was sworn,

(c) state the place of residence of the person swearing the affidavit,

(d) be written in the first person,

(e) be divided into consecutively numbered paragraphs, with dates and numbers expressed in numerals unless words or a combination of words and numerals makes the meaning clearer,

(f) be signed or acknowledged and sworn before a person empowered to administer oaths, whether that person prepared the affidavit or not,

(g) contain a statement of when, where and before whom the affidavit was sworn, and

(h) be signed by the person administering the oath.

(2) An affidavit is not invalid or otherwise improper just because it was sworn before a commencement document was filed.

AR 124/2010 s13.19;163/2010

Information note

The place of residence referred to in subrule (1)(c) could be an address or the municipality in which the person swearing the affidavit resides.

Changes in affidavits

13.20 An affidavit with an insertion, alteration or erasure must not be used without the Court's permission unless the insertion, alteration or erasure is authenticated by the initials of the person administering the oath.

Requirements for exhibits to affidavit

13.21(1) A record to be used with an affidavit must be

(a) an exhibit to the affidavit, and

(b) identified by a certificate of the person administering the oath.

(2) If the total number of pages of an affidavit and attached exhibits is 25 or more,

(a) the exhibits must be separated by tabs, and the pages within each tab must be numbered consecutively, or

(b) the pages of the affidavit and all exhibits must be consecutively numbered using a single series of numbers.

(3) An exhibit to an affidavit must be attached or appended to the affidavit when the affidavit is filed unless

(a) the exhibit is unduly large or bulky and can be adequately identified,

(b) the exhibit has already been filed and is identified, or

(c) the Court otherwise orders.

Affidavits by visually impaired or those unable to read

13.22(1) If it seems to the person administering the oath that the person swearing the affidavit is visually impaired or unable to read, the person administering the oath must read the affidavit to the person swearing the affidavit and certify that

(a) the affidavit was read to the person,

(b) the person seemed to understand it, and

(c) the person signed the affidavit or made the person's mark in the presence of the person administering the oath.

(2) The affidavit must not be used in evidence without the certification referred to in subrule (1) unless the Court is satisfied that the affidavit was read to, and appeared to be understood by, the person swearing it.

Understanding affidavit

13.23(1) If it seems to the person administering the oath that the person swearing a written affidavit does not understand the language in which the affidavit is written, before the affidavit is sworn the contents of the affidavit must be translated for the person swearing the affidavit by a person competent to do so.

(2) Before the affidavit is translated, the translator must be sworn to accurately translate the affidavit and oath.

(3) The person administering the oath must certify as to the person's belief that the affidavit was translated for the person swearing the affidavit by the sworn translator.

(4) Unless otherwise permitted by the Court, a sworn affidavit that is not in the English language must be translated into English by a translator competent to do so and, when the affidavit is filed, be accompanied with a certificate of the translator that the translation is accurate and complete.

More than one individual swearing affidavit

13.24 An affidavit may be made by 2 or more individuals and that fact must be stated in the statement of when, where and before whom the affidavit was sworn.

Use of filed affidavits

13.25 In an application or proceeding in an action, a party may use and refer to any affidavit filed in the action.

Exhibits: filing and return

13.26(1) Exhibits filed with the court clerk in a hearing or trial must

(a) be dated and numbered,

(b) indicate the parties involved in the action, application or proceeding for which the exhibit is filed, and

(c) state who owns the exhibit and by whom the exhibit is filed.

(2) A list of exhibits filed in the hearing or trial, briefly describing the exhibits and who filed them, must be noted in the Court file.

(3) After the time for an appeal has expired, the court clerk may, subject to any order, return a record or exhibit to the owner or person who filed it.

(4) The court clerk may destroy or dispose of a record or exhibit if the court clerk

(a) gives at least 3 months' written notice by ordinary mail to the owner or person who filed it of the court clerk's intention to destroy or dispose of the record or exhibit, and

(b) receives no response to the notice by the end of the notice period given under clause (a).

AR 124/2010 s13.26;163/2010

Subdivision 3
Lost and Concurrent Documents, Certified Copies, Authenticated Photographs and Video Recordings

Lost documents

13.27 If a commencement or other document has been lost, the court clerk, if satisfied of the loss and of the correctness of a copy of the document, may certify the copy, which may be used in place of the original.

Concurrent document

13.28(1) During the validity of a commencement document, the court clerk may issue a concurrent document, which is in force during the validity of the original document.

(2) The concurrent document must have the same date as the original document and must be marked "concurrent" with the date of issue of the concurrent document.

Certified copies of original records

13.29(1) The Court may give directions

(a) respecting the preparation of a certified copy of an original record that has been filed, and

(b) if necessary, the use of the certified copy in place of the original record in an action, application or proceeding.

(2) The court clerk may certify or authenticate any document in the court file.

(3) The certified copy of an original record is admissible in evidence to the same extent as the original.

Authenticated photographs of personal property

13.30(1) If a party wishes to put personal property in evidence, the party may, in addition to or in substitution for the property, file one or more photographs

(a) if permitted or directed by the Court, or

(b) with the agreement of every other party.

(2) The party filing the photographs must provide an accompanying certificate by the photographer certifying its authenticity and, with respect to each photograph,

(a) the date, time and place where the photograph was taken;

(b) the photographer's name;

(c) whether the photograph has been modified, enhanced or altered in any way, or otherwise tampered with;

(d) any other matter directed by the Court.

(3) An authenticated photograph filed under this rule must be treated by the Court in the same manner as if the personal property had been received in evidence, but if in the Court's opinion the quality or content of a photograph is not adequate, the Court may

(a) direct that the photograph not be used, or

(b) give any other direction the Court considers appropriate in the circumstances.

Video recordings in place of transcripts

13.31 If the parties agree or the Court orders that a video recording be made instead of a transcript, the person operating the video recording device that records the questioning must give a certificate containing the following:

(a) the name and address of the person giving the certificate,

(b) the date, time and place of the video recording,

(c) the names of the persons questioned and the persons doing the questioning,

(d) whether the video recording is of the entire questioning or only a portion of it, and

(e) any other information required by the Court.

Division 5
Payment of Fees and Allowances, and Waivers of Fees

Fees and allowances

13.32(1) In every action, application or proceeding in Court, there must be paid to the appropriate court officer or other appropriate person the fee specified, referred to or determined in accordance with Schedule B *[Court Fees and Witness and Other Allowances]* unless the court clerk waives the fee, in whole or in part, in accordance with guidelines, if any, established or adopted by the Minister of Justice and Solicitor General for persons unable to pay fees.

(2) Except for fees for transcripts, the fees referred to in subrule (1) are payable in advance unless the court clerk otherwise permits.

AR 124/2010 s13.32;143/2011;170/2012

Uncertainty of amount of fees and allowances

13.33(1) If the amount of a fee, allowance or other amount is uncertain or impossible to determine, the fee or amount may be estimated by the court clerk and adjusted when the fee or amount is fixed by a judge.

(2) When a person is paid or given an allowance before actual attendance at an application or proceeding conducted under these rules, the person is entitled to receive any additional sum that is determined to be payable after completion of the attendance.

(3) When a party is permitted or required to pay an allowance, that party may have the amount fixed by an assessment officer without notice to any other person, subject to adjustment after completion of the actual attendance.

Fee accounts

13.34 The court clerk may establish and operate accounts for the purpose of allowing lawyers to charge fees or other amounts to the account and for the court clerk to send an invoice for fees and other amounts as required.

Fee exemption

13.35(1) A peace officer is exempt from the payment of fees or other amounts under Schedule B *[Court Fees and Witness and Other Allowances]* for the search of a name, the inspection of a file or a copy or the certification of a document when the court service is required in the execution or discharge of the peace officer's duties.

(2) In this rule, "peace officer" means a peace officer as defined in the *Provincial Offences Procedures Act*.

Fee waiver: legal aid

13.36(1) In this rule,

(a) "certificate" means a Legal Aid Certificate issued by the Legal Aid Society of Alberta;

(b) "document" means any document that may be filed for which a fee is payable under any of items 1 to 4 of Schedule B *[Court Fees and Witness and Other Allowances]*.

(2) A court clerk who is requested to file a document must waive the filing fee otherwise payable if presented with a subsisting certificate issued in respect of the person for whom the document is to be filed.

(3) If a document was filed in an action before a certificate is issued in respect of the person for whom the document was filed, the fee paid for filing the document may not be waived under this rule.

(4) A court clerk must waive the fee payable under item 5.1(b) of Schedule B if presented with a subsisting certificate issued in respect of the person owing the fee.

AR 124/2010 s13.36;216/2011;71/2015

Fee waiver: restraining orders

13.37(1) In this rule, "restraining order" means a restraining order in respect of an interpersonal matter between individuals or a protection order under the *Protection Against Family Violence Act* and includes the costs associated with respect to that restraining order or protection order.

(2) If a court clerk files a commencement document or an application in the course of an action or proceeding in which the remedy claimed is a restraining order, the court clerk must waive the fee payable under item 1 or 3.4 respectively of Schedule B *[Court Fees and Witness and Other Allowances]*.

(3) Despite subrule (2), the fee referred to in subrule (2) must not be waived if any remedy, other than or in addition to a restraining order, is being sought in respect of the matter for which the document is being filed.

(4) A fee that was waived becomes immediately payable if the party in respect of whom the fee was waived claims or seeks a remedy in respect of the matter other than or in addition to the restraining order.

AR 124/2010 s13.37;76/2015

Division 6
Judge's Fiat, Court Officers and Court Reporters

Judge's fiat

13.38(1) A judge or a master may authorize, direct or give permission to a court officer to do an act, and a note signed by the judge or master is sufficient authority to carry out the act.

(2) The authorization, direction or permission must be filed unless the judge or master otherwise directs.

Court officers

13.39 The persons holding the following positions are court officers:

(a) the court clerk and every person delegated authority by the court clerk or authorized by the court clerk to perform any court clerk functions;

(b) the sheriff;

(c) a person appointed as a deputy of a person described in clause (a) or (b).

Court officers may delegate authority

13.40(1) A court officer may, in writing, appoint a person to act on the court officer's behalf if the court officer is absent or unable to act.

(2) A court officer may appoint a person to sign, on the court officer's behalf, anything required to be signed by the court officer.

Authority of court clerk

13.41(1) Subject to subrules (2) and (3), the court clerk must file, issue, certify or do anything with respect to an action, application or proceeding that complies with these rules.

(2) The court clerk must not file, issue, certify or do anything with respect to an action, application or proceeding except

(a) on the personal attendance at the court office by the party or person concerned or a person on the party's or person's behalf,

(b) at the written request of the party or person concerned or a person on the party's or person's behalf who completes the prescribed form or other required document and provides it to the court clerk with a prepaid and addressed envelope when return of a document is required, or

(c) by a means authorized by the Court, which may include filing by fax or electronic mail, or both.

(3) A court clerk may refuse to file, issue, certify or do any other thing with respect to an action, application or proceeding if

(a) the instructions to the court clerk are not clear,

(b) a document or prescribed form is not satisfactory or not satisfactorily completed, or

(c) a requirement of these rules has not been complied with.

(4) Notwithstanding subrule (2)(c), where the Court has authorized the filing of an affidavit with a court clerk by fax or electronic means, the original of that affidavit must be filed with that court clerk within 15 days after the faxed or electronic copy is filed.

AR 124/2010 s13.41;143/2011

Absence of court clerk

13.42 In the absence or inability of the court clerk or other officer of the Court to act or to do a thing, the duty may be performed by a person designated for that purpose by the Chief Justice.

Seal

13.43 Each court clerk may use the court seal as occasion requires.

Duties of court clerk

13.44 In addition to any other duties that a court clerk is required by law to perform, a court clerk has the following duties and responsibilities:

(a) to establish and maintain a court file for each action started in the Court and to keep the court file up to date;

(b) to receive, file and have custody of all commencement documents, pleadings, affidavits and records filed in every action, application or proceeding;

(c) to have custody of all documents required or ordered to be deposited for safekeeping or otherwise under an order or an enactment;

(d) to take any action or do anything required or permitted under these rules, an enactment or an order or judgment;

(e) in accordance with the Court's directions, to keep a detailed log of court proceedings, including any record that is capable of being represented or reproduced visually or by sound or both and ensure that the recording and log are properly and securely stored;

(f) to keep proper accounts and records of money or property received, paid out or disposed of;

(g) to perform any other functions required by the Minister or the Chief Justice.

Notice to be given to court officers

13.45(1) Every party or person

(a) who receives an order or judgment, or

(b) in whose favour an order or judgment is made

that imposes duties on a court officer must give to the court officer written notice of the order or judgment and of the duty imposed under the order or judgment unless the Court otherwise orders.

(2) Filing the order or judgment is not notice to the court officer.

Official court reporters

13.46(1) An official court reporter must perform the duties required under these rules or assigned by the Minister or the Court and must

(a) keep in safe custody the record of any proceedings or questioning taken by the official court reporter,

(b) honestly and accurately transcribe the record of those proceedings or that questioning, and

(c) deliver a copy of the transcript as required by these rules.

(2) On or attached to a transcript, the official court reporter must

(a) state the official court reporter's name,

(b) specify the date and place where the proceedings or questioning occured, and

(c) certify the transcript, or the portion of the transcript transcribed, as complete and accurate.

AR 124/2010 s13.46;143/2011

Proof of official court reporter's signature not required

13.47 Proof of the signature of an official court reporter or a person transcribing questioning under these rules is not required unless the Court orders otherwise.

Division 7
Payment into Court and Payment out of Court

When money may be paid into Court

13.48 Money may be paid into Court in accordance with

(a) these rules;

(b) an enactment;

(c) a judgment or order.

How money is paid into Court

13.49(1) Money paid into Court must be paid to the court clerk and accompanied with Form 50.

(2) The court clerk must

(a) give a receipt for money paid into Court, and

(b) deposit the money in an account in a bank, treasury branch or trust corporation, unless otherwise ordered.

Tender on judicial sale

13.50(1) Certified cheques received by the court clerk as a tender on a judicial sale must be held by the court clerk on behalf of the person making the tender.

(2) If the court clerk expects the tender to be considered by the Court or otherwise dealt with within one month after receipt of the certified cheque, the court clerk may hold the cheque without depositing it.

(3) If the court clerk expects that a tender will not be considered or otherwise dealt with within one month after receipt of the certified cheque, or if the person making the tender so requests within one month after making the tender, the court clerk must invest the money in securities described in rule 13.54 *[Investments and payment earnings]*.

Litigant's account

13.51(1) Money paid into Court must be credited to a litigant's account for the action, application or proceeding for which the payment is made.

(2) The court clerk is in charge of every litigant's account and must record all transactions related to the account and the authority for the transaction.

Payments into Court under Trustee Act

13.52(1) An application for permission to pay money or securities into Court under the *Trustee Act* or a payment into Court under that Act must be accompanied with an affidavit of one or more trustees setting out

(a) a brief description of the trust, the instrument or enactment creating it or the circumstances under which it arose,

(b) the name of every person interested in or entitled to the money or securities, together with their addresses, if known, and

(c) an address for service of documents.

(2) Notice of the application or payment into Court must be given to every person that the Court orders be notified.

Payments out of Court

13.53 Money paid into Court may be paid out of Court only

(a) if the court clerk certifies that the money is in Court,

(b) in accordance with an order, unless otherwise permitted by the Court,

(c) by cheque signed and countersigned by a person designated by the Minister, and

(d) if the payment is to

(i) the person entitled to the money or the person's lawyer, or

(ii) another person specified by the Court or named by the person entitled to the money.

Investments and payment earnings

13.54(1) Money paid into Court or money subject to an order may be invested on the court clerk's initiative or on the written request of a person having an interest in the money, and if the money is invested, the money may only be invested in

(a) public funds of Alberta or Canada,

(b) deposit certificates of a bank, treasury branch or trust corporation, or

(c) securities or a class of securities authorized by the Court.

(2) Money earned on investments made under subrule (1) must be paid to the person entitled to the money paid into Court when the principal amount is paid out, unless the Court otherwise orders.

Disposition of money in accounts

13.55(1) If the balance remaining to the credit of a court account is less than $100 and 2 years has passed after the amount was deposited in the account without the balance being claimed, the account must be closed by transferring the balance to the suspense account maintained by the court clerk.

(2) Subject to subrule (1), 10 years after the last payment into a court account, the balance must be transferred to the suspense account.

(3) Money in the suspense account, including interest or any return on money in that account, is subject to the control of, and may be paid out only in accordance with a direction of, the Lieutenant Governor in Council.

(4) This rule does not affect the right of a person entitled to the money in the suspense account, including the right to recover the money.

Part 14: Appeals

What this Part is about: This Part governs appeals to the Court of Appeal.

Part 14:
Appeals

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Information note

Words and phrases used in this Part that have defined meanings in the Appendix *[Definitions]* or Rule 14.1 *[Definitions]* include

- appeal
- appellant
- case management officer
- Civil Appeal Hearing List
- commencement document
- costs award
- court appealed from
- court clerk
- decision
- defendant
- enactment
- fast track appeal
- file
- judge
- judgment
- judicial centre
- lawyer
- litigation representative
- master
- Minister
- official court reporter
- order
- panel
- party
- plaintiff
- pleading
- procedural order
- property
- record
- Registrar
- remedy
- respondent
- rules
- standard appeal
- Unscheduled Civil Appeals List

Part 14: Appeals

Division 1
The Right to Appeal

Subdivision 1
Interpretation and Application

Definitions

14.1(1) In this Part,

(a) "appeal" means an appeal to the Court of Appeal governed by this Part;

(b) "appellant" means a person who under an enactment or these rules

(i) files an application for permission to appeal to the Court of Appeal, or

(ii) files a notice of appeal;

(c) "case management officer" means a person appointed as a case management officer under the *Court of Appeal Act*;

(d) "Civil Appeal Hearing List" means the list referred to in rule 14.33(1) *[Scheduling standard appeals]* that identifies selected appeals that have been scheduled for oral argument and the date on which each oral argument is to be heard;

(e) "court appealed from" means the court, person or tribunal from which an appeal has been brought;

(f) "decision" means the whole or any part of the decision of the court, person or tribunal from which an appeal lies and includes a judgment, order, decision, verdict, direction, determination or award and, where the context requires, includes the verdict or finding of a jury;

(g) "fast track appeal" means an appeal that must be managed in accordance with rule 14.14 *[Fast track appeals]*;

(h) "file" means to present the correct document and obtain an acknowledgment by the Registrar of the Court of Appeal that the document is part of the Court of Appeal Record;

(i) "judge", when used in reference to the Court of Appeal, includes the Chief Justice of Alberta, the justices of appeal and the supernumerary judges of the Court of Appeal;

(j) "panel" means three or more judges of the Court of Appeal unless the Chief Justice, in case of emergency, declares that two judges may form a panel;

(k) "party" means a party to an appeal or an application under this Part and includes an intervenor where the context requires;

(l) "Registrar" means a person appointed as a Registrar of the Court of Appeal under the *Court of Appeal Act* and includes a Deputy Registrar of the Court of Appeal and any person designated by a Registrar or the Chief Justice of Alberta to act for a Registrar;

(m) "respondent" means, unless the context otherwise requires, the person who, under an enactment or these rules,

(i) is named as a respondent to an application for permission to appeal, or

(ii) is named as a respondent to an appeal;

(n) "standard appeal" means an appeal other than a fast track appeal;

(o) "Unscheduled Civil Appeals List" means the list referred to in rule 14.33(2) *[Scheduling standard appeals]* that identifies all the appeals that have not been scheduled for oral argument, which are to be spoken to at the next calling of the List.

(2) Where a respondent files a notice of cross appeal, unless this Part otherwise provides, the rules relating to appeals apply to the cross appeal and, in particular,

(a) references to an appeal include a cross appeal;

(b) references to an appellant include a respondent who files a notice of cross appeal;

(c) references to a respondent include an appellant who is named as a respondent in a notice of cross appeal;

(d) references to parties to an appeal include parties to a cross appeal.

AR 41/2014 s4

Application of general rules

14.2(1) Subject to this Part, to any enactment, and to any direction by an appeal judge, if this Part does not deal with a matter, other Parts of these rules apply to appeals, with any appropriate modifications.

(2) Where a rule in this Part provides that a specific rule in another Part applies to appeals, the specific rule applies with any appropriate modifications.

(3) Rule 13.5(1) *[Variation of time periods]* does not apply to a time period or deadline referred to in this Part.

(4) Subject to any appropriate modifications or any direction by an appeal judge, when applying the provisions of any other Part to an appeal under this Part,

(a) a reference to the court clerk or a court officer is to be read as a reference to the Registrar;

(b) a reference to a plaintiff is to be read as a reference to an appellant;

(c) a reference to a defendant is to be read as a reference to a respondent;

(d) a reference to the court or a judge are to be read as a reference to an appeal judge;

(e) a reference to a pleading or commencement document includes a reference to a notice of appeal, a notice of cross appeal or an application for permission to appeal.

(5) In this Part, "appropriate modifications" means those changes and modifications to the use and interpretation of these rules necessary or appropriate for a rule in another Part to apply to and to be used in appellate practice.

AR 41/2014 s4

When these rules apply

14.3 If a person has a right to appeal to the Court of Appeal under an enactment or these rules or is granted permission to appeal to the Court of Appeal, the appeal must be made and managed in accordance with this Part.

AR 41/2014 s4

Subdivision 2
Appeals as of Right

Right to appeal

14.4(1) Except as otherwise provided, an appeal lies to the Court of Appeal from the whole or any part of a decision of a Court of Queen's Bench judge sitting in court or chambers, or the verdict or finding of a jury.

(2) No appeal is allowed to the Court of Appeal from the dismissal by a Court of Queen's Bench judge of an application made without notice.

(3) Where an application has been made to the Court of Queen's Bench without notice and has been dismissed, the applicant may reapply

(a) on notice, if the dismissal was for lack of notice, or

(b) by renewal of the application if the dismissal was for reasons other than the lack of notice.

(4) No appeal is allowed directly to the Court of Appeal from a decision of a master in chambers.

(5) No appeal is allowed

(a) from a judgment granting a divorce, on or after the date on which the divorce takes effect, or

(b) unless an appeal judge extends the time, from an order made in a divorce proceeding, more than 30 days after the date on which the order was made.

AR 41/2014 s4

Information note

Appeals in family law matters are also dealt with in Part 12, Division 11 *[Appeals]*.

Subdivision 3
Appeals with Permission

Appeals only with permission

14.5(1) Except as provided in this rule, no appeal is allowed to the Court of Appeal from the following types of decisions unless permission to appeal has been obtained:

(a) a decision of a single appeal judge;

(b) any pre-trial decision respecting adjournments, time periods or time limits;

(c) any ruling during trial, where the appeal is brought before the trial is concluded;

(d) a decision made on the consent of the parties;

(e) a decision as to costs only, but an appeal or cross appeal is not "as to costs only" if a related substantive decision is also being appealed;

(f) any decision where permission to appeal is required by an enactment;

(g) any decision in a matter where the controversy in the appeal can be estimated in money and does not exceed the sum of $25 000 exclusive of costs;

(h) any decision on security for costs;

(i) any decision of the Court of Queen's Bench sitting as an appeal court under rule 12.71 *[Appeal from decision of Court of Queen's Bench sitting as appeal court]*;

(j) any appeal by a person who has been declared a vexatious litigant in the court appealed from.

(2) Permission to appeal decisions of single appeal judges under subrule (1)(a) must be sought from the same judge who made the decision that is to be appealed.

(3) No appeal is allowed under subrule (1)(a) from a decision of a single appeal judge granting or denying permission to appeal.

(4) No appeal is allowed under subrule (1)(j) from an order denying the vexatious litigant permission to institute or continue proceedings.

AR 41/2014 s4;85/2016

Subdivision 4
Cross Appeals

Cross appeals

14.6(1) A respondent to an appeal may cross appeal any decision on which it could have commenced an appeal, by filing a notice of cross appeal under rule 14.11 *[How to start a cross appeal]*.

(2) Subject to subrule (3), where an appeal has been commenced as of right or with permission, the respondent does not need permission to file a cross appeal with respect to any decision described in rule 14.5 *[Appeals only with permission]* if the cross appeal is only intended to vary the decision already under appeal.

(3) Where an enactment provides that an appeal may be commenced in the Court of Appeal with permission, a respondent who wishes to cross appeal must apply for permission to cross appeal.

AR 41/2014 s4

Division 2
The Appeal Process

Subdivision 1
Starting an Appeal or Cross Appeal

How to start an appeal

14.7 Appeals must be started

(a) where an enactment or these rules give a right of appeal, by filing a notice of appeal under rule 14.8 *[Filing a notice of appeal]*, or

(b) where permission to appeal must be obtained, by applying for permission under rule 14.44*[Application for permission to appeal]*, and if permission is granted, by then filing a notice of appeal under rule 14.8 *[Filing a notice of appeal]*.

AR 41/2014 s4

Information note

The general right to appeal is found in rule 14.4 *[Right to appeal]*, specific rights to appeal are found in various statutes. Rule 14.5 *[Appeals only with permission]* and some statutes require permission to appeal in some cases.

Filing a notice of appeal

14.8(1) In this rule, "date of decision" means the later of

(a) the date that the judgment, order or other decision being appealed is made, or

(b) if reasons are given after a judgment, order or other decision being appealed is made, the date the reasons are issued.

(2) An appellant must

(a) file with the Registrar 3 copies of a notice of appeal that meets the requirements of rule 14.12 *[Contents and format of notices of appeal and cross appeal]* and Form AP-1,

(i) within the time for commencing an appeal stated in an enactment,

(ii) if the appellant is granted permission to appeal, within 10 days after the date permission is granted, or

(iii) if subclauses (i) and (ii) do not apply, within one month after the date of decision,

and

(b) for every other party to the appeal, file and serve one additional copy of the notice of appeal within the time periods mentioned in clause (a).

(3) Where permission to appeal is required, an application for permission to appeal in accordance with rule 14.44 *[Application for permission to appeal]* must be filed and served within the time periods mentioned in subrule (2)(a).

(4) The appellant must serve a filed copy of the notice of appeal on every party to the decision that is the subject of the appeal and any person or body that these rules, an enactment or the direction of an appeal judge require to be served.

(5) Appeals arising in the judicial centres of Calgary, Drumheller, Lethbridge, Medicine Hat or Red Deer must be filed at the office of the Registrar of the Court of Appeal in Calgary, and appeals arising in all other judicial centres must be filed at the office of the Registrar of the Court of Appeal in Edmonton.

(6) Despite subrule (5), in urgent situations an appellant may make arrangements with a Registrar to file a notice of appeal in either office of the Registrar of the Court of Appeal or to file a notice of appeal electronically.

AR 41/2014 s4;128/2015

Appeals from several decisions

14.9 A separate notice of appeal must be filed for each decision that is appealed, except where

(a) the appeal concerns several decisions made by the court appealed from that arise out of the same hearing,

(b) the appeal concerns a substantive decision, and a ruling on costs for the same hearing,

(c) the appeal is of a decision that varies, confirms, explains, or provides for the enforcement of a previous decision, and the previous decision is also being appealed, or

(d) a case management officer otherwise orders.

AR 41/2014 s4

Notice to Court of Queen's Bench

14.10 Where the appeal is from a decision of the Court of Queen's Bench, the appellant must file a copy of the notice of appeal with that court within the time specified in rule 14.8(2) *[Filing a notice of appeal]*.

AR 41/2014 s4

How to start a cross appeal

14.11 A respondent who contends that the decision of the court appealed from should be varied must, within the time for filing an appeal or within 10 days of service of the notice of appeal, whichever is later,

(a) file with the Registrar

(i) 3 copies of a notice of cross appeal in Form AP-2, or

(ii) where permission to cross appeal is required under rule 14.6(3) *[Cross appeals]*, an application for permission to cross appeal,

and

(b) for every other party to the appeal and cross appeal, file and serve an additional copy of the notice of cross appeal or application.

AR 41/2014 s4

Subdivision 2
Notices of Appeal and Cross Appeal

Contents and format of notices of appeal and cross appeal

14.12(1) A notice of appeal must be in Form AP-1 and a notice of cross appeal must be in Form AP-2.

(2) A notice of appeal must contain the following information:

(a) the parties' names, in the same order used in the style of cause in the court appealed from, with an indication of the status of each on the appeal and in the court appealed from;

(b) the name and file number used in the court appealed from;

(c) whether the whole or only part of the decision is appealed, and if only part is appealed, which part;

(d) whether the appeal is required by these rules to be, or it is anticipated the appeal will be, managed as a fast track appeal;

(e) whether the action under appeal was the subject of a restricted access order under Part 6 *[Resolving Issues and Preserving Rights]*, Division 4 *[Restriction on Media Reporting and Public Access to Court Proceedings]*, or of any statutory restriction on publication;

(f) the relief claimed.

(3) A notice of appeal or cross appeal must include

(a) where permission to appeal was required, particulars of or a copy of the order granting permission to appeal, and

(b) particulars of or a copy of the judgment, order or other decision being appealed.

AR 41/2014 s4

Subdivision 3
Types of Appeals

Standard appeals

14.13(1) All appeals that are not fast track appeals are standard appeals.

(2) A case management officer may direct that any appeal must or must not be managed as a fast track appeal.

AR 41/2014 s4

Fast track appeals

14.14(1) Fast track appeals are appeals from a decision, or part of a decision, that does not finally determine all or some significant part of the substantive rights in issue.

(2) Unless otherwise ordered, appeals from the following kinds of decisions are to be dealt with as fast track appeals:

(a) a ruling by a judge made during a trial;

(b) a decision as to custody, access, parenting or support of a child;

(c) a decision concerning support for a present or former spouse or adult interdependent partner made without a trial being held;

(d) a decision concerning only costs or liability to pay fees or costs;

(e) a decision denying summary judgment.

(3) Unless otherwise ordered, appeals from the following kinds of decisions are not fast track appeals:

(a) a decision granting summary judgment or striking out a statement of claim, statement of defence or third party claim;

(b) a decision refusing to open a default judgment or a noting in default;

(c) a decision permitting or directing default judgment;

(d) a decision staying an action indefinitely;

(e) a decision dismissing an action on procedural grounds;

(f) certification of or failure to certify a class proceeding.

AR 41/2014 s4;128/2015

Subdivision 4
Appeal Record

Ordering the Appeal Record

14.15(1) Subject to rule 14.20 *[Contents of Appeal Record – appeals from tribunals]*, the appellant must

(a) within 10 days after filing a notice of appeal, order or commence preparation of the Appeal Record,

(b) order from Transcript Management Services or any other commercial preparer a transcript of

(i) all oral evidence,

(ii) subject to subrule (iii), only such part of the argument as is necessary to dispose of the appeal,

(iii) all oral argument in a chambers hearing, if that hearing did not exceed one-half day, and

(iv) any oral reasons for the decision under appeal and for any other ruling that will be an issue on the appeal,

and

(c) within 5 days after ordering the Appeal Record and transcripts, file a copy of the order and serve a filed copy on the respondent.

(2) Unless the Appeal Record is being prepared by the appellant, a copy of any amendment to, or countermand of, the instructions to prepare the Appeal Record or transcripts must be filed and served on the respondent within a reasonable time after the amendment is made or the countermand given.

AR 41/2014 s4

Information note

Transcripts of the oral argument at a trial are not required unless relevant, for example if a dispute exists about whether a particular issue was raised, or whether some fact or issue was conceded. Where formal reasons for judgment are issued by the court, transcripts of oral reasons are generally not required.

Filing the Appeal Record – standard appeals

14.16(1) Subject to rules 14.18 *[Contents of Appeal Record – standard appeals]* and 14.21 *[Format of Appeal Record – standard appeals]*, the appellant in a standard appeal must file 5 copies of the Appeal Record, consisting of

(a) Part 1 — Pleadings,

(b) Part 2 — Final Documents, and

(c) Part 3 — Transcripts, consisting of

(i) one paper and one electronic copy, if an electronic copy is available, or

(ii) 5 paper copies, if no electronic copy is available.

(2) In addition to the copies required under subrule (1), the appellant must serve on every other party to the appeal a copy of the Appeal Record and an electronic copy of the Transcripts.

(3) The Appeal Record and Transcripts must be

(a) prepared promptly and filed and served forthwith after they are prepared, and

(b) filed not later than 4 months from the date on which the notice of appeal was filed,

or the appeal will be struck by the Registrar.

AR 41/2014 s4

Filing the Appeal Record – fast track appeals

14.17(1) Rule 14.16 *[Filing the Appeal Record – standard appeals]* applies to fast track appeals, except that

(a) the Appeal Record may be prepared in compliance with rule 14.22 *[Format of Appeal Record – fast track appeals]*,

(b) subject to subrule (2), unless otherwise ordered by a case management officer, the Appeal Record and Transcripts must be filed and served on the other parties to the appeal immediately after they are prepared, and not later than one month from the date on which the notice of appeal was filed, and

(c) unless otherwise ordered, electronic copies of Transcripts need not be filed.

(2) If the Transcripts are not available when the Appeal Record is filed and served in accordance with subrule (1), the Table of Contents of the Appeal Record must mention that, and the Transcripts must be filed and served as soon as possible.

AR 41/2014 s4

Contents of Appeal Record – standard appeals

14.18(1) The Appeal Record for standard appeals must meet the requirements of rule 14.21 *[Format of Appeal Record – standard appeals]* and must contain the following:

(a) a Table of Contents at the beginning of each volume, which must

(i) list separately each document and show the page number where the document can be found,

(ii) include a copy of the Table of Contents for the Transcripts required by clause (d)(i), and

(iii) contain a list and description of all the exhibits entered in the trial court and the page in the transcripts where the entry of the exhibit is shown.

(b) Part 1 — Pleadings, which must contain the relevant pleadings in the action in chronological order, including

(i) the relevant pleadings, but the last version only of any pleading that was amended before trial,

(ii) any amendments to pleadings made at trial, and

(iii) if the appeal concerns a decision arising from an application, a copy of the application;

(c) Part 2 — Final Documents, which must include

(i) the written or transcribed reasons

(A) that led to the decision being appealed, including the reasons for any decision rendered during the trial that is relevant to the disposition of the appeal, and

(B) of any prior decision of a judge, master or tribunal that led to the decision now appealed,

(ii) the formal judgment, order or decision appealed,

(iii) any restricted access order,

(iv) any prior order, reference to which is required to resolve the appeal,

(v) the order granting permission to appeal, if any,

(vi) the notice of appeal,

(vii) the notice of cross appeal, if any,

(viii) when an enactment or these rules requires service on the Minister or the Minister of Justice and Attorney General for Canada, or both, proof of that service, and

(ix) if there is no oral record that can be transcribed for Part 3, a notation to that effect in the Table of Contents.

(d) Part 3 — Transcripts, which must contain the following information:

(i) a table of contents at the beginning of every volume, listing separately each part of the transcript, the name of each witness and questioner and showing the page number where the part or the testimony of the witness or questioner begins;

(ii) all transcripts required by rule 14.15(1)(b) *[Ordering the Appeal Record]*;

(iii) in the case of an appeal from a judgment in a jury trial, the answers given to any questions from the jury, the judge's charge to the jury and the address to the jury of each party.

(2) Where any document required for the Appeal Record is not available at the time of its preparation, a note to that effect must be inserted in the Appeal Record in its place, and sufficient copies of the unavailable document must be filed as soon as possible or included in or appended to another document required to be filed.

(3) A case management officer may set or vary the contents or format of the Appeal Record as the nature of the appeal requires, including giving directions respecting transcripts.

AR 41/2014 s4;85/2016

Information note

If, for example, the formal judgment under appeal (or the order granting permission to appeal) is not available at the time of preparation of the Appeal Record, a copy can be appended to the factum, or included in the Extracts of Key Evidence under rule 14.27(2) *[Filing Extracts of Key Evidence]*.

Contents of Appeal Record – fast track appeals

14.19 Rule 14.18 *[Contents of Appeal Record – standard appeals]* applies to fast track appeals, except that rule 14.22 *[Format of Appeal Record – fast track appeals]* applies to the format of the Appeal Record for fast track appeals.

AR 41/2014 s4

Contents of Appeal Record – appeals from tribunals

14.20(1) Where the appeal is from the decision of a person or body other than a court, the contents, format and filing of the Appeal Record must follow the format for standard appeals as set out in rule 14.18 *[Contents of Appeal Record – standard appeals]*, except that, subject to any direction of a case management officer,

(a) the contents of the Appeal Record must be prepared with appropriate changes, as the circumstances require, in order to ensure that the information required to resolve the appeal is before the Court, and

(b) the Transcripts need only consist of any existing transcripts of evidence before the person or body whose decision is being appealed.

(2) A single appeal judge may make any order required to obtain production of records from the person or body whose decision is being appealed.

AR 41/2014 s4

Format of Appeal Record – standard appeals

14.21(1) The Appeal Record must

(a) be printed single-sided and bound together along the right edge of the page so that the printed text is to the left of the binding;

(b) number the Pleadings starting with page P1, and the Final Documents with page F1;

(c) have red cardstock covers, front and back;

(d) be divided into numbered volumes of approximately 200 pages each.

(2) The Transcripts must

(a) be prepared by an official court reporter or comply with the *Transcript Fees and Format Regulation* (AR 167/2010);

(b) be prepared in an electronic format approved by the Registrar and uploaded before the paper copy is filed;

(c) be paginated and printed double-sided;

(d) have grey cardstock covers, front and back;

(e) be divided into numbered volumes of approximately 200 pages each.

(3) With the consent of all parties, or by order, an Appeal Record may be completed in electronic format.

AR 41/2014 s4

Format of Appeal Record – fast track appeals

14.22 Rule 14.21 *[Format of Appeal Record – standard appeals]* applies to fast track appeals, except

(a) if less than 200 pages in length, the Appeal Record may be all in one volume, with red covers, and a comprehensive index;

(b) the items in the Appeal Record may be separated by tabs, and consecutively numbered within each tab, rather than continuously numbered.

AR 41/2014 s4

Division 3
Preparing Written Argument and Scheduling Oral Argument of Appeals

Subdivision 1
Factums

Filing factums – standard appeals

14.23(1) The appellant in a standard appeal must file 5 copies of an appellant's factum that meet the requirements of rules 14.25 *[Contents of factums]* and 14.26 *[Format of factums]*, and must file and serve one additional copy on every other party to the appeal before the earlier of

(a) 2 months after the filing of the Appeal Record, and

(b) 6 months after the filing of the notice of appeal

or the appeal will be struck by the Registrar.

(2) The respondent in a standard appeal must, within 2 months of service of the appellant's factum

(a) file 5 copies of

(i) a respondent's factum that meets the requirements of rule 14.25 *[Contents of factums]* and rule 14.26 *[Format of factums]*, or

(ii) a letter of intention not to file a factum,

and

(b) for every other party to the appeal file and serve an additional copy of the factum or letter of intention.

(3) A respondent that does not file a factum will not be permitted to present oral argument unless the panel orders otherwise.

(4) Where a cross appeal has been filed, the appellant must file and serve a reply factum, or a letter of intention not to file a reply factum, within 10 days of service of the respondent's factum.

AR 41/2014 s4

Filing factums – fast track appeals

14.24(1) Rule 14.23 *[Filing factums – standard appeals]* applies to fast track appeals, except that

(a) the appellant's factum must be filed and served before the earlier of

(i) 20 days after the Appeal Record is filed, and

(ii) 2 months after the notice of appeal is filed,

or the appeal will be struck by the Registrar,

and

(b) the respondent's factum or letter of intention not to file a factum must be filed and served before the earlier of

(i) one month after service of the appellant's factum, and

(ii) 10 days before opening day of the sittings at which the appeal is scheduled to be heard.

(2) A party that files a cross appeal in a fast track appeal must within 5 days of filing apply to a case management officer for the establishment of a timetable and other necessary requirements for the appeal.

AR 41/2014 s4

Contents of factums

14.25(1) A factum must include the following:

(a) Table of Contents, including page numbers;

(b) Part 1 — Facts: in the appellant's factum, a statement of facts (including, if desired, a concise introductory statement of the legal issues raised), and in the respondent's factum, its position on the facts as stated by the appellant, and any other facts considered relevant;

(c) Part 2 — Grounds of Appeal: in the appellant's factum, a concise statement of the grounds for appeal, and in the respondent's factum, its position in regards to the stated grounds, and any other points that may properly be put in issue;

(d) Part 3 — Standard of Review: a statement on the relevant standard of review;

(e) Part 4 — Argument: a discussion addressing the questions of law or fact raised by the appeal;

(f) Part 5 — Relief Sought: a statement of the relief sought, including any special direction with respect to costs;

(g) the estimated time required for the oral argument, within the limits set out in rule 14.32(4) *[Oral argument]*;

(h) Table of Authorities: a list of the legal authorities referred to in the factum, that meets the requirements of rule 14.31(a) *[Format of Books of Authorities]*;

(i) an Appendix containing extracts from any statute, enactment or rule necessary for the disposition of the appeal, unless they are reproduced elsewhere in the materials to be filed.

(2) Where a cross appeal has been filed, the respondent's factum must consist of 2 sections, each of 5 parts as required by subrule (1), entitled "factum on the appeal" and "factum on the cross appeal", prepared in accordance with subrule (1) with any appropriate modifications.

(3) An intervenor's factum must be prepared in the same form as a respondent's factum, with any appropriate modifications.

(4) A case management officer may vary the format or filing of, or dispense with the preparation of, a factum.

AR 41/2014 s4

Information note

Rule 14.87 *[Requirements for all documents]* contains format requirements for all documents. Rules 14.29(d) *[Format of Extracts of Key Evidence]* and 14.31(f) *[Format of Books of Authorities]* permit placing the extracts from statutes, enactments and rules in the Book of Authorities, and permit attaching authorities and Extracts of Key Evidence to the factum if they are not bulky.

Format of factums

14.26(1) Factums must be

(a) formatted using at least 12 point font, one-inch margins and at least 1.5 line spacing, except for quotations, and

(b) be printed single-sided and bound together along the right hand edge of the page so that the printed text is to the left of the binding.

(2) Parts 1 to 5 of a factum must not exceed in length

(a) 30 pages for the parties in a standard appeal,

(b) 40 pages for a respondent who has filed a cross appeal in a standard appeal,

(c) 10 pages for an appellant's factum in response to a cross appeal,

(d) 30 pages for an intervenor, or

(e) 12 pages for every party in a fast track appeal.

(3) Factums must contain precise references to the location, page numbers and paragraph numbers or lines of the Appeal Record, Extracts of Key Evidence and authorities referred to.

(4) Each factum must have cardstock covers, front and back, prepared as required by rule 14.87(2) *[Requirements for all documents]*, in the following colours:

(a) appellants, including appellants who are cross respondents — beige or ivory;

(b) respondents, including respondents who are cross appellants — green;

(c) intervenors — blue.

AR 41/2014 s4

Subdivision 2
Extracts of Key Evidence

Filing Extracts of Key Evidence

14.27(1) Where needed to resolve the issues in the appeal, each party to an appeal must file Extracts of Key Evidence that meet the requirements of rule 14.29 *[Format of Extracts of Key Evidence]*,

(a) containing extracts of the transcripts, exhibits and other material on the record needed to resolve the issues in the appeal,

(b) excluding any evidence, exhibits and other materials unlikely to be needed, and

(c) not containing any comment, argument, trial briefs, legal authorities or new evidence.

(2) If any document required by rule 14.18 *[Contents of Appeal Record – standard appeals]* is not available at the time of preparation of the Appeal Record, a copy must be included in the Extracts of Key Evidence or appended to the factum.

(3) A party preparing Extracts of Key Evidence must file with the Registrar, when or before filing that party's factum, 5 copies of the Extracts of Key Evidence, and must file and serve one additional copy on every other party to the appeal.

AR 41/2014 s4;85/2016

Information note

If, for example, the formal judgment under appeal (or the order granting permission to appeal) is not available at the time of preparation of the Appeal Record, a copy can be appended to the factum, or included in the Extracts of Key Evidence under rule 14.27(2) *[Filing Extracts of Key Evidence]*.

Record before the Court

14.28(1) Subject to any enactment, all evidence or exhibits received by the court appealed from are an official part of the Appeal Record, notwithstanding that no copy is filed with the Court of Appeal.

(2) If an exhibit cannot be readily reproduced and will be referred to in argument, the Extracts of Key Evidence must be accompanied with a letter to the Registrar requesting that the original exhibit be made available at the hearing of the appeal.

(3) An appeal judge may direct, on any conditions that the judge considers to be appropriate, that any records before the court appealed from be transmitted to the Court of Appeal.

AR 41/2014 s4

Format of Extracts of Key Evidence

14.29 Extracts of Key Evidence must

(a) have a table of contents at the beginning of every volume, listing separately each document, including each exhibit to any affidavit, and showing the page number where the document can be found;

(b) be numbered sequentially throughout, commencing with

(i) page A1 for the appellant's Extracts,

(ii) page R1 for the respondent's Extracts, and

(iii) page I1 for the intervenor's Extracts;

(c) have cardstock covers, front and back, prepared as required by rule 14.87(2) *[Requirements for all documents]*, in the following colours:

(i) appellants, including appellants who are cross respondents — yellow;

(ii) respondents, including respondents who are cross appellants — pink;

(iii) intervenors — blue;

(d) be bound in volumes of approximately 200 pages each, provided that if the Extracts of Key Evidence do not exceed 30 pages, they may be included as an appendix to the factum, or in the Book of Authorities.

AR 41/2014 s4

Information note

Key passages in extracts of key evidence may be highlighted or otherwise identified. They may be copied with the printed page on the right, and double sided copying is acceptable. The key parts of illegible or small print documents should be typed out, and both the original and the typescript should be reproduced.

Subdivision 3
Books of Authorities

Filing Books of Authorities

14.30(1) Each party to an appeal shall prepare, if necessary, a Book of Authorities

(a) containing extracts of any statutes, regulations or bylaws necessary for deciding the appeal,

(b) including the headnote and relevant pages (or, only when appropriate, the entirety) of any authority likely to be referred to during oral argument or essential to the disposition of the appeal, and

(c) excluding well-known authorities, authorities of secondary importance and other non-essential authorities not likely to be referred to during oral argument.

(2) Each party must file with the Registrar, when or before filing that party's factum, 5 copies of its Book of Authorities that meets the requirements of rule 14.31 *[Format of Books of Authorities]* and must file and serve one additional copy on every other party to the appeal.

AR 41/2014 s4

Information note

The appellant should include in its Book of Authorities only authorities that are likely to be referred to during the oral argument, and other parties should not reproduce authorities already filed. Joint Books of Authorities are encouraged, in which case they should be filed 10 days after the filing of the last respondent's factum. Background authorities (for example on the standard of review) should not be reproduced in full, or at all unless necessary.

Format of Books of Authorities

14.31 Books of Authorities must

(a) have a comprehensive Table of Authorities, reproduced at the beginning of every volume,

(i) listing separately each authority, and

(ii) providing any neutral citation assigned to the authority by the court that decided it, and at least one print citation where available,

(b) separate or identify each authority, by tabs or otherwise,

(c) except in the case of fast track appeals, highlight or otherwise identify in legible form the key passages in the authority to be relied on,

(d) where the authority has been reproduced from an electronic source, contain paragraph or page numbers from an official or printed source, or otherwise identify the various parts of the authority,

(e) have cardstock covers, front and back, prepared as required by rule 14.87(2) *[Requirements for all documents]*, in the same colour as the party's factum, and

(f) be bound in volumes of approximately 200 pages each, provided that if the Book of Authorities does not exceed 30 pages, the authorities may be included as an appendix to the factum or with the Extracts of Key Evidence.

AR 41/2014 s4

Information note

Authorities should not be cited to proprietary electronic databases, as the Court and other parties may not have access to them. Official neutral citations must be used whenever available. Double sided copying is acceptable.

Subdivision 4
Scheduling Oral Argument

Oral argument

14.32(1) Unless otherwise directed,

(a) all appeals will be set down on the Civil Appeal Hearing List for an oral hearing, and

(b) the appeal and any cross appeal will be argued at the same time.

(2) On agreement of all parties, but subject to any contrary direction, the Court of Appeal may hear and decide an appeal without oral argument.

(3) The Court of Appeal may proceed with the hearing of an appeal when scheduled, even if

(a) a party does not appear at the scheduled time, or

(b) any party has failed to file its factum.

(4) Unless the panel otherwise permits, oral argument must not exceed 45 minutes for each separately represented party in the appeal, with any consolidated appeals to be treated as one appeal.

(5) If present, the Chief Justice of Alberta presides at the sittings of the Court, but otherwise the senior judge not being a supernumerary judge presides.

AR 41/2014 s4

Information note

Parties who wish to dispense with oral argument, and have the appeal decided based on the written argument, should contact a case management officer for directions.

Scheduling standard appeals

14.33(1) No later than 20 days after the deadline for the filing of the last factum in a standard appeal,

(a) the parties must contact the Registrar to schedule the oral hearing, and

(b) the Registrar must, after consulting with the parties, schedule the appeal at a suitable time on the Civil Appeal Hearing List.

(2) Any standard appeal that has not been scheduled for an oral hearing and placed on the Civil Appeal Hearing List before

(a) the earlier of

(i) 2 months after the deadline for the filing of the last factum in the appeal, and

(ii) 9 months after the filing of the notice of appeal,

or

(b) any deadline stipulated by a case management officer or a single appeal judge

must be placed by the Registrar on the Unscheduled Civil Appeals List and be spoken to by the parties at the next calling of the List.

(3) All the parties to each appeal on the Unscheduled Civil Appeals List must appear at the time scheduled for the calling of the List, and

(a) unless adjourned, appeals on the Unscheduled Civil Appeals List will be scheduled for oral hearing and placed on the Civil Appeal Hearing List, or

(b) directions may be given for advancing the appeal.

(4) If the appellant in an appeal referred to in subrule (3) does not appear at the time scheduled for the calling of the List, the appeal may be struck.

AR 41/2014 s4

Scheduling fast track appeals

14.34(1) The Registrar must schedule fast track appeals in accordance with these rules.

(2) The Registrar must place on the Civil Appeal Hearing List

(a) any fast track appeal for which the Appeal Record and the appellant's factum and Extracts of Key Evidence have been filed 20 or more days before the opening of the sittings, and

(b) any fast track appeal that a case management officer directs to be scheduled for hearing.

(3) Despite subrule (2), the parties may, no less than 20 days before the opening of the sittings, consent to an adjournment of the oral hearing of a fast track appeal to no later than the next sitting of the Court, provided that the appeal has not previously been adjourned more than once.

AR 41/2014 s4

Rescheduling appeals

14.35(1) Subject to Rule 14.34(3) *[Scheduling fast track appeals]*, a scheduled oral hearing may not be adjourned or rescheduled unless the appeal has been discontinued or settled or a case management officer permits the hearing to be adjourned or rescheduled.

(2) A case management officer may at any time set down or reschedule an appeal, or place any appeal on or remove any appeal from the Civil Appeal Hearing List or the Unscheduled Civil Appeals List.

AR 41/2014 s4

Division 4
Applications

Subdivision 1
Deciding Applications

Case management officers

14.36(1) Unless an enactment or these rules otherwise provide, a case management officer, at the direction of the Court, may assist the Court with respect to the management of matters before the Court as authorized by section 14 of the *Court of Appeal Act*.

(2) A case management officer may consult with an appeal judge or refer any issue to a single appeal judge or a panel of the Court of Appeal.

(3) Any person affected by an administrative direction of a case management officer may apply to a single appeal judge to have it rescinded, confirmed, amended or enforced.

AR 41/2014 s4

Information note

Parties who wish to dispense with oral argument, and have the appeal decided based on the written argument, should contact a case management officer for directions All of the materials should be filed simultaneously, unless the application must be filed first to preserve a time limit. If in urgent matters the applicant wishes to abridge the time limits, a case management officer should be contacted for directions. The *Court of Appeal Act* provides that case management officers may assist with the business of the Court without the attendance of a judge, including with such matters as:

(a) categorizing an appeal as a fast track appeal or a standard appeal;

(b) enforcing, staying, shortening, or extending times and deadlines;

(c) setting, approving and modifying timetables;

(d) permitting filing of deficient documents, amending documents, and varying the contents or format of documents to be filed;

(e) restoring appeals by consent;

(f) calling the appeal lists, and setting, adjourning and re scheduling matters for hearing.

Single appeal judges

14.37(1) Unless an enactment or these rules otherwise require, a single appeal judge may hear and decide any application incidental to an appeal, including those that could have been decided by a case management officer.

(2) For greater certainty, a single appeal judge may

(a) grant permission to appeal, unless an enactment requires that an application for permission to appeal must be heard by a panel of the Court of Appeal,

(b) declare an appeal to be struck, dismissed or abandoned for failure to comply with a mandatory rule, prior order or direction of the Court of Appeal,

(c) when a notice of appeal or an application for permission to appeal is not filed within the time limit, strike the appeal or application or extend the time to appeal or to seek permission to appeal,

(d) dismiss an appeal if it has not been significantly advanced in over 6 months and significant prejudice has resulted to a party,

(e) grant permission to intervene, and

(f) refer any application to a panel of the Court of Appeal.

AR 41/2014 s4;85/2016

Court of Appeal panels

14.38(1) A panel of the Court of Appeal may decide any application, including those that could have been decided by a single appeal judge.

(2) The following applications must be heard by a panel of the Court of Appeal:

(a) an application to allow or dismiss an appeal on the merits;

(b) an application for new evidence, unless a panel of the Court of Appeal directs that the application be heard by a single appeal judge;

(c) an application to reargue or reopen an appeal;

(d) an application for directions required to give effect to any decision of the Court of Appeal, unless a panel of the Court of Appeal directs that the application be heard by a single appeal judge;

(e) an application to reconsider a prior precedential decision of the Court.

AR 41/2014 s4

Subdivision 2
How to Apply

Case management officers

14.39 A request for administrative directions from a case management officer may be made informally, subject to any directions of the case management officer.

AR 41/2014 s4

Applications to single appeal judges

14.40(1) Subject to Subdivision 3, an application to a single appeal judge must be made by filing 3 copies of

(a) an application that meets the requirements of rule 14.53 *[Format of applications]*,

(b) any accompanying affidavit, if required,

(c) other material to be relied on, even if previously filed, and

(d) a memorandum of argument that meets the requirements of rule 14.54*[Format of memoranda]* .

(2) Subject to rule 6.4 *[Applications without notice]* and rule 14.44 *[Application for permission to appeal]*, the applicant must file and serve one additional copy of the application and other materials on every other party to the appeal at least 10 days before the application is scheduled to be heard.

AR 41/2014 s4;85/2016

Information note

All of the materials should be filed simultaneously, unless the application must be filed first to preserve a time limit. If in urgent matters the applicant wishes to abridge the time limits, a case management officer should be contacted for directions.

Responses to applications to single appeal judges

14.41 The respondent to an application to a single appeal judge must, at least 5 days before the scheduled hearing of the application,

(a) file 3 copies of a reply memorandum of argument and any accompanying affidavit (if required) and any other materials to be relied on, prepared in compliance with Subdivision 5, and file and serve additional copies on every other party, or

(b) file 3 copies and serve a letter indicating that no additional materials will be filed by the respondent.

AR 41/2014 s4

Applications to court of appeal panels

14.42(1) Subject to Subdivision 3, an application to a panel of the Court of Appeal must be made by filing 5 copies of

(a) an application that meets the requirements of rule 14.53 *[Format of applications]*,

(b) any accompanying affidavit, if required,

(c) other material to be relied on, even if previously filed, and

(d) a memorandum of argument,

prepared in compliance with Subdivision 5.

(2) For every other party to the appeal, the applicant must file and serve one additional copy of the application and other materials at least 20 days before the application is scheduled to be heard.

AR 41/2014 s4

Information note

All of the materials should be filed simultaneously, unless the application must be filed first to preserve a time limit. If in urgent matters the applicant wishes to abridge the time limits, a case management officer should be contacted for directions.

Responses to applications to court of appeal panels

14.43 The respondent to an application to a panel of the Court of Appeal must, at least 10 days before the scheduled hearing of the application,

(a) file 5 copies of a reply memorandum of argument and any accompanying affidavit (if required), prepared in compliance with Subdivision 5, and file and serve additional copies on every other party to the appeal, or

(b) file 5 copies and serve a letter indicating that no additional materials will be filed by the respondent.

AR 41/2014 s4

Subdivision 3
Rules for Specific Applications

Application for permission to appeal

14.44(1) An application for permission to appeal must comply with rules 14.5(2) *[Appeals only with permission]* and 14.40 *[Applications to single appeal judges]* and

(a) must be filed and served and must be returnable within the period specified in any enactment or these rules, or

(b) if there is no time for filing permission to appeal specified in any enactment or these rules, must be filed and served within the time for filing appeals set out in rule 14.8 *[Filing a notice of appeal]*.

(2) An application for permission to appeal that has not been heard within 6 months from the date of the filing of the application is deemed to have been abandoned unless a case management officer otherwise directs.

(3) Applications to preserve a time limitation may be brought on the notice a single appeal judge directs.

AR 41/2014 s4;128/2015

Application to admit new evidence

14.45(1) An application to admit new evidence must be filed and served prior to the filing of, and prior to the deadline for filing, the applicant's factum.

(2) In addition to the documents required by rule 14.42(1) *[Applications to court of appeal panels]*, the applicant must file

(a) 5 copies of the proposed new evidence, and

(b) 5 envelopes large enough to contain a copy of the new evidence, marked "New Evidence" and with the appeal number and style of cause.

AR 41/2014 s4

Application to reconsider a previous decision

14.46 An application to reconsider a previous decision of the Court of Appeal must be filed and served and must be returnable prior to the filing of, and prior to the deadline for filing, the applicant's factum.

AR 41/2014 s4

Application to restore an appeal

14.47 An application to restore an appeal that has been struck, dismissed or deemed abandoned must be filed and served and must be returnable

(a) for a standard appeal, within 6 months, and

(b) for a fast track appeal, within 3 months,

after having been struck, dismissed or deemed abandoned.

AR 41/2014 s4

Stay pending appeal

14.48 An application to stay proceedings or enforcement of a decision pending appeal may be made

(a) to the judge who made that decision, or

(b) to a single appeal judge, whether or not the application was made to the judge who made the decision, and whether or not that application was granted or dismissed.

AR 41/2014 s4

Information note

The preferred practice is to apply first to the judge who made the decision, but the rule does not preclude a direct application to a single appeal judge.

Subdivision 4
Deciding Applications

Failure to respond

14.49 A respondent who fails to respond to an application or who elects not to file a memorandum in response to an application may not present oral argument at the hearing of the application unless the single appeal judge or the panel of the Court of Appeal otherwise permits.

AR 41/2014 s4

Time limits for oral argument

14.50 Unless otherwise permitted,

(a) subject to clause (b), oral argument on an application, including a reply, before a single appeal judge or a panel of the Court of Appeal may not exceed 15 minutes for each party to the application,

(b) oral argument on an application for permission to appeal, including a reply, may not exceed 30 minutes for each party to the application, and

(c) consolidated applications are to be treated as one application for the purpose of this rule.

AR 41/2014 s4

Applications without oral argument

14.51 On agreement of all parties, but subject to any contrary direction, a single appeal judge or a panel of the Court of Appeal may hear and decide applications without oral argument.

AR 41/2014 s4

Applications not heard within 3 months

14.52 Subject to rule 14.44(2) *[Application for permission to appeal]*, if an application is not heard within 3 months after the date the application is filed, the application is deemed to be abandoned unless a case management officer otherwise directs.

AR 41/2014 s4

Subdivision 5
Format of Applications and Responses

Format of applications

14.53 An application to a single appeal judge or a panel of the Court of Appeal must be in Form AP-3 and must

(a) state briefly the grounds for filing the application,

(b) identify the material or evidence intended to be relied on,

(c) refer precisely to any applicable provision of an enactment or rule, and

(d) state the remedy sought.

AR 41/2014 s4

Format of memoranda

14.54 Memoranda filed on an application

(a) must not be longer than 10 double-spaced pages on an application for permission to appeal and 5 double-spaced pages for any other application,

(b) may in addition attach a chronology, where that is relevant to the application, and

(c) in an application for permission to appeal, must

(i) include a copy of the reasons for the decision proposed to be appealed, and

(ii) state the exact questions of law on which permission to appeal is requested.

AR 41/2014 s4;85/2016

Division 5
Managing the Appeal Process

Subdivision 1
Responsibilities of the Parties and Court Assistance

Responsibility of parties to manage an appeal

14.55(1) The parties to an appeal are responsible for managing the appeal and for planning its resolution in a timely and cost-effective way.

(2) The parties may seek advice and direction for managing the appeal from a case management officer as provided for in rule 14.36 *[Case management officers]*.

AR 41/2014 s4

Orders to facilitate appeal

14.56 If an appeal is not being managed in an appropriate way, a single appeal judge may make a procedural order, an order under Part 4 *[Managing Litigation]*, Division 2 *[Court Assistance in Managing Litigation]*, an order expediting the appeal, or any other appropriate order, or a case management officer may make any appropriate direction.

AR 41/2014 s4

Subdivision 2
Parties to an Appeal

Adding, removing or substituting parties to an appeal

14.57 A party or person may be added, removed or substituted as a party to an appeal in accordance with rule 3.74 *[Adding, removing or substituting parties after close of pleadings]*.

AR 41/2014 s4

Intervenor status on appeal

14.58(1) In addition to persons having a right to intervene in law, a single appeal judge may grant status to a person to intervene in an appeal, subject to any terms and conditions and with the rights and privileges specified by the judge.

(2) A person granted intervenor status in the court appealed from must apply again to obtain intervenor status on an appeal.

(3) Unless otherwise ordered, an intervenor may not raise or argue issues not raised by the other parties to the appeal.

AR 41/2014 s4

Subdivision 3
Settlement Using Court Process

Formal offers to settle

14.59(1) No later than 10 days before an appeal is scheduled to be heard, a party may serve on the party to whom the offer is made a formal offer to settle the appeal or any part of the appeal in accordance with Part 4 *[Managing Litigation]*, Division 5 *[Settlement Using Court Process]*.

(2) A valid formal offer to settle an appeal may be accepted in accordance with rule 4.25 *[Acceptance of formal offer to settle]*.

(3) Unless a valid formal offer to settle an appeal is withdrawn under rule 4.24(4) *[Formal offers to settle]*, the valid formal offer to settle an appeal remains open for acceptance until the earlier of

(a) the expiry of 2 months after the date of the offer or any longer period specified in the offer, and

(b) the start of the oral hearing of the appeal.

(4) Where a formal offer to settle an appeal is made, costs of the appeal must be awarded in accordance with rule 4.29 *[Costs consequences of formal offer to settle]*.

AR 41/2014 s4

Subdivision 4
Judicial Dispute Resolution on Appeal

Judicial dispute resolution of an appeal

14.60 An arrangement for a judicial dispute resolution process on appeal may be made in accordance with Part 4, *[Managing Litigation]* Division 3, *[Dispute Resolution by Agreement]* Subdivision 2.

AR 41/2014 s4

Information note

The judicial dispute resolution process in the Court of Appeal is set out in the Consolidated Practice Direction.

Suspension of time periods

14.61(1) Once a date has been scheduled for judicial dispute resolution, time limits in respect of the appeal are suspended until an order or direction is made under subrule (2).

(2) If judicial dispute resolution is not successful,

(a) the appeal judge conducting the judicial dispute resolution will set time limits for filing and serving any remaining materials on the appeal, or

(b) if no order is made under clause (a) a case management officer may provide a direction setting the time limits for filing and serving any remaining materials on the appeal.

AR 41/2014 s4

Subdivision 5
Delay in Advancing Appeals

Dismissal for delay

14.62 A panel of the Court of Appeal may dismiss an appeal if it is satisfied that delay in advancing the appeal has resulted in significant prejudice to a party.

AR 41/2014 s4

Powers of a single appeal judge

14.63 If delay occurs in the advancement of an appeal, a single appeal judge may

(a) make a procedural order or otherwise give directions to expedite the appeal, or

(b) dismiss the appeal, if it has not been significantly advanced for over 6 months and significant prejudice has resulted to a party.

AR 41/2014 s4

Failure to meet deadlines

14.64 An appeal must be struck by the Registrar if

(a) the appellant has failed to file the Appeal Record within the time period set out in these rules,

(b) the appellant has failed to file its factum

(i) before the expiry of the deadline for filing the factum in a standard appeal set out in rule 14.23(1) *[Filing factums – standard appeals]*, or

(ii) by the deadline for filing the factum in a fast track appeal set out in rule 14.24(1)(a) *[Filing factums – fast track appeals]*,

(c) a standard appeal has not been placed on the Civil Appeal Hearing List before the earlier of

(i) 6 months after the deadline for the filing of the last factum in the appeal, and

(ii) 12 months after the filing of the notice of appeal,

or

(d) a fast track appeal has not been placed on the Civil Appeal Hearing List within 6 months of the filing of the notice of appeal.

AR 41/2014 s4

Restoring appeals

14.65(1) An appeal or application for permission to appeal that has been struck by operation of these rules or the provisions of any order, or by failure of any party to appear when required, may be restored

(a) with the filed written consent of the parties or by order of a single appeal judge on application under rule 14.47 *[Application to restore an appeal]*, and

(b) on the payment of the fee for an application to restore an appeal in Schedule B.

(2) An order or written consent restoring an appeal must set deadlines and directions for the filing of any outstanding materials, and if the appellant fails to comply with any of those deadlines or directions, the appeal is deemed to have been struck again.

(3) An appeal or application is deemed to have been abandoned if no application to restore an appeal or application for permission to appeal has been filed, served and granted

(a) for a standard appeal, within 6 months after having been struck, dismissed or deemed abandoned, and

(b) for a fast track appeal, within 3 months after having been struck, dismissed or deemed abandoned.

AR 41/2014 s4;85/2016

Subdivision 6
Discontinuing an Appeal

Discontinuance

14.66(1) The appellant may discontinue the appeal by filing and serving a notice to discontinue in Form AP-4, and the respondent is entitled to a costs award for having responded to the appeal.

(2) The discontinuance of an appeal does not operate as a discontinuance of a cross appeal.

AR 41/2014 s4

Subdivision 7
Security for Costs

Security for costs

14.67(1) A single appeal judge may order a party to provide security for payment of a costs award pursuant to Part 4, *[Managing Litigation]* Division 4 *[Security for Payment of Costs Award]*.

(2) Where a party does not provide security as ordered, the appeal is deemed to have been abandoned and the other party is entitled to a costs award.

AR 41/2014 s4

Division 6
Deciding Appeals and Applications

Subdivision 1
Effect of Filing an Appeal

No stay of enforcement

14.68 Unless otherwise ordered under rule 14.48 *[Stay pending appeal]* or provided by law, the filing of an appeal or an application for permission to appeal does not operate as a stay of proceedings or enforcement of the decision under appeal.

AR 41/2014 s4

Intermediate acts valid

14.69 Unless otherwise ordered by the court appealed from, an appeal does not invalidate any intermediate act or proceeding taken.

AR 41/2014 s4

Subdivision 2
Basis on Which Appeals Are Decided

No new evidence without order

14.70 Unless an order is granted under rule 14.45 *[Application to admit new evidence]* permitting the reliance on new evidence, appeals will be decided on the record before the court appealed from.

AR 41/2014 s4

Interlocutory decisions

14.71 An interlocutory order of the court appealed from does not restrict the ability of the Court of Appeal to decide an appeal, despite there having been no appeal from the interlocutory order.

AR 41/2014 s4

Binding precedents

14.72 Unless permission has been granted under rule 14.46 *[Application to reconsider a previous decision]* by a panel of the Court of Appeal, no party may argue that a prior precedential decision of the Court should be reconsidered.

AR 41/2014 s4

Information note

This Rule does not prevent a party from arguing that a prior precedential decision has been overruled by a decision of the Supreme Court of Canada, or by a legislative change. It also does not prevent argument about the ratio decidendi of the prior decision, nor whether it can be distinguished on recognized grounds.

Subdivision 3
Powers of the Court

Procedural powers

14.73 In addition to the powers provided for in other Parts of these rules, a single appeal judge or a panel of the Court of Appeal may

(a) adjourn any appeal or matter, with or without conditions,

(b) cure any contravention, non-compliance or irregularity in procedure, or permit or direct any amendment or any deviation from the requirements of these rules with respect to the form or filing of any document,

(c) render judgment at any time,

(d) render or sign judgment on behalf of another judge or a panel when authorized to do so,

(e) inspect any property in accordance with an order made under rule 6.26 *[Inspection or examination of property]*, and

(f) hear any appeal or application electronically under rule 6.10 *[Electronic hearing]*.

AR 41/2014 s4

Application to dismiss an appeal

14.74 On application, a panel of the Court of Appeal may dismiss all or part of an appeal and may make any order that the circumstances require, including a costs award, if

(a) the Court of Appeal has no jurisdiction,

(b) the appeal is moot,

(c) the appeal is frivolous, vexatious, without merit or improper, or

(d) the appeal or any step in the appeal is an abuse of process.

AR 41/2014 s4

Disposing of appeals

14.75(1) Unless an enactment otherwise provides, when deciding an appeal, the Court of Appeal may

(a) receive further evidence,

(b) draw inferences of fact,

(c) give any judgment or order that ought to have been made by the court appealed from,

(d) direct the resumption or continuation of any proceeding before the court appealed from,

(e) vary or reverse a finding on any question, without interfering with the finding or decision on any other question,

(f) direct a new trial on the whole or any part of the decision under appeal, or with respect to some or all of the parties, and

(g) give any other decision or direction required to resolve the appeal.

(2) The Court of Appeal may dismiss an appeal despite an error of law or fact, a misdirection or an erroneous ruling on the evidence where

(a) no substantial wrong or miscarriage of justice has resulted,

(b) the decision would have been the same despite the error, or

(c) despite any irregularity, no significant prejudice has been experienced by any party.

AR 41/2014 s4

Judgment by consent

14.76 Subject to rule 3.35 *[Judgment or order by agreement]*, a respondent may consent to the reversal or variation of the decision under appeal.

AR 41/2014 s4

Subdivision 4
Judgments and Orders

Preparation and signature of judgments and orders

14.77(1) Unless otherwise directed, Part 9 *[Judgments and Orders]*, Division 1 *[Preparation and Entry of Judgments and Orders]* applies to the preparation and entry of judgments and orders of the Court of Appeal.

(2) The Court of Appeal may authorize a single appeal judge to settle the form of any order or judgment.

(3) A judgment or order may be signed by the judge or the panel who granted it or by the Registrar.

AR 41/2014 s4

Entry of judgments and orders

14.78(1) The Registrar must enter all judgments and orders on the court file, showing the date of entry, and subject to rule 9.6 *[Effective date of judgments and orders]* the judgment is effective as if it were a judgment or order of the court appealed from.

(2) Any interested person may file a copy of the Court's judgment in the court appealed from.

AR 41/2014 s4

Supreme Court of Canada judgments

14.79 The Registrar must

(a) enter any judgment granted by the Supreme Court of Canada on the file of the Court of Appeal, showing the date of entry, and

(b) send a copy of the Supreme Court judgment to the clerk of the court appealed from for filing in that court, and the judgment may be acted on as if it were a judgment of that court.

AR 41/2014 s4

Interest on judgments

14.80 If a decision awarding a sum of money is reversed or varied, interest is payable on the amount of the appeal judgment from the date that the decision under appeal was pronounced.

AR 41/2014 s4

Division 7
General Rules for Appeals

Subdivision 1
Service of Appeal Documents and Representation

Service of appeal documents

14.81(1) A notice of appeal and an application for permission to appeal may be served

(a) at the address for service provided in the court appealed from as referred to in rule 11.15 *[Service on person providing an address for service]* or rule 11.17 *[Service on lawyer of record]*, or

(b) otherwise as set out in Part 11, *[Service of Documents]* Division 2 *[Service of Commencement Documents in Alberta]* or Part 11, *[Service of Documents]* Division 5 *[Service of Documents Outside Alberta]*.

(2) All other materials required or authorized to be served under this Part may be served in accordance with Part 11, *[Service of Documents]* Division 3 *[Service of Documents, Other than Commencement Documents, in Alberta]*.

AR 41/2014 s4

Lawyer of record and litigation representative

14.82 Unless otherwise ordered,

(a) the lawyer of record in the court appealed from continues as the lawyer of record on the appeal until ceasing to be so in accordance with Part 2, *[The Parties to Litigation]* Division 4, *[Lawyer of Record]* and

(b) subject to rule 2.21 *[Litigation representative: termination, replacement, terms and conditions]*, a litigation representative under Part 2 *[The Parties to Litigation]* continues in that capacity in the appeal.

AR 41/2014 s4

Subdivision 2
Restricted Access Orders

Orders restricting access to appeal proceedings

14.83(1) A restricted access order made by the court appealed from continues in force and applies to the appeal or an application for permission to appeal until otherwise ordered by a single appeal judge.

(2) A single appeal judge may make a restricted court access order under Part 6, *[Resolving Issues and Preserving Rights]* Division 4 *[Restriction on Media Reporting and Public Access to Court Proceedings]* with respect to an appeal or an application for permission to appeal.

AR 41/2014 s4

Subdivision 3
Rules for All Filed Materials

Place of filing

14.84 Unless otherwise directed, an appeal must be carried on, and all material must be filed, at the office of the Registrar of the Court of Appeal where the appeal was started under rule 14.8 *[Filing a notice of appeal]*.

AR 41/2014 s4

Method of filing

14.85 The Registrar must assign an appeal number to each appeal and endorse that number and the date of filing on any document filed in the appeal.

AR 41/2014 s4

Non-compliant appeal materials

14.86 Appeal materials may, by order of a single appeal judge or by direction of a case management officer, be dispensed with, varied as to form or amended in accordance with rule 13.17 *[Amendments to records other than commencement documents, pleadings or affidavits]*.

AR 41/2014 s4

Requirements for all documents

14.87(1) All materials prepared for an appeal must

(a) be succinct, legible and divided into a single series of consecutively numbered paragraphs,

(b) include the names of the parties in a style of cause in Form AP-6,

(i) as set out in the notice of appeal, unless amended,

(ii) listed in the same order in which they were listed in the style of cause in the court appealed from, and

(iii) including the status of the party in the appeal and in the court appealed from,

(c) identify the nature of the material, the name of the party filing it, and that party's status on the appeal,

(d) provide an address for service,

(e) provide the name, address and contact information of the person who prepared the material,

(f) be divided into volumes of approximately 200 pages each, and

(g) be 8.5″ x 11″ in size.

(2) The Appeal Record, factums, Extracts of Key Evidence and Books of Authorities must have a cover page in Form AP 5 that include the name of the Court of Appeal, the location of the office of the Registrar of the Court of Appeal and the appeal number assigned by the Registrar.

AR 41/2014 s4

Subdivision 4
Costs of Appeals

Cost awards

14.88(1) Unless otherwise ordered, the successful party in an appeal or an application is entitled to a costs award against the unsuccessful party.

(2) The provisions of Part 10 *[Lawyer's Charges, Recoverable Costs of Litigation, and Sanctions]*, Division 2 *[Recoverable Costs of Litigation]* and Schedule C apply to appeals.

(3) Unless otherwise ordered, the scale of costs in an appeal shall be the same as the scale that applies to the order or judgment appealed from.

AR 41/2014 s4

Information note

Reasons for judgment of the Court of Appeal will not make any specific direction about costs unless an exception is to be made to the presumption in rule 14.88(1) that the successful party is entitled to costs of the appeal. Any request for a specific direction as to costs must be made within two months of the pronouncement of the decision.

Subdivision 5
Fees on Appeal

Fees and allowances

14.89(1) In every appeal there must be paid to the Registrar or other appropriate person, at the time of filing, the fees specified in Schedule B, unless the Registrar waives the fee, in whole or in part, in accordance with guidelines, if any, established or adopted by the Minister of Justice and Solicitor General for persons unable to pay fees.

(2) Part 13 *[Technical Rules]*, Division 5 *[Payment of Fees and Allowances, and Waivers of Fees]* applies to appeals.

AR 41/2014 s4

Subdivision 6
Sanctions

Sanctions

14.90(1) In addition to the sanctions set out in Part 10 *[Lawyer's Charges, Recoverable Costs of Litigation, and Sanctions]*, Division 4 *[Sanctions]*,

(a) unless otherwise ordered, a party is not entitled to assess costs or recover disbursements in respect of a procedural step in which the party has

(i) failed to comply with a deadline set out in this Part,

(ii) filed a document that fails to comply in a substantial respect with the requirements of these rules, or

(iii) filed a document that is carelessly or inadequately prepared or that contains illegible material or text;

(b) in the case of any non-compliance with a rule or a direction or order, a single appeal judge or a panel of the Court of Appeal may strike from the record any document, including a notice of appeal or cross appeal, or provide directions for the management of the appeal.

(2) Where an appeal has been struck by operation of these rules or the provisions of any order or because of the failure of any party to appear when required, or has been deemed to have been struck or abandoned, the respondent is entitled to a costs award for having responded to the appeal.

(3) A single appeal judge may order the interim release of the appellant pending the appeal of any order for the imprisonment or other restraint of the liberty of the appellant arising from a civil sanction imposed by the court appealed from.

AR 41/2014 s4

Subdivision 7
The Registrar

Duties of a Registrar

14.91(1) A Registrar must perform the duties required by these rules and the Court of Appeal, including, subject to any direction of the Court,

(a) establishing and maintaining a court file for each appeal,

(b) establishing and maintaining lists of appeals, including the Civil Appeal Hearing List and the Unscheduled Civil Appeals List,

(c) receiving and filing all appeal materials, having control and custody of them, and distributing them to the judges as required,

(d) attending in court as required and keeping a record of all proceedings before the Court and its judges, including

(i) keeping records of particulars of the appeals heard and the judges in attendance,

(ii) identifying the appearing parties and their counsel,

(iii) keeping records of particulars of the appeal heard and the result of the appeal, and

(iv) noting the time occupied in hearing,

(e) keeping proper accounts of money and property received or dispersed,

(f) settling and signing judgments and orders in accordance with these rules, and

(g) at the conclusion of an appeal, returning to the court appealed from any records of that court.

(2) In the absence of a Registrar, a Deputy Registrar or another person appointed by the Court may act in place of the Registrar.

AR 41/2014 s4

Authority of the Registrar

14.92 The Registrar may, with or without consulting with a case management officer or a judge,

(a) where any document presented for filing is irregular, not readily legible or otherwise carelessly or inadequately prepared,

(i) accept the document for filing, with or without advising the party presenting the document of the deficiency,

(ii) accept the document for filing and note the deficiency on the face of the document,

(iii) accept the document for filing on terms, directions or undertakings to be agreed to by the filing party, or

(iv) in the case of a significant deficiency that prevents the Registrar from filing the document, or that is likely to prejudice a party or interfere with the disposition of the appeal, reject the document;

(b) refuse to accept a document for filing, or to perform any other official act, where the instructions to the Registrar are not clear;

(c) endorse a document as having been filed on the date when the document was first tendered for filing;

(d) subject to any conditions that the Registrar may specify, require personal attendance in an office of the Registrar of the Court of Appeal by a party filing any appeal materials, or accept documents for filing by mail or electronically;

(e) bring to the attention of the Court for summary determination any appeal that the Registrar determines is frivolous or vexatious or significantly irregular, or that can otherwise be determined on a summary basis.

AR 41/2014 s4

Part 15:
Transitional Provisions And Coming Into Force

What this Part is about: This Part describes what happens to legal proceedings that are going on when the new rules come into effect. The Part is intended to ensure a smooth transition from the former rules to these rules.

Part 15:
Transitional Provisions And Coming Into Force

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Information note

Words and phrases used in this Part that have defined meanings in the Appendix *[Definitions]* include

- applicant
- former rules
- contingency fee agreement
- judgment
- Court
- judgment centre
- enactment
- order
- existing proceeding
- party
- file
- rules

Part 15:
Transitional Provisions And Coming Into Force

Definitions

15.1 In this Part,

(a) "existing proceeding" means a court proceeding commenced but not concluded under the former rules;

(b) "former rules" means the *Alberta Rules of Court* (AR 390/68) in effect immediately before these rules come into force.

New rules apply to existing proceedings

15.2(1) Except as otherwise provided in an enactment, by this Part or by an order under rule 15.6 *[Resolution of difficulty or doubt]*, these rules apply to every existing proceeding.

(2) Every order or judgment made under the former rules and everything done in the course of an existing proceeding is to be considered to have been done under these rules and has the same effect under these rules as it had under the former rules.

Dispute resolution requirements

15.3 Rule 4.16 *[Dispute resolution processes]* applies to an existing proceeding unless, before this rule comes into effect, discoveries under the former rules in the existing proceeding have been completed.

15.4 Repealed AR 124/2010 s15.15.

Contingency fee agreements

15.5(1) Rule 10.7(2) *[Contingency fee agreement requirements]* does not apply to a contingency fee agreement entered into before this rule comes into effect if the agreement complied with the former rules.

(2) Rule 10.7(2)(e), (f), (g) and (h) and (3), (4), (5) and (6) *[Contingency fee agreement requirements]* do not apply to a contingency fee agreement entered into before May 1, 2000, if

(a) the agreement complies with rule 616 of the former rules as it existed before May 1, 2000, and

(b) a copy of the agreement was filed with the Court in accordance with rule 617 of the former rules as that rule existed before May 1, 2000.

Resolution of difficulty or doubt

15.6 If there is doubt about the application or operation of these rules to an existing proceeding or if any difficulty, injustice or impossibility arises as a result of this Part, a party may apply to the Court for directions or an order, or the Court may make an order, with respect to any matter it considers appropriate in the circumstances, including:

(a) suspending the operation of any rule and substituting one or more former rules, with or without modification, for particular purposes or proceedings or any aspect of them;

(b) modifying the application or operation of these rules in particular circumstances or for particular purposes.

Filing of orders or judgments

15.7 Where on the coming into force of these rules a person has not filed an order or judgment that the person was required to file under the former rules, the person must file the order or judgment within

(a) one year from the date on which the order or judgment was pronounced, or

(b) 3 months from the coming into force of these rules,

whichever occurs first.

Increased or decreased time limits

15.8(1) Where under these rules a time limit is provided for doing anything, other than the serving of a notice or other document in advance of some event, that is longer than the time limit provided under the former rules, the time limit provided in these rules prevails, despite that the action or proceeding to which the time limit applies was commenced under the former rules.

(2) Where under these rules a time limit is provided for doing anything, other than the serving of a notice or other document in advance of some event, that is shorter than the time limit that was provided under the former rules, a person who commenced the action or proceeding to which the time limit applied under the former rules must comply with

(a) the time limit under the former rules, or

(b) the time limit under these rules, calculated from the date on which these rules come into force,

whichever occurs first.

(3) Service of a document or notice that was effected under the former rules prior to the coming into force of these rules remains valid despite any change to the relevant time limit imposed as a result of the coming into force of these rules.

Time limit under these rules

15.9(1) Subject to subrule (2), where these rules impose a time limit for doing anything for which no time limit was provided for under the former rules, and on the coming into force of these rules the thing has not yet been done, the time limit under these rules applies to the doing of that thing and is calculated from the date on which these rules come into force.

(2) Rule 8.7 *(Confirmation of trial date)* applies only to matters that are set down for trial after the coming into force of these rules.

Time runs from different event

15.10 Where the time limit provided by these rules for doing anything runs from a different event than the equivalent time limit under the former rules, and on the coming into force of these rules the thing has not yet been done, the time limit provided by these rules applies, calculated either

(a) from the event specified in these rules, or

(b) from the coming into force of these rules,

whichever occurs later.

Formal offer to settle

15.11 A formal offer to settle an existing proceeding that was made and neither withdrawn nor accepted prior to the coming into force of these rules remains open for acceptance in accordance with the former rules.

New test or criteria

15.12 Where these rules impose a new test, provide new criteria or provide an additional ground for making an application in an existing proceeding, these rules apply in respect of the application if the application was made but has not been heard prior to the coming into force of these rules.

Place of existing proceeding

15.13 The coming into force of rules 3.3 and 3.4 does not operate to require an existing proceeding to be carried on in a different judicial centre from the judicial centre in which it was commenced.

Repeal

15.14(1) The *Alberta Rules of Court* (AR 390/68), except Parts 58 *[Rules under the Local Authorities Election Act]*, and 60 *[Queen's Bench Criminal Rules]*, are repealed.

(2) In accordance with section 36(1)(f) of the *Interpretation Act*, references within Parts 58 and 60 of the former rules are deemed to be references to the corresponding provisions of these rules.

(3) Repealed AR 41/2014 s5.

AR 124/2010 s15.14;62/2013;41/2014

Information note

Despite the repeal of the previous *Alberta Rules of Court* (AR 390/68), Parts 61 *[Court of Appeal Criminal Rules]* and 61.1 *[Summary Conviction Appeal Rules]*, which are published in the Alberta Rules of Court binder, remain in effect. Parts 61 and 61.1 are made under the *Criminal Code* (Canada) by the Justices of the Court of Appeal of Alberta and the Justices of the Court of Queen's Bench of Alberta respectively and are enacted by the Government of Canada pursuant to the *Statutory Instruments Act*.

Coming into force

15.15(1) Subject to subrule (2), these rules come into force on November 1, 2010.

(2) Rule 4.33 *[Dismissal for long delay]* comes into force 3 years after rule 15.4 *[Dismissal for long delay: bridging provision]* comes into force.

(3) Rule 15.4 *[Dismissal for long delay: bridging provision]* is repealed when rule 4.33 *[Dismissal for long delay]* comes into force.

AR 124/2010 s15.15;122/2012

Transitional provisions – Part 14

15.16(1) Except as otherwise provided in an enactment, by Part 14 or by an order under rule 15.6, Part 14 applies to every appeal existing on September 1, 2014.

(2) Despite rule 14.8 but subject to any enactment, a notice of appeal or an application for permission to appeal may be filed and served before the later of

(a) the deadline for filing under the *Alberta Rules of Court* (AR 390/68), and

(b) the deadline for filing under Part 14,

except that no appeal may be filed under clause (a) after the expiry of 4 months following September 1, 2014.

AR 41/2014 s6

Schedule A: Forms

Schedule A:
Civil Forms

Division 1 — Forms for Parts 2 to 11, 13 and 14

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Form 1
[Rule 2.14]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT **AFFIDAVIT OF SELF-APPOINTED LITIGATION REPRESENTATIVE**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

AFFIDAVIT OF _____

Sworn on_____, 20_____.

I, _____, of (municipality, province),

SWEAR/AFFIRM AND SAY THAT:

1. Attached as Exhibit 1 is my agreement in writing to be the litigation representative.

2. The reason(s) for this self-appointment as the litigation representative is/are:

   (a)

   (b)

3. The relationship between me and the party I will represent as the litigation representative is_____.

4. I have no interest in the action adverse in interest to the party I will represent as the litigation representative.

5. I am a resident of the Province of Alberta.

6. I acknowledge potential liability for payment of a costs award attributable to or liable to be paid in these proceedings where I will be the litigation representative

[The following additional paragraphs are required where a person wishes to self-appoint as the litigation representative for the estate of a deceased person.]

7. The estate of _____ ("the Estate") has a substantial interest in this matter.

8. I have/may have duties to perform in the administration of the Estate.

9. An application has been/has not been/will be made for the administration of the Estate.

10. I do/do not/may represent interests adverse to any other party in the action/proposed action.

SWORN (OR AFFIRMED) BEFORE ME)
at _____, Alberta, this _____ day)
of _____, 20____.)
_____) (Signature of
(Commissioner for Oaths) Litigation
in and for the Province of Alberta)) Representative)
_____) (Print Name)
PRINT NAME AND EXPIRY/LAWYER
/STUDENT-AT-LAW

Form 2
[Rule 2.14(1)(b)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

THE ESTATE OF:

DOCUMENT **NOTICE OF SELF-APPOINTMENT OF LITIGATION REPRESENTATIVE**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

THE ESTATE OF:

Notice of appointment

This is to notify you that with the filing of the attached affidavit in Form 1 with the Court and the service of this notice on the beneficiaries and heirs at law of the deceased _____, _____ is appointed as the litigation representative of the estate of _____.

Attachment: AFFIDAVIT IN FORM 1

Form 3
[Rule 2.28]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT **NOTICE OF CHANGE OF REPRESENTATION**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

[Name and Status] has changed the lawyer of record from [Legal Counsel, Law Firm Name] to [Legal Counsel, Law Firm Name].

OR

[Name and Status], formerly a self-represented litigant, has retained as lawyer of record [Legal Counsel, Law Firm Name].

OR

[Name and Status], has changed the lawyer of record from [Legal Counsel, Law Firm Name] to become a self-represented litigant.

Legal Counsel for [Name and Status]:
Law Firm Name:

Per: _____

_____
Print Name of Lawyer Signing

OR

[Name and Status]

_____

_____
Print Name

WARNING
This change of representation takes effect after the affidavit of service of this document on each of the other parties is filed. After that date, no delivery of a pleading or other document relating to the action is effective service on the former lawyer of record or at any address for service previously provided by the former lawyer of record, or on the self-represented litigant.

Form 4
[Rule 2.29]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT **NOTICE OF WITHDRAWAL OF LAWYER OF RECORD**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

Counsel for [Name and Status] withdraws as lawyer of record for that party.

The last known address for [Name and Status] is as follows:

Legal Counsel for [Name and Status]:
Law firm name:

Per: _____

_____
Print Name of Lawyer Signing

WARNING
This withdrawal of lawyer of record takes effect 10 days after the affidavit of service of this document on every party is filed. After that date, no delivery of a pleading or other document relating to the action is effective service on the former lawyer of record or at any address for service previously provided by the former lawyer of record.

Form 5
[Rule 3.2]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **ORIGINATING APPLICATION – NOTICE OF APPEAL/REFERENCE UNDER AN ENACTMENT**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

[Only use if there are respondents]

NOTICE TO THE RESPONDENT(S)

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Date _____
Time _____
Where _____
Before Whom _____

Go to the end of this document to see what else you can do and when you must do it.

Appeal from _____

[Insert "Provincial Court – Civil Division", "Surface Rights Board", etc. as appropriate]

OR

Reference to the Court under (name of enactment) .

Basis for the claim/reference/appeal/matter to be put before the Court:

1.

Remedy sought:

2.

Affidavit or other evidence to be used in support of this application:

3.

Applicable Acts and regulations:

4.

WARNING
If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes, or another order might be given or other proceedings taken which the applicant(s) is/are entitled to without any further notice of them to you. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

AR 124/2010 Form 5;143/2011;140/2013

Form 6
[Rule 3.4]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT **NOTICE OF REQUEST FOR TRANSFER OF ACTION**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO THE PLAINTIFF(S) AND COURT CLERK

The Defendant(s) by this notice is/are requesting the court clerk in the judicial centre in which this action is located to transfer the action to the judicial centre of _____.

Go to the end of this document to see what you can do and when you must do it.

Request:

1. The defendant(s) request(s) the court clerk in the judicial centre of _____ to transfer this action to the judicial centre of _____.

2. The reason for the transfer is that possession of the following land is claimed in the statement of claim: [put in legal description and municipal address]

3. This land is closest by road to the judicial centre of _____.

[alternative 3]

3. My residence is located at [put in legal description and municipal address], and the judicial centre of _____ is closest by road to my Alberta residence.

NOTICE TO THE PLAINTIFF(S)

Possession of land is claimed in your statement of claim. The defendant(s)

state(s) that the judicial centre that by road is closest to the land, or the judicial centre that by road is closest to the Alberta residence of the defendant(s), is _____.

The court clerk is required to transfer this action to the judicial centre of _____ unless these facts as stated by the defendant(s) are incorrect, the pleadings in this action have closed, or one of the exceptions stated in the notice to the court clerk below applies.

WARNING

If you do not immediately notify the court clerk in the judicial centre in which this action is located and dispute the facts as stated by the defendant(s) in this request, or alternatively, that the pleadings have closed or why one of the exceptions stated in the notice to the court clerk below applies within 10 days of service of this request on you, the court clerk will transfer this action to the judicial centre requested by the defendant(s) without further notice to you.

NOTICE TO THE COURT CLERK

You must transfer this action to the judicial centre of _____ unless the facts as stated by the defendant(s) in this request are incorrect, the pleadings in this action have closed, or one of the following applies:

(a) the Court has issued an order directing the action be started in or transferred to a particular judicial centre,

(b) the parties agree that an action be started in or be transferred to a particular judicial centre,

(c) the action has already been transferred to a judicial centre by request under rule 3.4, or

(d) an objection has been filed under rule 3.4(4).

Form 7
[Rule 3.8]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **ORIGINATING APPLICATION**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO THE RESPONDENT(S)

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Date	_____
Time	_____
Where	_____
Before	(Judge in Motions Court/ Master in Motions Court)

Go to the end of this document to see what you can do and when you must do it.

Basis for this claim:

1.

Remedy sought:

2.

Affidavit or other evidence to be used in support of this application:

3.

Applicable Acts and regulations:

4.

WARNING
You are named as a respondent because you have made or are expected to make an adverse claim in respect of this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant(s) and against all persons claiming under the applicant(s). You will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicant(s) is/are entitled to make without any further notice to you. If you want to take part in the application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

AR 124/2010 Form 7;140/2013

Form 8
[Rule 3.18]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **NOTICE TO OBTAIN RECORD OF PROCEEDINGS**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO (NAME OF PERSON OR BODY FROM WHOM RECORD IS SOUGHT)

Requirement

You are required to provide the following or an explanation as to why they, or any of them, cannot be provided:

(a) the decision or written record of the act that is the subject of the originating application for judicial review,

(b) the reasons given for the decision or act, if any,

(c) the document starting the proceeding,

(d) the evidence and exhibits filed with you, if any, and

(e) anything else in your possession relevant to the decision or act.

Form 9
[Rule 3.19]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **CERTIFIED RECORD OF PROCEEDINGS**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

1. Please find attached

   (a) the decision or written record of the act that is the subject of the originating application for judicial review,

   (b) the reasons given for the decision or act,

   (c) the document starting the proceeding,

   (d) the evidence and exhibits filed with us, and

   (e) anything else in our possession relevant to the decision or act, namely

      (i)

      (ii)

2. The following are parts of the notice to obtain record of proceedings that cannot be fully complied with and the reasons why:

   (a)

   (b)

3. I certify that I have attached all records as required by rule 3.19(1).

Name of person who certifies this record: _____
Position _____
Signature _____

Form 10
[Rule 3.25]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT **STATEMENT OF CLAIM**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO DEFENDANT(S)

You are being sued. You are a defendant.

Go to the end of this document to see what you can do and when you must do it.

Note: State below only facts and not evidence (Rule 13.6)

Statement of facts relied on:

1.

2.

3.

Remedy sought:

4.

5.

NOTICE TO THE DEFENDANT(S)

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of Queen's Bench at _____, Alberta, AND serving your statement of defence or a demand for notice on the plaintiff's(s') address for service.

WARNING

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiff(s) against you.

Form 11
[Rule 3.31]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT **STATEMENT OF DEFENCE**

PARTY FILING THIS DOCUMENT

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

Note: State below only facts and not evidence (Rule 13.6)

Statement of facts relied on:

1.

2.

3.

Any matters that defeat the claim of the plaintiff(s):

4.

5.

6.

Remedy sought:

7.

8.

9.

Form 12
[Rule 3.33]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT **REPLY TO DEFENCE**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

This is the Reply of (name and status) to the Statement of Defence filed by (name and status) on (date).

Statement of facts relied on:

1.

Any matters that defeat the claim/defence of the defendant(s):

2.

Remedy sought:

3.

NOTE

This reply may only make admissions or respond to matters raised for the first time in the statement of defence (Rules 3.33(2)(b) and 13.10).

Form 13

[Rules 3.34 and 12.11(2)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT **DEMAND FOR NOTICE BY DEFENDANT(S)**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

The defendant(s) demand(s) notice of any application or proceeding in this action.

WARNING

Filing and service of this demand for notice does not give the defendant(s) a right to contest liability. The defendant(s) filing a demand for notice may only subsequently file a statement of defence with the Court's consent.

Form 14
[Rule 3.36(1)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT **NOTING IN DEFAULT**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

[Name and Status] require(s) the court clerk to enter in the court record of this action a note to the effect that [Name and Status] has/have not filed a statement of defence and consequently is/are noted in default.

Form 15
[Rule 3.43]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT **NOTICE OF CLAIM AGAINST CO-DEFENDANT(S)**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO THE CO-DEFENDANT(S) [NAME(S)]

This claim for contribution or indemnity, or both, is made against you.

Go to the end of this document to see what, if anything, you must do.

The defendant(s) _____claim(s) contribution or indemnity, or both, against you under the *Tort-feasors Act* [or the *Contributory Negligence Act*].

NOTICE TO THE CO-DEFENDANT(S)

You need not file a pleading in respect of your claim or defence under the *Tort-feasors Act* or the *Contributory Negligence Act* unless the Court otherwise orders.

The defendant also need not file and serve a third party claim on you.

NOTE

This claim against you under the *Tort-feasors Act* or *Contributory Negligence Act* must be determined at the trial of the plaintiff's(s') claim against the defendant(s), or if there is no trial, as directed by the Court (Rule 3.43(3)).

Form 16

[Rule 3.45]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

THIRD PARTY DEFENDANT(S)

DOCUMENT **THIRD PARTY CLAIM**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE FROM (NAME AND STATUS) TO THIRD PARTY DEFENDANT(S):

This third party claim is made against you. You are a third party defendant.

Go to the end of this document to see what you can do and when you must do it.

Note: State below only facts and not evidence (Rule 13.6).

Statement of facts relied on:

1.

Remedy sought:

2.

Statement of claim:

3. A copy of the statement of claim filed in this action is attached.

NOTICE TO THE THIRD PARTY DEFENDANT(S)

You only have a short time to do something to respond to this third party claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of Queen's Bench at _____, Alberta, AND serving your statement of defence or a demand for notice on the defendant's(s') /third party plaintiff's(s') address for service.

WARNING

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the claim against you automatically. If you do not file, or do not serve or are late in doing either of these things, a court may give judgment to the defendant(s)/third party plaintiff(s) against you.

This third party claim must be tried with other claims in the action unless the Court otherwise orders.

If you do not file a statement of defence disputing liability of the defendant(s) to the plaintiff(s), you admit the validity of any judgment that the plaintiff(s) obtain(s) against the defendant(s), whether obtained by agreement or otherwise.

If you do not file a statement of defence disputing your own liability to the third party plaintiff(s) under the third party claim, you admit liability to the extent claimed in the third party claim.

Form 17
[Rule 3.49]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

THIRD PARTY DEFENDANT(S)

DOCUMENT **THIRD PARTY STATEMENT OF DEFENCE**

PARTY FILING THIS DOCUMENT

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

Note: State below only facts and not evidence (Rule 13.6)

Statement of facts relied on:

1.

Any matters that defeat the claim of the defendant(s)/third party plaintiff(s):

2.

Dispute of liability:

3. This third party defendant(s) do(es)/do(es) not dispute defendant's(s') liability to the plaintiff(s).

4. This third party defendant(s) do(es)/do(es) not dispute the third party defendant's(s') liability to the extent claimed in the third party claim.

Remedy sought:

5.

Form 18
[Rule 3.50]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

THIRD PARTY DEFENDANT(S)

DOCUMENT **DEMAND FOR NOTICE BY THIRD PARTY DEFENDANT(S)**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

The third party defendant(s) demand(s) notice of any application or proceeding in this action.

NOTE

Filing and service of this demand for notice does not give the third party defendant(s) a right to contest liability. The third party defendant(s) filing the demand for notice may subsequently file a statement of defence only with the Court's consent (Rule 3.51(3)).

Form 19
[Rule 3.53]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S) (RESPONDENT)

DEFENDANT(S) (APPLICANT)

THIRD PARTY DEFENDANT(S)
(RESPONDENT)

DOCUMENT **APPLICATION TO ENFORCE JUDGMENT AGAINST THIRD PARTY DEFENDANT**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO THIRD PARTY DEFENDANT(S):

This application is made against you. You are a defendant.

You have the right to state your side of this matter before the master/judge.

To do so, you must be in Court when the application is heard as shown below:

Date	_____
Time	_____
Where	_____
Before	(Judge in Motions Court/ Master in Motions Court)

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. Permission from the Court to enforce the judgment against the third party defendant [name] granted in favour of the defendant(s) [name(s)], prior to the defendant(s) satisfying the judgment granted against the defendant(s).

2. Details of the judgment sought to be enforced against the third party defendant are attached/described below.

Grounds for making this application:

3.

Material or evidence to be relied on:

4.

Applicable rules:

5.

Applicable Acts and regulations:

6.

Any irregularity complained of or objection relied on:

7.

How the application is proposed to be heard or considered:

8.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

AR 124/2010 Form 19;140/2013

Form 20

[Rule 3.54]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

THIRD PARTY DEFENDANT(S)

DOCUMENT **REPLY TO DEFENCE OF THIRD PARTY DEFENDANT**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

This is the Reply of (Name and Status) to the Third Party Statement of Defence filed by (Name and Status) on (date) .

Statement of facts relied on:

1.

Any matters that defeat the claim/defence of the third party defendant(s):

2.

Remedy sought:

3.

NOTE

This reply may only make admissions or respond to matters raised for the first time in the statement of defence of the third party defendant (rules 3.54(2)(b) and 13.10).

Form 21

[Rules 3.57 and 12.11(3)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S) BY COUNTERCLAIM

DEFENDANT(S) BY COUNTERCLAIM

DOCUMENT **COUNTERCLAIM**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO DEFENDANT(S) BY COUNTERCLAIM

You are being sued. You are a defendant by counterclaim.

Go to the end of this document to see what you can do and when you must do it.

NOTE: State below only facts and not evidence [Rule 13.6]

Statement of facts relied on:

1.

Remedy sought:

2.

NOTICE TO THE DEFENDANT(S) BY COUNTERCLAIM

You only have a short time to do something to respond to this counterclaim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice to counterclaim in the office of the clerk of the Court of Queen's Bench at _____, Alberta, AND serving your statement of defence or a demand for notice to counterclaim on the plaintiff(s) by counterclaim's address for service.

WARNING

If you do not file and serve a statement of defence or a demand for notice to counterclaim within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiff(s) by counterclaim against you after notice of the application has been served on you.

Form 22
[Rule 4.24]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT **FORMAL OFFER TO SETTLE**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY MAKING THIS OFFER

NOTICE TO PARTY RECEIVING OFFER

You have received a formal offer to settle.

Go the end of this document to see what the consequences are if you fail to accept this offer.

Party making the offer:

1.

To whom the offer is made:

2.

What the offer is:

3.

Conditions attached to the offer:

4.

Interest:

(a) is/is not included in the amount of the offer: _____

(b) if not included, to what date and at what rate it is payable: _____

Costs:

(a) are/are not included in the amount of the offer: _____

(b) if not included, the amount or scale of costs and the date to which they are payable: _____

Requirements that must be complied with to accept the offer:

5.

Form of acceptance of the offer:

6. Form of acceptance is attached.

Expiry date of this offer:

WARNING

If this formal offer of the plaintiff(s) is not accepted and subsequently the plaintiff(s) obtains a judgment or order in the action that is equal to or more favourable to the plaintiff(s) than this formal offer, the plaintiff(s) is (are) entitled to double the costs to which they would otherwise have been entitled for all steps taken in the action in relation to the action or claim specified in this formal offer, excluding disbursements, after service of this formal offer.

Or

If this formal offer of the defendant(s) is not accepted and a judgment or order in the action is made that is equal to or more favourable to the defendant(s) than this formal offer, the defendant(s) is (are) entitled to costs for all steps taken in the action in relation to the action or the claim specified in this formal offer, after service of this formal offer. If the defendant's(s') formal offer is not accepted and the claim or claims that are the subject-matter of this formal offer are dismissed, the defendant(s) is (are) entitled to double the costs mentioned in the last sentence, excluding disbursements.

AR 124/2010 Form 22;143/2011

Form 23

[Rule 4.36(4)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT **DISCONTINUANCE OF CLAIM**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

The plaintiff(s) discontinue(s) the action (the parts of the action described below) against the defendant(s) [NAME(S)]

NOTE

The discontinuance of the action/part of the action may not be raised as a defence to any subsequent action for the same or substantially the same claim (Rule 4.36(5)).

Form 24
[Rule 4.37]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT **DISCONTINUANCE OF DEFENCE**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

The defendant(s) [NAMES] discontinue(s) the whole of the statement of defence.

Form 25
[Rule 5.34]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT **EXPERT'S REPORT**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY PREPARING THIS DOCUMENT

EXPERT REPORT OF [NAME]

[An expert's report must contain, at a minimum,

(a) the expert's name and qualifications,

(b) the information and assumptions on which the expert's opinion is based, and

(c) a summary of the expert's opinion.]

DATE: _____

SIGNATURE OF EXPERT

_____

PRINT NAME

Form 26

[Rule 5.6]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT **AFFIDAVIT OF RECORDS**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

Affidavit of Records of [Name And Status] Sworn (or Affirmed) by _____ ON _____, 20____.

I, _____, of (municipality, province), have personal knowledge of the following or I am informed and do believe that:

1. I am the plaintiff/defendant/plaintiff's representative/defendant's representative.

2. The records listed in Schedules 1 and 2 are under the control of the plaintiff/defendant.

3. I/The plaintiff(s)/The defendant(s) object(s) to produce the records listed in Schedule 2 on the grounds of privilege identified in that Schedule.

4. The records listed in Schedule 3 were previously under the control of the plaintiff/defendant, but ceased to be so at the time and in the manner stated in Schedule 3.

5. Other than the records listed in Schedules 1, 2, and 3, I/the plaintiff(s)/the defendant(s), does/do not have and never had any other relevant and material records under my/the plaintiff's(s')/the defendant's(s') control.

SWORN (OR AFFIRMED) BEFORE ME at _____, Alberta, this _____ day of _____, 20____.

_____
(Commissioner for Oaths in and for the Province of Alberta)

_____
PRINT NAME AND EXPIRY/LAWYER/ STUDENT-AT-LAW

_____
(Signature of Plaintiff/ Defendant/Plaintiff's Representative/Defendant's Representative)

_____
(Print Name)

Schedule 1

Relevant and material records under my/the Plaintiff's(s')/the Defendant's(s') control for which there is no objection to produce:

	DATE (OR OTHER CONVENIENT ORDER)	DESCRIPTION
1.		
2.		
3.		

Schedule 2

Relevant and material records under my/the Plaintiff's(s')/the Defendant's(s') control for which there is an objection to produce:

(a) without prejudice communications:

(b) communications and copies of communications between solicitor and client:

(c) solicitors' work product, including all interoffice memoranda, correspondence, notes, memoranda and other records prepared by the solicitors or their assistants:

(d) records made or created for the dominant purpose of litigation, existing or anticipated:

(e) other: *(provide particulars of objection relied on)*

(f) records that fall into 2 or more of the categories described above:

Schedule 3

Relevant and material records previously under the control of the Plaintiff(s)/the Defendant(s):

DESCRIPTION OF RECORD	WHEN THIS RECORD CEASED TO BE UNDER PLAINTIFF'S(S')/ DEFENDANT'S(S') CONTROL	MANNER IN WHICH THIS RECORD CEASED TO BE UNDER PLAINTIFF'S(S')/ DEFENDANT'S(S') CONTROL	PRESENT LOCATION OF THE RECORD
1.			
2.			
3.			

NOTICE

The time when the producible records listed in this affidavit of records may be inspected is _____.

The place at which the producible records may be inspected is _____.

AR 124/2010 Form 26;163/2010

Form 27

[Rules 6.3 and 10.52(1)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT **APPLICATION BY (NAME AND STATUS)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

NOTICE TO RESPONDENT(S) *(Indicate name(s) and status of Respondent(s))*

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the master/judge.

To do so, you must be in Court when the application is heard as shown below:

Date	_____
Time	_____
Where	_____
Before Whom	_____

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1.

Grounds for making this application:

2.

Material or evidence to be relied on:

3.

Applicable rules:

4.

Applicable Acts and regulations:

5.

Any irregularity complained of or objection relied on:

6.

How the application is proposed to be heard or considered:

7.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

AR 124/2010 Form 27;143/2011;140/2013

Form 28

[Rule 6.14]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S) *(Indicate if Appellant(s)/Respondent(s))*

DEFENDANT(S) *(Indicate if Appellant(s)/Respondent(s))*

DOCUMENT **NOTICE OF APPEAL OF MASTER'S JUDGMENT OR ORDER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

NOTICE TO RESPONDENT(S): APPEAL HEARING

This appeal is made against a judgment or order of the master that was in your favour. You are a respondent.

The appeal will be heard as shown below:

Date _____
Time _____
Where _____
Before Whom _____ Judge in Motions Court

Go to the end of this document to see what else you can do and when you must do it.

The Appellant appeals to the Court of Queen's Bench of Alberta the decision of Master _____ sitting at _____, who on __(yyyy/mm/dd)__ made the judgment or order in your favour.

The record of proceedings is:

1. The application before the master.
2. The following affidavits and other evidence filed by the parties respecting the application before the master:
   (a)
   (b)
3. Any transcript of the proceedings before the master, unless the Court determines, or the parties agree, that a transcript is not needed.
4. The judgment or order of the master appealed.
5. Written reasons of the master (if any).

Additional evidence will/will not be relied on by the appellant.

Further written argument will/will not be made by the appellant.

The appellant will/will not rely on its written argument that was before the master (if any).

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the appellant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this appeal, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. You may rely on your original written argument, if any, that was before the master.

Within 20 days after service of any transcript, additional evidence, or further written argument from the appellant, you must file and serve on the appellant any further written argument you wish to make and any additional evidence you intend to rely on. The appellant may, within 10 days after service of your further written argument or additional evidence, file and serve on you a brief reply to any unanticipated additional evidence or further argument you have raised.

AR 124/2010 Form 28;143/2011

Form 29
[Rules 5.21 and 6.15]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT **NOTICE OF APPOINTMENT FOR QUESTIONING**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO: *(Name of person required to attend for questioning).* This notice requires you to attend for questioning.

You must attend at the date, time and place and for the period specified below:

DATE: _____
TIME: _____
PLACE: _____
PERIOD OF ATTENDANCE: _____
You must notify the questioning party prior to the date of the appointment regarding any arrangements that are necessary to accommodate your reasonable needs. The questioning party must, to the extent reasonably possible, make arrangements to accommodate those reasonable needs that you identify.

You must also bring any records described below.

☐ **You are not required to bring any records.**

or

☐ **You must also bring the following records :**

(a)

An allowance that is required to be paid to you for attending as a witness accompanies this notice.

The allowance is calculated as follows:

Allowance payable for each day or part of a day necessarily spent by you as a witness:	$
Meals	$
Accommodation	$
Transportation	$
TOTAL	**$**

WARNING

The Court may order a person to attend for questioning, at a date, time and place specified by the Court, if the person

(a) is required to be questioned under the *Alberta Rules of Court*,

(b) was served with a notice of appointment for questioning under the *Alberta Rules of Court*,

(c) was provided with an allowance, determined in accordance with Schedule B *[Court Fees and Witness and Other Allowances]* of the *Alberta Rules of Court* , if so required by the *Alberta Rules of Court*, and

(d) did not attend the appointment.

The Court may order the person to be questioned to bring records to the questioning that the person could be required to produce at trial.

AR 124/2010 Form 29;143/2011

Form 30

[Rule 6.22(4)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT **LETTER OF REQUEST TO JUDICIAL AUTHORITY**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY PREPARING THIS DOCUMENT

TO: THE JUDICIAL AUTHORITY OF [JURISDICTION] IN RELATION TO (NAME OF WITNESS)

1. Pursuant to the order of _____, a certified copy of which is attached, the Alberta Court is convinced that it is necessary to question [name] in your court jurisdiction.

2. The date, time and place for questioning of [name] is as follows:

   DATE: _____

   TIME: _____

   PLACE: _____

3. The Alberta Court has directed [name] be given _____ days' (hours') notice of the date for this questioning and directed that this questioning be conducted before [name].

4. [Name] has been directed by the Alberta Court to bring the following documents to this questioning:

   (a)

   (b)

5. The form of oath that should be administered to [name] at this questioning is as follows:

   (a) Please place your hand on the Bible. Do you solemnly swear that the evidence that you are about to give shall be the truth, the whole truth and nothing but the truth, so help you God?

   OR

   (b) Do you solemnly affirm that the evidence that you are about to give shall be the truth, the whole truth and nothing but the truth?

6. The Alberta Court has also directed that the sum of $_____ be paid to [name] in relation to this questioning. The amount of this allowance was calculated as follows:

Allowance payable for each day or part of a day necessarily spent by you as a witness:	$
Meals	$
Accommodation	$
Transportation	$
TOTAL	**$**

7. The Alberta Court requests that you cause the necessary order or document to be issued to require [name] to attend before [name] (and produce the records listed above) and it be permitted that such questioning be carried out in accordance with the *Alberta Rules of Court*.

DATE:

CERTIFICATE OF CLERK OF THE COURT:

Form 31
[Rule 6.22(4)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT **ORDER THAT EVIDENCE BE TAKEN OUTSIDE ALBERTA**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

DATE ON WHICH ORDER WAS PRONOUNCED: _____

LOCATION OF HEARING OR TRIAL: _____

NAME OF MASTER/JUDGE WHO MADE THIS ORDER: _____

ORDER

The Court is convinced that it is necessary to question [name] ("the Witness") in the jurisdiction in which the witness resides and therefore orders as follows:

1. The evidence of the Witness is authorized to be taken before [name] ("the Examiner").

2. The Examiner must follow these instructions:
   (a) a transcript of the evidence must be prepared;
   (b) evidence must be taken under oath;
   (c) .

3. The Witness must produce the following records:
   (a)
   (b)
   (c)

4. The letter of request in the form attached as Schedule 1 to this order is authorized and approved to be sent to the judicial authority of [name].

5. The date, time and place of questioning of the Witness will be:

   DATE: _____

   TIME: _____

   PLACE: _____

6. The minimum notice to be given of the date for questioning is [hours or days].

7. The amount of the allowance to be paid to the Witness is $_____, calculated as follows:

Allowance payable for each day or part of a day necessarily spent by you as a witness:	$
Meals	$
Accommodation	$
Transportation	$
TOTAL	**$**

_____
Justice of the Court of Queen's Bench of Alberta

AR 124/2010 Form 31;143/2011

Form 32

[Rules 6.31 and 6.32]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S) (Applicant(s))

DEFENDANT(S) (Respondent(s))

ADDITIONAL RESPONDENT(S)

DOCUMENT **APPLICATION FOR ORDER RESTRICTING COURT ACCESS**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO THE RESPONDENT(S):

_____ wishes to apply for an order restricting access to court proceedings or records.

You have the right to state your side of this matter before the master/judge.

To do so, you must be in Court when the application is heard as shown below:

Date	_____
Time	_____
Where	_____
Before Whom	_____ a judge _____

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1.

Grounds for making this application:

2.

Material or evidence to be relied on:

3.

Applicable rules:

4.

How the application is proposed to be heard or considered:

5.

WARNING

The information that is the subject of this application must not be published before the application is heard without the Court's permission.

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

A person may make an application for an order restricting publication only if a judge has authority to make such an order under an enactment or at common law.

AR 124/2010 Form 32;163/2010;140/2013

Form 33
[Rule 6.37]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT **NOTICE TO ADMIT FACTS [WRITTEN OPINIONS]**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO PARTY RECEIVING NOTICE TO ADMIT

You have received a notice to admit.

Read this document to see what you must do and when you must do it.

You are called on to admit for purposes of an application/originating application/summary trial or trial, the following:

1. [List facts in relation to which an admission is sought, or attach any written opinion that states the facts on which the opinion is based]

WARNING

Each of the matters for which an admission is requested is presumed to be admitted, unless within 20 days of the date of service of the notice to admit, you serve on the party requesting the admission a statement:

(a) denying specially the facts or the opinion, or both, for which an admission is requested and setting out in detail the reasons why the facts cannot be admitted or the opinion cannot be admitted, as the case requires, or

(b) setting out an objection on the ground that some or all of the requested admissions are, in whole or in part,

(i) privileged, or

(ii) irrelevant, improper or unnecessary.

A denial by you must fairly meet the substance of the requested admission and when only some of the facts or opinions for which an admission is requested are denied, the denial must specify the facts or opinions that are admitted and deny only the remainder.

You may amend or withdraw an admission or a denial made only with the Court's consent or by agreement of the parties.

Any admission you make is only for the specific purpose for which it is made and may not be used as an admission against you on any other occasion, or in favour of a person other than the person giving this notice, unless you agree otherwise.

Form 34
[Rule 6.56]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **ORIGINATING APPLICATION FOR INTERPLEADER ORDER**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO THE RESPONDENT(S)

This application affects you. You are a respondent.

You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Date	_____
Time	_____
Where	_____
Before Whom	_____

Go to the end of this document to see what else you can do and when you must do it.

Basis for the application:

1. The applicant is in possession of the following property in which the applicant claims no interest: [describe property in sufficient detail to identify it].

Interested parties:

2. The applicant believes the following parties do or may claim an interest in the property described in paragraph 1 [list parties and briefly describe basis of the adverse claims].

Remedy sought:

3. An order permitting the applicant to pay the disputed property into Court (or to deposit the disputed property with [name]) and an order determining, or setting a procedure for determining, the rights of the adverse claimants.

Affidavit or other evidence to be used in support of this application:

4.

Applicable Acts and regulations:

5.

[and if made by way of application as opposed to originating application, include the following]

How the application is proposed to be heard or considered:

6.

WARNING

You are named as respondents because you have made or are expected to make an adverse claim in respect of the personal property identified in this [originating] application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you, and all persons claiming under you, to be barred from taking any further interpleading proceedings against the applicant(s) and against all persons claiming under the applicant(s). You will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicant(s) is/are entitled to make without any further notice to you. If you want to take part in the application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

AR 124/2010 Form 34;140/2013

Form 35
[Rule 6.59]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT **CIVIL ENFORCEMENT AGENCY DIRECTIONS TO INSTRUCTING CREDITOR**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY PREPARING THIS DOCUMENT

TO: [name], the instructing creditor

Regarding writ proceedings [or acting under the authority of the Court] regarding [name of debtor].

NOTICE TO THE INSTRUCTING CREDITOR

This direction is given to you by the civil enforcement agency named below.

Go to the end of this document to see what you must do.

Address for service of documents on the civil enforcement agency [name]:

Name and address of party or law firm and responsible lawyer who prepared this document (same as above or give details if not the same):

We have received the following claims with respect to the personal property under seizure pursuant to the *Civil Enforcement Act* as specified below:

1. Claim of _____, a copy of which is attached;

2. Claim of _____, a copy of which is attached;

We direct you to apply to the Court to determine the rights of the various claimants.

NOTICE TO THE INSTRUCTING CREDITOR

You must apply for or obtain an order determining the rights of the various claimants.

WARNING

If you fail to apply for or to obtain an order determining the rights of the various claimants, the civil enforcement agency may

(a) apply for an interpleader order, or

(b) release the personal property from seizure.

Form 36
[Rule 7.5(2)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S) (APPLICANT(S))

DEFENDANT(S) (RESPONDENT(S))

DOCUMENT **APPLICATION FOR SUMMARY TRIAL**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO RESPONDENT(S)

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the judge.

To do so, you must be in Court when the application is heard as shown below:

Date _____
Time _____
Where _____
Before Whom _____

You may also object to this application at or before the hearing of the application on either or both of the following grounds:

(a) The issue or issues related in the claim, or the claim generally, is not suitable for a summary trial;

(b) A summary trial will not facilitate resolution of the claim or any part of it.

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought, including issue or issues to be determined (or indicate that the claim as a whole is to be determined):

1.

Grounds for making this application:

2.

Basis on which this case is appropriate for summary trial:

3.

Material or evidence to be relied on:

4.

Applicable rules:

5.

Applicable Acts and regulations:

6.

How the application is proposed to be heard or considered:

7.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application for judgment by way of summary trial, either you or your lawyer must

(a) 10 days or more before the date scheduled for the hearing of the application, file and serve on the applicant(s) any affidavit or other evidence that you intend to give in response to the application, and

(b) attend in Court on the date and at the time shown at the beginning of this form.

If you wish to object to this application for judgment by way of summary trial, notice of your objection to this application and a copy of any affidavit or other evidence that you intend to give in relation to your objection must be filed and served on the applicant(s) 5 days or more before the objection is scheduled to be heard.

AR 124/2010 Form 36;143/2011;140/2013

Form 37

[Rule 8.4]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT **REQUEST TO SCHEDULE A TRIAL DATE**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

Information re Plaintiff

Name of party and status:
Responsible lawyer:
Law firm:
Address of party or law firm:
Address for service:
Phone number of lawyer:

File number of lawyer:
Electronic address of lawyer:

Information re Defendant

Name of party and status:
Responsible lawyer:
Law firm:
Address of party or law firm:
Address for service:
Phone number of lawyer:
File number of lawyer:
Electronic address of lawyer:

Information required by the Court

1. Estimated number of witnesses: _____.

2. Estimated length of trial:_____

3. Copies of the pleadings and particulars, if any, for use by the judge at trial are provided with this request.

4. Order for trial by jury: a copy is provided with this request

   or

   Not applicable.

The party/parties making this request also confirm the following:

5. (a) The parties have participated in at least one of the dispute resolution processes described in rule 4.16(1), details of which are:_____ (or a copy of the order made under rule 4.16(2), waiving the dispute resolution process requirement, is provided with this request).

   (b) All expert reports have been exchanged and the process described in Part 5 *[Disclosure of Information]*, Division 2 [*Experts and Expert Reports*] of the *Alberta Rules of Court*, including questioning of experts, is complete.

   (c) All required medical examinations and reports under Part 5 *[Disclosure of Information]*, Division 3 *[Medical Examinations by Health Care Professionals]* of the *Alberta Rules of Court* are complete.

   (d) All questioning, and undertakings given by persons questioned, under Part 5 *[Disclosure of Information]* of the *Alberta Rules of Court* have been conducted and discharged.

   (e) We certify that we will be ready for trial by _____.

   (f) This request is/is not for a jury trial.

(g) If this request is for a jury trial the deposit required under rule 8.3 [*Deposit for jury*] was paid on _____.

(h) All known amendments to pleadings have been filed and served.

6. The following judges have a potential conflict, which may disqualify them from hearing the trial of this matter:

Legal Counsel for the Plaintiff(s):

Law firm name:

Per: _____

_____
Print Name of Lawyer Signing

Legal Counsel for the Defendant(s):

Law firm name:

Per: _____

_____
Print Name of Lawyer Signing

AR 124/2010 Form 37;143/2011;128/2015

Form 38
[Rule 8.5]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S) (APPLICANT(S))

DEFENDANT(S) (RESPONDENT(S))

DOCUMENT **APPLICATION FOR COURT TO SET A TRIAL DATE**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO RESPONDENT(S)

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the master/judge.

To do so, you must be in Court when the application is heard as shown below:

Date	_____
Time	_____
Where	_____
Before Whom	_____

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. An order setting a trial date or directing the court clerk to do so.

Grounds for making this application:

2. The parties have participated in at least one of the dispute resolution processes described in rule 4.16(1) (or an order has been made under rule 4.16(2) waiving the dispute resolution process requirement).

3. The parties are or likely will be ready for trial by a date scheduled by the Court for trial of the action.

Material or evidence to be relied on:

4.

Applicable rules:

5. 4.16 and 8.5.

Applicable Acts and regulations:

6.

How the application is proposed to be heard or considered:

7.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

AR 124/2010 Form 38;140/2013

Form 39

[Rule 8.7]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT **CONFIRMATION OF TRIAL DATE**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

Information re Plaintiff

Name of party and status:
Responsible lawyer:
Law firm:
Address of party or law firm:
Address for service:
Phone number of lawyer:
File number of lawyer:
Electronic address of lawyer:

Information re Defendant

Name of party and status:
Responsible lawyer:
Law firm:

Address of party or law firm:
Address for service:
Phone number of lawyer:
File number of lawyer:
Electronic address of lawyer:

We confirm to the Court on behalf of [Name and Status] that we are ready to proceed with the trial on the scheduled trial date of _____, _____ and we verify/modify the estimated number of witnesses and the estimated length of trial as follows:

1. Estimated number of witnesses

   non-expert: _____
   expert: _____

2. Estimated length of trial: _____

   (Complete only if applicable)

3. Change of trial date or length of trial:

   ☐ Attached is a copy of the filed order of _____, dated _____, changing the (trial date, length or both) pursuant to rules 8.6(3).

Legal Counsel for the Plaintiff(s):

Law firm name:

Per: _____

_____
Print Name of Lawyer Signing

Legal Counsel for the Defendant(s):

Law firm name:

Per: _____

_____
Print Name of Lawyer Signing

WARNING

If only one party confirms trial readiness, the date scheduled for trial remains unless the Court otherwise orders.

If no party confirms trial readiness, the date scheduled for trial is cancelled.

AR 124/2010 Form 39;143/2011

Form 40
[Rule 8.8]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT **NOTICE TO ATTEND AS WITNESS AT TRIAL**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO WITNESS

This notice requires you to attend at trial and testify.

This document explains what you must do and when you must do it.

NOTICE TO WITNESS: (name of witness)

You must attend at the date, time and place and for the period specified below:

DATE: _____
TIME: _____
PLACE: _____
PERIOD OF ATTENDANCE: _____

☐ **You are not required to bring any records**

or

☐ **You must also bring the following records :**

(a)

(b)

An allowance that is required to be paid to you for attending as a witness accompanies this notice.

The allowance is calculated as follows:

Allowance payable for each day or part of a day necessarily spent by you as a witness:	$
Meals	$
Accommodation	$
Transportation	$
TOTAL	**$**

WARNING

If you do not attend as a witness at the trial as indicated above, or do not attend or remain in attendance in accordance with this notice, the Court may order one or more of the following:

(a) that you be brought immediately, or at a time specified, before the Court or before a person named by the Court;

(b) that you bring the records described in the order;

(c) that you be detained in custody in accordance with the order until your presence is no longer required;

(d) that you be released on a recognizance, with or without sureties, on a condition that you appear as directed, for a specified purpose;

(e) any other order necessary to ensure your attendance and the production of records ordered to be produced as required by the order.

Form 41

[Rule 9.22]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S) (APPLICANT(S))

DEFENDANT(S) (RESPONDENT(S))

DOCUMENT **APPLICATION FOR AN ORDER THAT A JUDGMENT [OR ORDER] HAS BEEN SATISFIED**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO RESPONDENT(S)

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the master/judge.

To do so, you must be in Court when the application is heard as shown below:

Date	_____
Time	_____
Where	_____
Before Whom	_____

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. An order that the judgment [or order] attached/described below has been satisfied.

Grounds for making this application:

2.

Material or evidence to be relied on:

3.

Applicable rules:

4.

Applicable Acts and regulations:

5.

How the application is proposed to be heard or considered:

6.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

AR 124/2010 Form 41;140/2013

Form 42
[Rule 10.13]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

CLIENT(S) *(Indicate if Applicant)*

LAWYER(S) *(Indicate if Applicant)*

DOCUMENT **APPOINTMENT FOR REVIEW OF RETAINER AGREEMENT/LAWYER'S CHARGES**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO RESPONDENTS

You have the right to state your side of this matter before the review officer.

To do so, you must be present when this matter is heard by the review officer as shown below:

Date _____
Time _____
Where _____

Go to the end of this document to see what else you can do and when you must do it.

Purpose of this appointment

The purpose of this appointment is to determine the reasonableness of the retainer agreement/lawyer's charges reflected in:

☐ the retainer agreement(s) that is (are) required to be served with this notice of appointment.

☐ all retainer agreements between the client(s) and the lawyer/law firm, which are required to be provided by the lawyer to the review officer under rule 10.14(1) and (2).

☐ the lawyer's account(s) that is (are) required to be served with this notice of appointment.

☐ all lawyer's accounts between the client(s) and the lawyer/law firm, which are required to be provided by the lawyer/law firm to the review officer under rule 10.14(1) and (2).

WARNING

If you do not attend this appointment either in person or by your lawyer, the review officer may give the party who requested this appointment what they want in your absence. You will be bound by the review officer's decision. If you want to take part in this appointment, you or your lawyer must attend before the review officer on the date and at the time as shown at the beginning of this form.

If you are a lawyer responding to this appointment pertaining to your charges or retainer agreement, you must file a copy of the signed account in respect of which the client seeks a review and any retainer agreement, whether or not you intend to rely on them at the appointment. This must be done 5 days or more before the date of the appointment for review or any other period specified by the review officer, and if you do not comply with this rule, you forfeit your right to payment of the charges in the account that are the subject of review, unless the review officer otherwise directs.

AR 124/2010 Form 42;163/2010;140/2013

Form 43

[Rule 10.26]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

CLIENT(S) (APPELLANT(S))

LAWYER(S) (RESPONDENT(S))

DOCUMENT **NOTICE OF APPEAL OF REVIEW OFFICER'S DECISION**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO RESPONDENT(S): APPEAL HEARING

This appeal is made against an order of the review officer's decision that was in your favour. You are a respondent.

The appeal will be heard as shown below:

Date _____
Time _____
Where _____
Before Whom _____ a judge of the Court of Queen's Bench of Alberta

Go to the end of this document to see what else you can do and when you must do it.

The record filed and served with this appeal consists of the following:

1. The request to the review officer for the appointment.
2. The following materials filed by the parties in support of, opposed to or required for the review:
   (a)
   (b)
3. Transcript of the proceedings before the review officer (unless the judge dispenses with this requirement).
4. The decision of the review officer.
5. Written argument will/will not be filed in support of this appeal.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the appellant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this appeal, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. Within 10 days of the service of this notice of appeal, you must file and serve on the appellant any written argument you wish to make.

Form 44

[Rule 10.35(1)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT **BILL OF COSTS**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

BILL OF COSTS OF [NAME AND STATUS]

Fees claimed:

ITEM NO.	ITEM	AMOUNT

Disbursements:

DESCRIPTION	AMOUNT

Other Charges:

DESCRIPTION	AMOUNT

GST:

(a) Amount claimed on fees: $_____

(b) Amount claimed on disbursements: $_____

(c) Amount claimed on other charges: $_____

TOTAL GST: $_____

By making the above claim for an additional amount on account of goods and services tax, the party entitled to the costs award warrants that it is not entitled under the *Excise Tax Act (Canada)* to a refund or rebate of any goods and services tax paid.

Total amount claimed:

Fees: $_____
Disbursements: $_____
Other Charges: $_____
GST: $_____
TOTAL: $_____

Amount allowed by assessment officer:

Fees: $_____
Disbursements: $_____
Other Charges: $_____
GST: $_____
TOTAL: $_____

Person responsible for preparation of this Bill of Costs:

_____
Signature

_____
Print Name

CERTIFICATE OF ASSESSMENT OFFICER:

I, _____, certify the following amount(s) that is (are) to be paid

By Plaintiff: $_____
By Defendant: $_____

to (name of party or parties to receive the costs awarded).

I also certify the following special circumstance(s) and the amount to be paid by each party with respect to the special circumstance(s):

Dated: _____
Name of Assessment Officer: _____

AR 124/2010 Form 44;122/2012;140/2013

Form 45

[Rule 10.37]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S) *(Indicate if Applicant)*

DEFENDANT(S) *(Indicate if Applicant)*

DOCUMENT **APPOINTMENT FOR ASSESSMENT OF COSTS**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO RESPONDENTS

You have the right to state your side of this matter before the assessment officer.

To do so, you must be present when this matter is heard by the assessment officer as shown below:

Date _____
Time _____
Where _____

Go to the end of this document to see what else you can do and when you must do it.

Purpose of this appointment

The purpose of this appointment is for an assessment of costs set out in:

☐ the bill of costs that is attached.

☐ the bill of costs that has been requested by the party filing this appointment.

WARNING

If you do not attend this appointment either in person or by your lawyer, the assessment officer may give the party who took out this appointment what the party wants in your absence. You will be bound by the assessment officer's decision. If you want to take part in this appointment, you or your lawyer must attend before the assessment officer on the date and at the time as shown at the beginning of this form.

If you have been requested by this appointment to prepare a proposed bill of costs, you must do so as soon as practical and file it and serve it on each of the other parties 10 days or more before the appointment for assessment.

AR 124/2010 Form 45;163/2010

Form 46
[Rule 10.44]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S) (APPELLANT)

DEFENDANT(S) (RESPONDENT)

DOCUMENT **NOTICE OF APPEAL OF ASSESSMENT OFFICER'S DECISION**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO RESPONDENT(S): APPEAL HEARING

This appeal is made against the assessment officer's decision that was in your favour. You are a respondent.

The appeal will be heard as shown below:

Date _____

Time _____

Where _____

Before Whom _____ a judge of the Court of Queen's Bench of Alberta

Go to the end of this document to see what else you can do and when you must do it.

Record filed and served with this appeal consists of the following:

1. The request to the assessment officer for the appointment.
2. The following materials filed by the parties in support of, opposed to or required for the review:
   (a)
   (b)
3. Transcript of the proceedings before the assessment officer (unless the judge dispenses with this requirement).

4. The decision of the assessment officer.

5. Written argument will/will not be filed in support of this appeal.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the appellant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this appeal, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. Within 10 days of the service of this notice of appeal, you must file and serve on the appellant any written argument you wish to make.

AR 124/2010 Form 46;163/2010

Form 47

[Rule 10.51]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT **ORDER TO APPEAR**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

DATE ON WHICH ORDER WAS PRONOUNCED:
LOCATION OF HEARING OR TRIAL:

NAME OF MASTER/JUDGE WHO MADE THIS ORDER:

☐ [Name] is ordered to appear before this Court at _____ on _____.

OR

☐ A warrant shall issue in the form attached as Schedule "A" and a Peace Officer shall take into custody [name] and bring that person before the Court to show why that person should not be declared to be in civil contempt of Court.

_____
Justice of the Court of Queen's Bench of Alberta

SCHEDULE "A"

ACTION NO._____

IN THE COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE OF _____

WARRANT FOR ARREST

TO THE PEACE OFFICERS IN ALBERTA:

This warrant is issued for the arrest of (Name of person to be arrested) of (Address) (Postal Code)

Date of Birth: (yyy/mm/dd) (Occupation)

WHEREAS there are reasonable and probable grounds to believe that (name of person to be arrested) should be brought before this Court to show cause why that person should not be declared to be in civil contempt of Court. This therefore is to command you, in Her Majesty's name, forthwith to arrest and detain (name of person to be arrested) and to bring that person before a Justice of the Court of Queen's Bench of Alberta to be dealt with according to law. This warrant is sufficient authority for the keeper of a correctional institution to receive and detain (name of person to be arrested) into custody and to safely keep that person pending appearance before a Justice of the Court of Queen's Bench of Alberta.

DATED _____, 20_____,

at _____, Alberta.

_____
Justice, Master or Clerk of the Court
of Queen's Bench of Alberta

AR 124/2010 Form 47;143/2011

Form 48
[Rule 11.24]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

ENCUMBRANCER (OR TENANT,
OFFERER OR TENDERER)

DOCUMENT **NOTICE OF ADDRESS FOR SERVICE IN FORECLOSURE ACTION**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

The Encumbrancer [or Tenant, Offeror, Tenderer, Defendant noted in default] notifies the Plaintiff that the following is the address for service of this party in Alberta:

[Name of party to be served]

[Address for service in Alberta including postal code]

NOTE: If the address for service does not include a street address, a full legal description must be included.

Form 49
[Rule 13.19]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT **AFFIDAVIT**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

AFFIDAVIT OF _____

Sworn (or Affirmed) on _____**, 20**__

I, _____, of Alberta, SWEAR/AFFIRM AND SAY THAT:

1.

2.

3.

SWORN (OR AFFIRMED) BEFORE ME)
at _____, Alberta, this _____ day)
of _____, 20____.)
_____) (Signature)_____
(Commissioner for Oaths) (Print Name)_____
in and for the Province of Alberta))
_____)
PRINT NAME AND EXPIRY/LAWYER/
STUDENT-AT-LAW

This is exhibit __ referred to in the affidavit of _____sworn before me on _____, 20_____.

_____

A Commissioner of Oaths for the Province of Alberta

_____

PRINT NAME AND EXPIRY/LAWYER/STUDENT-AT-LAW

Form 50

[Rule 13.49]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF(S)

DEFENDANT(S)

DOCUMENT **MONEY PAID INTO COURT**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO COURT CLERK

You have received money paid into Court.

Go to the end of this document to see what you must do.

$_____ is paid into Court in the following circumstances (specify the rule, enactment, judgment or order, or permission of the court clerk, that requires or authorizes you to pay this money into Court):

NOTICE TO COURT CLERK

You must give a receipt for the money paid into Court and, unless otherwise ordered, deposit the money in an account in a bank or treasury branch.

Division 2
Family Law Forms
Forms for Part 12

Forms by rule number

	Rule #	Form #
Statement of Claim for Divorce	12.7	FL-1
Statement of Claim for Division of Matrimonial Property	12.8	FL-2
Statement of Claim for Divorce and Division of Matrimonial Property	12.9	FL-3
Statement of Defence	12.11(1)	FL-4
Counterclaim for Divorce	12.11(3)	FL-5
Counterclaim for Division of Matrimonial Property	12.11(3)	FL-6
Counterclaim for Divorce and Division of Matrimonial Property	12.11(3)	FL-7
Joint Statement of Claim for Divorce	12.13(1)	FL-8
Notice of Withdrawal—Joint Divorce Proceedings	12.13(3)	FL-9
Claim	12.16(1)	FL-10
Response	12.18	FL-11
Certificate of Lawyer	12.24	FL-12
Queen's Bench Protection Order Questionnaire	12.31	FL-13
Restraining Order Questionnaire	12.33(2)	FL-14
Notice to Produce an Affidavit of Records	12.38(2)	FL-15
Notice to Reply to Written Interrogatories /Application	12.40(2)	FL-16
Notice to Disclose/Application	12.41(3)	FL-17
Family Application	12.44(1)(a)	FL-18
Provisional Order Information Form	12.46(1)	FL-19
Notice of Confirmation Hearing	12.47(1)(a)	FL-20
Request for Divorce (without oral evidence)	12.50(3)	FL-21
Joint Request for Divorce (without oral evidence)	12.50(3)	FL-22
Affidavit of Applicant	12.50(3)	FL-23
Affidavit of Applicants (Joint)	12.50(3)	FL-24
Divorce Judgment (without oral evidence)	12.53(a)	FL-25
Divorce Judgment and Corollary Relief Order (without oral evidence)	12.53(b)	FL-26
Corollary Relief Order	12.53(c)	FL-27
Variation Order	12.53(d)	FL-28
Order for Exclusive Possession of Matrimonial/Primary Home	12.53(e)	FL-29
Restraining Order Without Notice	12.53(f)	FL-30
Restraining Order	12.53(g)	FL-31
Certificate of Divorce	12.54(2)	FL-32
Notice of Appeal - Provincial Court Order (Family Law Act)	12.61(1)(a)	FL-33
Statements	12.16(2)	FL-34 to 56
Reply Statements	12.18(2)	FL-57 to 78
Update Statement	12.22(2)	FL-79

Forms in alphabetical order

	Rule #	Form #
Affidavit of Applicant	12.50(3)	FL-23
Affidavit of Applicants (Joint)	12.50(3)	FL-24
Certificate of Divorce	12.54(2)	FL-32
Certificate of Lawyer	12.24	FL-12
Claim	12.16(1)	FL-10
Corollary Relief Order	12.53(c)	FL-27
Counterclaim for Division of Matrimonial Property	12.11(3)	FL-6
Counterclaim for Divorce	12.11(3)	FL-5
Counterclaim for Divorce and Division of Matrimonial Property	12.11(3)	FL-7
Divorce Judgment (without oral evidence)	12.53(a)	FL-25
Divorce Judgment and Corollary Relief Order (without oral evidence)	12.53(b)	FL-26
Family Application	12.44(1)(a)	FL-18
Joint Request for Divorce (without oral evidence)	12.50(3)	FL-22
Joint Statement of Claim for Divorce	12.13(1)	FL-8
Notice of Appeal - Provincial Court Order (Family Law Act)	12.61(1)(a)	FL-33
Notice of Confirmation Hearing	12.47(1)(a)	FL-20
Notice of Withdrawal—Joint Divorce Proceedings	12.13(3)	FL-9
Notice to Disclose/Application	12.41(3)	FL-17
Notice to Produce an Affidavit of Records	12.38(2)	FL-15
Notice to Reply to Written Interrogatories /Application	12.40(2)	FL-16
Order for Exclusive Possession of Matrimonial/Primary Home	12.53(e)	FL-29
Provisional Order Information Form	12.46(1)	FL-19
Queen's Bench Protection Order Questionnaire	12.31	FL-13
Reply Statements	12.18(2)	FL-57 to 78
Request for Divorce (without oral evidence)	12.50(3)	FL-21
Response	12.18	FL-11
Restraining Order	12.53(g)	FL-31
Restraining Order Questionnaire	12.33(2)	FL-14
Restraining Order Without Notice	12.53(f)	FL-30
Statement of Claim for Division of Matrimonial Property	12.8	FL-2
Statement of Claim for Divorce	12.7	FL-1
Statement of Claim for Divorce and Division of Matrimonial Property	12.9	FL-3
Statement of Defence	12.11(1)	FL-4
Statements	12.16(2)	FL-34 to 56
Update Statement	12.22(2)	FL-79
Variation Order	12.53(d)	FL-28

Form FL-1
[Rule 12.7]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF

DEFENDANT

DOCUMENT **STATEMENT OF CLAIM FOR DIVORCE**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO DEFENDANT

You are being sued. You are the Defendant.

Go to the end of this document to see what you can do and when you must do it.

THE PARTIES

1(1)(a) The date of the marriage was:

(b) The place of the marriage was:

(2)(a) The parties started to cohabit on:

(b) The parties ceased cohabiting on:

(3) Particulars respecting the Plaintiff:
Address:
Date of birth:
Place of birth:
Surname at birth:
Surname at the time of marriage:
Marital status at the time of marriage:

(4) Particulars respecting the Defendant:
Address:
Date of birth:
Place of birth:
Surname at birth:
Surname at the time of marriage:
Marital status at the time of marriage:

RESIDENCE

2. The Plaintiff (or the Defendant) has been ordinarily resident in the Province of Alberta for at least one year immediately preceding the date of this Statement of Claim.

GROUNDS

3. The Plaintiff is seeking a divorce on the grounds of the breakdown of the marriage by reason of: *(choose those which apply)*

☐ The parties are now separated and will have been separated for at least one (1) year at the determination of the divorce proceeding;

☐ The Defendant has, since the celebration of the marriage, committed adultery;

☐ The Defendant has, since the celebration of the marriage, treated the Plaintiff with physical or mental cruelty of such a kind as to render intolerable the continued cohabitation of the spouses.

RECONCILIATION

4. There is no possibility of reconciliation.

BARS TO DIVORCE

5(1) There has been no collusion in relation to this divorce action.

(2) The Plaintiff has not connived at or condoned the grounds complained of prior to bringing this divorce action. *(use only if the grounds are under paragraph 8(2)(b) of the Divorce Act (Canada))*

CHILDREN

6(1) The particulars of each child of the marriage (which includes a child of one spouse to whom the other spouse stands in the place of a parent) are as follows:

(List all dependent children involved in this proceeding, even if no claims are being made in relation to those children.)

_____, born _____; and
_____, born _____

(2) The Plaintiff proposes custody for each child as follows:

(3) The Plaintiff proposes access or parenting arrangements for each child as follows:

(4) The Plaintiff proposes financial arrangements for each child as follows:

AGREEMENTS

7. The parties have made an agreement regarding the custody, access, parenting arrangements or support of the children or support of each other, as follows:
(provide date and summarize details of agreement)

COURT PROCEEDINGS

8. The details of any other court proceeding in regard to the marriage, custody, access, parenting arrangements and support of the children or support of the parties are as follows:

SPOUSAL SUPPORT

9. The Plaintiff is claiming spousal support from the Defendant for the following reasons:

OR

9. The Plaintiff is not claiming spousal support from the Defendant.

OR

9. The Plaintiff proposes spousal support for the Defendant as follows, for the following reasons:

REMEDY SOUGHT

10. The Plaintiff makes the following claims: *(choose those which apply)*

☐ divorce judgment;

☐ custody as proposed above;

☐ access or parenting arrangements as proposed above;

☐ child support as proposed above;

☐ retroactive child support;

☐ support for the Plaintiff;

☐ support for the Defendant;

☐ retroactive spousal support;

☐ a restraining order;

☐ other relief; (*specify any other relief being sought*)

☐ costs.

Statement of Solicitor

(where Plaintiff has a lawyer)

I, _____, the solicitor for the Plaintiff, certify to the Court that I have complied with the requirements of section 9 of the *Divorce Act* (Canada).

DATED at _____, Alberta, this _____ day of _____, 20____.

_____
Solicitor for the Plaintiff

NOTICE TO THE DEFENDANT

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada

You can respond by filing a Statement of Defence or a Demand for Notice in the office of the clerk of the Court of Queen's Bench at _____, Alberta, AND serving your Statement of Defence or Demand for Notice on the Plaintiff's address for service.

WARNING

If you do not file and serve a Statement of Defence or a Demand for Notice within the time period, you risk losing the ability to have your side heard in the lawsuit. If you do not file, or do not serve, or are late in doing either of these things, a court may grant a Divorce Judgment and other relief to the Plaintiff. In addition, if you do not file and serve a Statement of Defence or a Demand for Notice within the time period, you will not be entitled to receive notice of any further proceedings in this action.

Form FL-2
[Rule 12.8]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF

DEFENDANT

DOCUMENT **STATEMENT OF CLAIM FOR DIVISION OF MATRIMONIAL PROPERTY**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO DEFENDANT:

You are being sued. You are a Defendant.

Go to the end of this document to see what you can do and when you must do it.

1. The parties are spouses. They were married at *(city, province and country , if outside Canada)*, on the _____ day of _____, ____.

REQUIREMENTS FOR APPLICATION

2. Choose that which applies:

   ☐ The parties are habitually resident in Alberta.

   ☐ The last joint habitual residence of the parties was in Alberta.

   ☐ The habitual residence of the parties at the date of marriage was Alberta, and the parties have not since the marriage established a joint habitual residence.

   ☐ One spouse resides in Alberta and the other spouse is deceased.

   ☐ A statement of claim for divorce has been issued.

3. The parties separated on the __ day of _____, ___, and have lived separate and apart since that date.

OR

3. The parties have not lived separate and apart for one year, but the following circumstances apply:

(List applicable conditions precedent - see sections 5 and 6 of the Matrimonial Property Act.)

PROPERTY

4. During the marriage, the parties acquired property in their names, either jointly or separately. The particulars of all property will be set out in the matrimonial property statements to be filed in accordance with the *Matrimonial Property Act* of Alberta.

AGREEMENTS

5. The parties have made an agreement regarding the matrimonial property as follows:

EXEMPTIONS

6. The Plaintiff claims the following exemptions for the reasons indicated:

DIVISION OF PROPERTY

7. The Plaintiff claims an equal division of the matrimonial property.

OR

7. The Plaintiff claims an unequal division of the matrimonial property in favour of the Plaintiff for the following reasons:

(In a case where the Plaintiff wishes to combine a claim for division of matrimonial property with a claim for unjust enrichment, add the following clause.)

UNJUST ENRICHMENT CLAIM

8. The Plaintiff is making a claim of unjust enrichment, the particulars of which are as follows:

REMEDY SOUGHT IN THE MATRIMONIAL PROPERTY ACTION

9. The Plaintiff makes the following claims in the matrimonial property action: *(choose those which apply)*

☐ an order for the equal distribution of all of the property acquired by the Plaintiff and Defendant, either jointly or separately;

☐ an order for the unequal distribution of all property acquired by the Plaintiff and Defendant, as claimed above;

☐ an order declaring certain property exempt from distribution as claimed above;

☐ an order for the allocation of the following specific property to the parties:

☐ a matrimonial home exclusive possession order;

☐ occupation rent;

☐ a preservation order;

☐ other relief; *(specify any other relief being sought)*

☐ costs of this action.

REMEDY SOUGHT IN THE ACTION FOR UNJUST ENRICHMENT *(if applicable)*

10. The Plaintiff makes the following claims in the action for unjust enrichment: *(list all remedies being sought)*

NOTICE TO THE DEFENDANT

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada

You can respond by filing a Statement of Defence or a Demand for Notice in the office of the clerk of the Court of Queen's Bench at _____, Alberta, AND serving your Statement of Defence or Demand for Notice on the Plaintiff's address for service.

WARNING

If you do not file and serve a Statement of Defence or a Demand for Notice within the time period, you risk losing the ability to have your side heard in the lawsuit. If you do not file, or do not serve, or are late in doing either of these things, a court may grant a Divorce Judgment and other relief to the Plaintiff. In addition, if you do not file and serve a Statement of Defence or a Demand for Notice within the time period, you will not be entitled to receive notice of any further proceedings in this action.

AR 124/2010 Form FL 2;128/2015

Form FL-3
[Rule 12.9]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF

DEFENDANT

DOCUMENT **STATEMENT OF CLAIM FOR DIVORCE AND DIVISION OF MATRIMONIAL PROPERTY**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

NOTICE TO DEFENDANT:

You are being sued. You are the Defendant.

Go to the end of this document to see what you can do and when you must do it.

THE PARTIES

1(1)(a) The date of the marriage was:

(b) The place of the marriage was:

(2)(a) The parties started to cohabit on:

(b) The parties ceased cohabiting on:

(3) Particulars respecting the Plaintiff:
Address:
Date of birth:
Place of birth:
Surname at birth:
Surname at the time of marriage:
Marital status at the time of marriage:

(4) Particulars respecting the Defendant:
Address:
Date of birth:
Place of birth:
Surname at birth:
Surname at the time of marriage:
Marital status at the time of marriage:

RESIDENCE

2. The Plaintiff (or the Defendant) has been ordinarily resident in the Province of Alberta for at least one year immediately preceding the date of this Statement of Claim.

GROUNDS

3. The Plaintiff is seeking a divorce on the grounds of the breakdown of the marriage by reason of: *(choose those which apply)*

☐ the parties are now separated and will have been separated for at least one (1) year at the determination of the divorce proceeding;

☐ the Defendant has, since the celebration of the marriage, committed adultery;

☐ the Defendant has, since the celebration of the marriage, treated the Plaintiff with physical or mental cruelty of such a kind as to render intolerable the continued cohabitation of the spouses.

RECONCILIATION

4. There is no possibility of reconciliation.

BARS TO DIVORCE

5(1) There has been no collusion in relation to this divorce action.

(2) The Plaintiff has not connived at or condoned the grounds complained of prior to bringing this divorce action. *(use only if the grounds are under paragraph 8(2)(b) of the Divorce Act (Canada))*

CHILDREN

6(1) The particulars of each child of the marriage (which includes a child of one spouse to whom the other spouse stands in the place of a parent) are as follows:

(List all dependent children involved in this proceeding, even if no claims are being made in relation to those children.)
_____, born _____; and
_____, born _____

(2) The Plaintiff proposes custody for each child as follows:

(3) The Plaintiff proposes access or parenting arrangements for each child as follows:

(4) The Plaintiff proposes financial arrangements for each child as follows:

AGREEMENTS

7. The parties have made an agreement regarding the custody, access, parenting arrangements or support of the children or support of each other, as follows:
(provide date of agreement and summarize details)

COURT PROCEEDINGS

8. The details of any other court proceeding in regard to the marriage, custody, access, parenting arrangements and support of the children or the parties are as follows:

SPOUSAL SUPPORT

9. The Plaintiff is claiming spousal support from the Defendant for the following reasons:

OR

9. The Plaintiff is not claiming spousal support from the Defendant.

OR

9. The Plaintiff proposes spousal support for the Defendant as follows, for the following reasons:

MATRIMONIAL PROPERTY CLAIM

REQUIREMENTS FOR APPLICATION

10. Choose that which applies:

☐ The parties are habitually resident in Alberta.

☐ The last joint habitual residence of the parties was in Alberta.

☐ The habitual residence of the parties at the date of marriage was Alberta, and the parties have not since the marriage established a joint habitual residence.

☐ One spouse resides in Alberta and the other spouse is deceased.

☐ A statement of claim for divorce has been issued.

PROPERTY

11. During the marriage, the parties acquired property in their names, either jointly or separately. The particulars of all property will be set out in the matrimonial property statements to be filed in accordance with the *Matrimonial Property Act* of Alberta.

AGREEMENTS

12. The parties have made an agreement regarding the matrimonial property as follows:

EXEMPTIONS

13. The Plaintiff claims the following exemptions for the reasons indicated:

DIVISION OF PROPERTY

14. The Plaintiff claims an equal division of the matrimonial property.

OR

14. The Plaintiff claims an unequal division of the matrimonial property in favour of the Plaintiff for the following reasons:

(In a case where the Plaintiff wishes to combine a claim for division of matrimonial property with a claim for unjust enrichment, add the following clause)

UNJUST ENRICHMENT CLAIM

15. The Plaintiff is making a claim of unjust enrichment, the particulars of which are as follows:

REMEDY SOUGHT IN THE DIVORCE

16. The Plaintiff makes the following claims (choose those which apply):

- ☐ divorce judgment;
- ☐ custody as proposed above;
- ☐ access or parenting arrangements as proposed above;
- ☐ child support as proposed above;
- ☐ retroactive child support;
- ☐ support for the Plaintiff;
- ☐ support for the Defendant;
- ☐ retroactive spousal support;
- ☐ a restraining order;
- ☐ other relief; *(specify any other relief being sought)*
- ☐ costs.

REMEDY SOUGHT IN THE MATRIMONIAL PROPERTY ACTION

17. The Plaintiff makes the following claims in the matrimonial property action: *(choose those which apply)*

- ☐ an order for the equal distribution of all of the property acquired by the Plaintiff and Defendant, either jointly or separately;
- ☐ an order for the unequal distribution of all property acquired by the Plaintiff and Defendant, as claimed above;
- ☐ an order declaring certain property exempt from distribution as claimed above;
- ☐ an order for the allocation of the following specific property to the parties:

☐ a matrimonial home exclusive possession order;

☐ occupation rent;

☐ a preservation order;

☐ other relief; *(specify any other relief being sought)*

☐ costs of this action.

REMEDY SOUGHT IN THE ACTION FOR UNJUST ENRICHMENT *(if applicable)*

18. The Plaintiff makes the following claims in the action for unjust enrichment: *(list all remedies being sought)*

_____

Statement of Solicitor

(where Plaintiff has a lawyer)

I, _____, the solicitor for the Plaintiff, certify to the Court that I have complied with the requirements of section 9 of the *Divorce Act* (Canada).

DATED at _____, Alberta, this _____ day of _____, 20____.

_____
Solicitor for the Plaintiff

NOTICE TO THE DEFENDANT

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada

You can respond by filing a Statement of Defence or a Demand for Notice in the office of the clerk of the Court of Queen's Bench at _____, Alberta, AND serving your Statement of Defence or Demand for Notice on the Plaintiff's address for service.

WARNING

If you do not file and serve a Statement of Defence or a Demand for Notice within the time period, you risk losing the ability to have your side heard in the lawsuit. If you do not file, or do not serve, or are late in doing either of these things, a court may grant a Divorce Judgment and other relief to the Plaintiff. In addition, if you do not file and serve a Statement of Defence or a Demand for Notice within the time period, you will not be entitled to receive notice of any further proceedings in this action.

AR 124/2010 Form FL 3; 128/2015

Form FL-4

[Rule 12.11(1)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF

DEFENDANT

DOCUMENT **STATEMENT OF DEFENCE**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

[This form may be used in response to a Statement of Claim for Divorce, a Statement of Claim for Divorce and Division of Matrimonial Property (with or without an additional claim for unjust enrichment), or a Statement of Claim for Division of Matrimonial Property, or in response to a Counterclaim to any of these.]

[Choose those which apply and provide details. If you intend to file a Counterclaim with your Statement of Defence, use Form FL-5 for that purpose.]

1. I am

   ☐ the Defendant

   ☐ the Defendant by Counterclaim

2. In respect of the divorce action:

(a) I agree to the following relief sought by the Plaintiff/Plaintiff by Counterclaim:

(b) I contest the following part or parts of the Statement of Claim or Counterclaim:

(c) The reasons for contesting the Statement of Claim or Counterclaim are as follows:

3. In respect of the matrimonial property action:

(a) I agree to the following relief sought by the Plaintiff/Plaintiff by Counterclaim:

(b) I contest the following part or parts of the Statement of Claim or Counterclaim:

(c) The reasons for contesting the Statement of Claim or Counterclaim are as follows:

4. In respect of the action for unjust enrichment:

(a) I agree to the following relief sought by the Plaintiff/Plaintiff by Counterclaim:

(b) I contest the following part or parts of the Statement of Claim or Counterclaim:

(c) The reasons for contesting the Statement of Claim or Counterclaim are as follows:

Form FL-5
[Rule 12.11(3)(a)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF
(DEFENDANT BY COUNTERCLAIM)

DEFENDANT
(PLAINTIFF BY COUNTERCLAIM)

DOCUMENT **COUNTERCLAIM FOR DIVORCE**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO PLAINTIFF

You are being sued. You are the Defendant by Counterclaim.

Go to the end of this document to see what you can do and when you must do it.

[This form may be filed in addition to a Statement of Defence (Form FL-4) or a Demand for Notice (Form 13) and may be used when a Statement of Claim for Divorce, a Statement of Claim for Divorce and Division of Matrimonial Property (with or without an additional claim for unjust enrichment), or a Statement of Claim for Division of Matrimonial Property has been served on you.]

THE PARTIES

1(1)(a) The date of the marriage was:

(b) The place of the marriage was:

(2)(a) The parties started to cohabit on:

(b) The parties ceased cohabiting on:

(3) Particulars respecting the Defendant:

Address:
Date of birth:
Place of birth:
Surname at birth:
Surname at the time of marriage:
Marital status at the time of marriage:

(4) Particulars respecting the Plaintiff:

Address:
Date of birth:
Place of birth:
Surname at birth:
Surname at the time of marriage:
Marital status at the time of marriage:

RESIDENCE

2. The Plaintiff or the Defendant has been ordinarily resident in the Province of Alberta for at least one year immediately preceding the date of this Counterclaim.

GROUNDS

3. The Defendant is seeking a divorce on the grounds of the breakdown of the marriage by reason of: *(choose those which apply)*

☐ the parties are now separated and will have been separated for at least one (1) year at the determination of the divorce proceeding;

☐ the Plaintiff has, since the celebration of the marriage, committed adultery;

☐ the Plaintiff has, since the celebration of the marriage, treated the Defendant with physical or mental cruelty of such a kind as to render intolerable the continued cohabitation of the spouses.

RECONCILIATION

4. There is no possibility of reconciliation.

BARS TO DIVORCE

5(1) There has been no collusion in relation to this divorce action.

(2) The Defendant has not connived at or condoned the grounds complained of prior to bringing this divorce action. *(use only if the grounds are under paragraph 8(2)(b) of the Divorce Act, (Canada))*

CHILDREN

6(1) The particulars of each child of the marriage (which includes a child of one spouse to whom the other spouse stands in the place of a parent) are as follows:

(List all dependent children involved in this proceeding, even if no claims are being made in relation to those children.)

_____, born _____; and
_____, born _____

(2) The Defendant proposes custody for each child as follows:

(3) The Defendant proposes access or parenting arrangements for each child as follows:

(4) The Defendant proposes financial arrangements for each child as follows:

AGREEMENTS

7. The parties have made an agreement regarding the custody, access, parenting arrangements or support of the children or support of each other, as follows:
(provide date of agreement and summarize details)

COURT PROCEEDINGS

8. The details of any other court proceeding in regard to the marriage, custody, access, parenting arrangements and support of the children or support of the parties are as follows:

SPOUSAL SUPPORT

9. The Defendant is claiming spousal support from the Plaintiff for the following reasons:

OR

9. The Defendant is not claiming spousal support from the Plaintiff.

OR

9. The Defendant proposes spousal support for the Plaintiff as follows, for the following reasons:

REMEDY SOUGHT

10. The Defendant makes the following claims: *(choose those which apply)*

- ☐ divorce judgment;
- ☐ custody as proposed above;
- ☐ access or parenting arrangements as proposed above;
- ☐ child support as proposed above;
- ☐ retroactive child support;
- ☐ support for the Defendant;
- ☐ support for the Plaintiff;
- ☐ retroactive spousal support;
- ☐ a restraining order;
- ☐ other relief; *(specify any other relief being sought)*
- ☐ costs.

Statement of Solicitor

(where Defendant has a lawyer)

I, _____, the solicitor for the Defendant, certify to the Court that I have complied with the requirements of section 9 of the *Divorce Act* (Canada).

DATED at _____, Alberta, this _____ day of _____, 20____.

_____
Solicitor for the Defendant

NOTICE TO THE PLAINTIFF

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada

You can respond by filing a Statement of Defence or a Demand for Notice in the office of the clerk of the Court of Queen's Bench at _____, Alberta, AND serving your Statement of Defence or a Demand for Notice on the Defendant's address for service.

WARNING

If you do not file and serve a Statement of Defence or a Demand for Notice within the time period, you risk losing the ability to have your side heard in the lawsuit. If you do not file, or do not serve, or are late in doing either of these things, a court may grant a Divorce Judgment and other relief to the Defendant in the Counterclaim.

AR 124/2010 Form FL-5;143/2011

Form FL-6

[Rule 12.11(3)(b)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF
(DEFENDANT BY COUNTERCLAIM)

DEFENDANT
(PLAINTIFF BY COUNTERCLAIM)

DOCUMENT **COUNTERCLAIM FOR DIVISION OF MATRIMONIAL PROPERTY**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO PLAINTIFF

You are being sued. You are a Defendant by Counterclaim.

Go to the end of this document to see what you can do and when you must do it.

[This form may be filed in addition to a Statement of Defence (Form FL-4) or a Demand for Notice (Form 13) and may be used when a Statement of Claim for Divorce, a Statement of Claim for Divorce and Division of Matrimonial Property (with or without an additional claim for unjust enrichment), or a Statement of Claim for Division of Matrimonial Property has been served on you.]

1. The parties are spouses. They were married at *(city, province and country, if outside Canada)*, on the _____ day of _____, ____.

REQUIREMENTS FOR APPLICATION

2. Choose that which applies:

   ☐ The parties are habitually resident in Alberta.

   ☐ The last joint habitual residence of the parties was in Alberta.

   ☐ The habitual residence of the parties at the date of marriage was Alberta, and the parties have not since the marriage established a joint habitual residence.

   ☐ One spouse resides in Alberta and the other spouse is deceased.

3. The parties separated on the __ day of _____, ___, and have lived separate and apart since that date.

OR

3. The parties have not lived separate and apart for one year, but the following circumstances apply:

(List applicable conditions precedent - see sections 5 and 6 of the Matrimonial Property Act.)

PROPERTY

4. During the marriage, the parties acquired property in their names, either jointly or separately. The particulars of all property will be set out in the matrimonial property statements to be filed in accordance with the *Matrimonial Property Act*.

AGREEMENTS

5. The parties have made an agreement regarding the matrimonial property as follows:

EXEMPTIONS

6. The Defendant claims the following exemptions for the reasons indicated:

DIVISION OF PROPERTY

7. The Defendant claims an equal division of the matrimonial property.

OR

7. The Defendant claims an unequal division of the matrimonial property in favour of the Defendant for the following reasons:

(In a case where the Defendant wishes to combine a claim for division of matrimonial property with a claim for unjust enrichment, add the following clause)

UNJUST ENRICHMENT CLAIM

8. The Defendant is making a claim of unjust enrichment, the particulars of which are as follows:

REMEDY SOUGHT IN THE MATRIMONIAL PROPERTY ACTION

9. The Defendant makes the following claims in the matrimonial property action: *(choose those which apply)*

☐ an order for the equal distribution of all of the property acquired by the Plaintiff and Defendant, either jointly or separately;

☐ an order for the unequal distribution of all property acquired by the Plaintiff and Defendant, as claimed above;

☐ an order declaring certain property exempt from distribution as claimed above;

☐ an order for the allocation of the following specific property to the parties:

☐ a matrimonial home exclusive possession order;

☐ occupation rent;

☐ a preservation order;

☐ other relief; *(specify any other relief being sought)*

☐ costs of this action.

REMEDY SOUGHT IN THE ACTION FOR UNJUST ENRICHMENT *(if applicable)*

10. The Defendant makes the following claims in the action for unjust enrichment: *(list all remedies being sought)*

NOTICE TO THE PLAINTIFF

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada

You can respond by filing a Statement of Defence or a Demand for Notice in the office of the clerk of the Court of Queen's Bench at _____, Alberta, AND serving your Statement of Defence or Demand for Notice on the Defendant's address for service.

WARNING

If you do not file and serve a Statement of Defence or a Demand for Notice within the time period, you risk losing the ability to have your side heard in the lawsuit. If you do not file, or do not serve, or are late in doing either of these things, a court may grant relief to the Defendant in the Counterclaim.

AR 124/2010 Form FL-6;143/2011

Form FL-7
[Rule 12.11(3)(c)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF
(DEFENDANT BY COUNTERCLAIM)

DEFENDANT
(PLAINTIFF BY COUNTERCLAIM)

DOCUMENT **COUNTERCLAIM FOR DIVORCE AND DIVISION OF MATRIMONIAL PROPERTY**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO PLAINTIFF

You are being sued. You are the Defendant by Counterclaim.

Go to the end of this document to see what you can do and when you must do it.

[This form may be filed in addition to a Statement of Defence (Form FL-4) or a Demand for Notice (Form 13) and may be used when a Statement of Claim for Divorce, a Statement of Claim for Divorce and Division of Matrimonial Property (with or without an additional claim for unjust enrichment), or a Statement of Claim for Division of Matrimonial Property has been served on you.]

THE PARTIES

1(1)(a) The date of the marriage was:

(b) The place of the marriage was:

(2)(a) The parties started to cohabit on:

(b) The parties ceased cohabiting on:

(3) Particulars respecting the Defendant:
Address:
Date of birth:
Place of birth:
Surname at birth:
Surname at the time of marriage:
Marital status at the time of marriage:

(4) Particulars respecting the Plaintiff:
Address:
Date of birth:
Place of birth:
Surname at birth:
Surname at the time of marriage:
Marital status at the time of marriage:

RESIDENCE

2. The Plaintiff (or the Defendant) has been ordinarily resident in the Province of Alberta for at least one year immediately preceding the date of this Counterclaim.

GROUNDS

3. The Defendant is seeking a divorce on the grounds of the breakdown of the marriage by reason of *(choose those which apply)*:

☐ the parties are now separated and will have been separated for at least one (1) year at the determination of the divorce proceeding;

☐ the Plaintiff has, since the celebration of the marriage, committed adultery;

☐ the Plaintiff has, since the celebration of the marriage, treated the Defendant with physical or mental cruelty of such a kind as to render intolerable the continued cohabitation of the spouses.

RECONCILIATION

4. There is no possibility of reconciliation.

BARS TO DIVORCE

5(1) There has been no collusion in relation to this divorce action.

(2) The Defendant has not connived at or condoned the grounds complained of prior to bringing this divorce action. *(use only if the grounds are under paragraph 8(2)(b) of the Divorce Act, (Canada))*

CHILDREN

6(1) The particulars of each child of the marriage (which includes a child of one spouse to whom the other spouse stands in the place of a parent) are as follows:

(List all dependent children involved in this proceeding, even if no claims are being made in relation to those children.)

_____, born _____; and
_____, born _____

(2) The Defendant proposes custody for each child as follows:

(3) The Defendant proposes access or parenting arrangements for each child as follows:

(4) The Defendant proposes financial arrangements for each child as follows:

AGREEMENTS

7. The parties have made an agreement regarding the custody, access, parenting arrangements or support of the children or support of each other, as follows:
(provide date of agreement and summarize details)

COURT PROCEEDINGS

8. The details of any other court proceeding in regard to the marriage, custody, access, parenting arrangements and support of the children or support of the parties are as follows:

SPOUSAL SUPPORT

9. The Defendant is claiming spousal support from the Plaintiff for the following reasons:

OR

9. The Defendant is not claiming spousal support from the Plaintiff.

OR

9. The Defendant proposes spousal support for the Plaintiff as follows, for the following reasons:

MATRIMONIAL PROPERTY CLAIM

REQUIREMENTS FOR APPLICATION

10. Choose that which applies:

☐ The parties are habitually resident in Alberta.

☐ The last joint habitual residence of the parties was in Alberta.

☐ The habitual residence of the parties at the date of marriage was Alberta, and the parties have not since the marriage established a joint habitual residence.

☐ One spouse resides in Alberta and the other spouse is deceased.

PROPERTY

11. During the marriage, the parties acquired property in their names, either jointly or separately. The particulars of all property will be set out in the matrimonial property statements to be filed in accordance with the *Matrimonial Property Act* of Alberta.

AGREEMENTS

12. The parties have made an agreement regarding the matrimonial property as follows:

EXEMPTIONS

13. The Defendant claims the following exemptions for the reasons indicated:

DIVISION OF PROPERTY

14. The Defendant claims an equal division of the matrimonial property.

OR

14. The Defendant claims an unequal division of the matrimonial property in favour of the Defendant for the following reasons:

(In a case where the Defendant wishes to combine a claim for division of matrimonial property with a claim for unjust enrichment, add the following clause)

UNJUST ENRICHMENT CLAIM

15. The Defendant is making a claim of unjust enrichment, the particulars of which are as follows:

REMEDY SOUGHT IN THE DIVORCE

16. The Defendant makes the following claims: *(choose those which apply)*

- ☐ divorce judgment;
- ☐ custody as proposed above;
- ☐ access or parenting arrangements as proposed above;
- ☐ child support as proposed above;
- ☐ retroactive child support;
- ☐ support for the Defendant;
- ☐ support for the Plaintiff;

☐ retroactive spousal support;

☐ a restraining order;

☐ other relief; *(specify any other relief being sought)*

☐ costs.

REMEDY SOUGHT IN THE MATRIMONIAL PROPERTY ACTION

17. The Defendant makes the following claims in the matrimonial property action: *(choose those which apply)*

☐ an order for the equal distribution of all of the property acquired by the Plaintiff and Defendant, either jointly or separately;

☐ an order for the unequal distribution of all property acquired by the Plaintiff and Defendant, in the manner claimed herein;

☐ an order declaring certain property exempt from distribution as claimed above;

☐ an order for the allocation of the following specific property to the parties:

☐ a matrimonial home exclusive possession order;

☐ occupation rent;

☐ a preservation order;

☐ other relief; *(specify any other relief being sought)*

☐ costs of this action.

REMEDY SOUGHT IN THE ACTION FOR UNJUST ENRICHMENT *(if applicable)*

18. The Defendant makes the following claims in the action for unjust enrichment: *(list all remedies being sought)*

_____

Statement of Solicitor

(where Defendant has a lawyer)

I, _____, the solicitor for the Defendant, certify to the Court that I have complied with the requirements of section 9 of the *Divorce Act* (Canada).

DATED at _____, Alberta, this _____ day of _____, 20____.

_____
Solicitor for the Defendant

NOTICE TO THE PLAINTIFF

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada

You can respond by filing a Statement of Defence or a Demand for Notice in the office of the clerk of the Court of Queen's Bench at _____, Alberta, AND serving your Statement of Defence or Demand for Notice on the Defendant's address for service.

WARNING

If you do not file and serve a Statement of Defence or a Demand for Notice within the time period, you risk losing the ability to have your side heard in the lawsuit. If you do not file, or do not serve, or are late in doing either of these things, a court may grant a Divorce Judgment and other relief to the Defendant in the Counterclaim.

AR 124/2010 Form FL-7;143/2011

Form FL-8

[Rule 12.13(1)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

WIFE

HUSBAND

DOCUMENT **JOINT STATEMENT OF CLAIM FOR DIVORCE**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF WIFE

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF HUSBAND

THE PARTIES

1(1)(a) The date of the marriage was:

(b) The place of the marriage was:

(2)(a) The parties started to cohabit on:

(b) The parties ceased cohabiting on:

(3) Particulars respecting the Wife:

Address:
Date of birth:
Place of birth:
Surname at birth:
Surname at the time of marriage:
Marital status at the time of marriage:

(4) Particulars respecting the Husband:

Address:
Date of birth:
Place of birth:
Surname at birth:
Surname at the time of marriage:
Marital status at the time of marriage:

RESIDENCE

2. The Wife (or the Husband) has been ordinarily resident in the Province of Alberta for at least one year immediately preceding the date of this Statement of Claim.

GROUNDS

3. The Wife and the Husband are seeking a divorce on the grounds of the breakdown of the marriage because the parties are now separated and will have been separated for at least one (1) year at the determination of the divorce proceeding.

RECONCILIATION

4. There is no possibility of reconciliation.

BARS TO DIVORCE

5. There has been no collusion in relation to this divorce action.

CHILDREN

6(1) The particulars of each child of the marriage (which includes a child of one spouse to whom the other spouse stands in the place of a parent) are as follows:

(List all dependent children involved in this case, even if no claims are being made in relation to those children.)

_____, born _____; and

_____, born _____; and

(2) The Parties propose custody for each child as follows:

(3) The Parties propose access or parenting arrangements for each child as follows:

(4) The Parties propose financial arrangements for each child as follows:
(include any agreement regarding retroactive child support)

AGREEMENTS

7. The parties have made an agreement regarding the custody, access, parenting arrangements or support of the children or each other, as follows:
(provide date and summarize details of agreement)

COURT PROCEEDINGS

8. The details of any other court proceeding in regard to the marriage, custody, access, parenting arrangements and support of the children or the parties are as follows:

SPOUSAL SUPPORT

9. The Parties have agreed that there will be no spousal support paid to either party.

OR

9. The Parties have agreed that spousal support will be paid by the Wife (or the Husband) to the Husband (or the Wife) as follows:
(include any agreement regarding retroactive spousal support)

REMEDY SOUGHT

10. The Parties seek the following relief: *(choose those which apply)*

- ☐ a joint divorce judgment;
- ☐ custody as proposed above;
- ☐ access or parenting arrangement as proposed above;
- ☐ child support as proposed above;
- ☐ support for the Wife/Husband as proposed above;
- ☐ retroactive child support as proposed above;
- ☐ retroactive spousal support as proposed above;
- ☐ other relief. *(specify any other relief being sought)*

Statement of Wife's Solicitor

(where Wife has a lawyer)

I, _____, the solicitor for the Wife, certify to the Court that I have complied with the requirements of section 9 of the *Divorce Act* (Canada).

DATED at _____, Alberta, this _____ day of _____, 20____.

_____
Solicitor for the Wife

Statement of Husband's Solicitor

(where Husband has a lawyer)

I, _____, the solicitor for the Husband, certify to the Court that I have complied with the requirements of section 9 of the *Divorce Act* (Canada).

DATED at _____, Alberta, this _____ day of _____, 20____.

_____
Solicitor for the Husband

Form FL-9
[Rule 12.13(3)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

WIFE

HUSBAND

DOCUMENT **NOTICE OF WITHDRAWAL— JOINT DIVORCE PROCEEDINGS**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

[Party's name] withdraws from this joint divorce proceeding.

Date: _____

_____
Signature of
☐ filing party ☐ lawyer for filing party

Print name: _____

Form FL-10
[Rule 12.16(1)]

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (Queen's Bench)
COURT LOCATION (Provincial Court)

APPLICANT(S)

ADDRESS FOR SERVICE AND
CONTACT INFORMATION
FOR APPLICANT(S)

RESPONDENT(S)

LAST KNOWN ADDRESS AND
CONTACT INFORMATION
FOR THE RESPONDENT(S)

DOCUMENT **CLAIM – Family Law Act**

NOTICE TO THE RESPONDENT(S):

This application is made against you. You are a Respondent.

You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Court Date _____

Time _____.

Where _____

Go to the end of this document to see what you can do and when you must do it.

1. I ask the Court to grant the following order(s):

Guardianship	**Form #**
☐ Guardianship of Child	FL-34 or FL-35
☐ Terminate Guardianship	FL-36
☐ Review of Guardian's Significant Decision	FL-37
☐ Court Direction for Guardian	FL-38
Parenting	
☐ Parenting of Child	FL-39 or FL-40
☐ Vary a Parenting Order	FL-41
Contact	
☐ Contact with Child	FL-42
☐ Vary a Contact Order	FL-43
☐ Permission from the Court (to apply for contact)	FL-44
Child Support	
☐ Child Support	FL-45
☐ Vary Child Support Order	FL-46 or FL-47

Spousal/Partner Support

☐ Spousal/Partner Support FL-48
☐ Vary Support Order FL-49 or FL-50

Enforcement (Time with Child)

☐ Enforcement (Time with Child) FL-51
☐ Reimbursement for Failure to Exercise Time FL-52
☐ Vary Enforcement Order FL-53

Matters Available only in Queen's Bench

☐ Exclusive Possession of Home/Goods FL-54
☐ Declaration of Parentage FL-55
☐ Declaration of Irreconcilability FL-56

Other

☐ specify: _____

2. Children involved in this application: (List full name and birthdate of each child)
   (a) _____ yyyy/mm/dd.
   (b) _____ yyyy/mm/dd.
   (c) _____ yyyy/mm/dd.
   (d) _____ yyyy/mm/dd.
   (e) _____ yyyy/mm/dd.
   (f) _____ yyyy/mm/dd.

3. Have you been involved in other legal proceedings (past or present) with the Respondent(s) or the children? ☐ Yes ☐ No

4. Basis for this claim: *(summarize what you are asking for and why)*

5. Evidence in support of this claim: *(list the Statement(s) or Affidavit(s) you will use)*

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the Applicant(s) what the Applicant wants in your absence. You will be bound by any order that the Court makes.

If you wish to respond to the Claim, you must file a Response with the Court. If you disagree with some or all of the orders asked for by the Applicant(s), and you want the Court to know your side of this matter, you must file Reply Statement(s) or an affidavit to support your position. You must serve all your documents on the Applicant(s) within a reasonable time before the court date shown above, but anything less than 10 days' notice will be presumed to be prejudicial to the Applicant(s).

***Family Law Act* forms you can use to respond are available from the courthouse or visit: www.albertacourts.ab.ca.**

AR 124/2010 FL-10;122/2012;85/2016

Form FL-11
[Rule 12.18(1)]

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (Queen's Bench)
COURT LOCATION (Provincial Court)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **RESPONSE – Family Law Act**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

Part I: RESPONDING TO THE OTHER PARTY

1. Choose all that apply:

☐ I agree with the following order(s) asked for by the other party: *(list)*

☐ I disagree with the following order(s) asked for by the other party: *(list)*

2. Basis for this response: *(summarize what you agree or disagree with and why)*

3. Evidence in support of this response: *(list the Reply Statement(s) or Affidavit(s) you will use)*

Part II: APPLYING FOR ADDITIONAL ORDER(S) FROM THE COURT:
(only complete if you want to ask the Court for something new, in addition to responding to the applicant's claim)

4. In addition to my Response above,
I ask the Court to grant the following order(s):

Guardianship	**Form**
☐ Guardianship of Child	FL-34 or FL-35
☐ Terminate Guardianship	FL-36
☐ Review of Guardian's Significant Decision	FL-37
☐ Court Direction for Guardian	FL-38

Parenting	
☐ Parenting of Child	FL-39 or FL-40
☐ Vary a Parenting Order	FL-41

Contact	
☐ Contact with Child	FL-42
☐ Vary a Contact Order	FL-43
☐ Permission from the Court (to apply for contact)	FL-44

Child Support	
☐ Child Support	FL-45
☐ Vary Child Support Order	FL-46 or FL-47

Spousal/Partner Support	
☐ Spousal/Partner Support	FL-48
☐ Vary Support Order	FL-49 or FL-50

Enforcement (Time with Child)	
☐ Enforcement (Time with Child)	FL-51
☐ Reimbursement for Failure to Exercise Time	FL-52
☐ Vary Enforcement Order	Fl-53

Matters Available Only in Queen's Bench	
☐ Exclusive Possession of Home/Goods	FL-54
☐ Declaration of Parentage	FL-55

☐ Declaration of Irreconcilability FL-56

Other

☐ specify: _____

5. Basis for wanting an additional order: *(summarize what you are asking for and why)*

6. Evidence in support of this additional order: *(list the Statement(s) or Affidavit(s) you will use)*

NOTICE TO THE APPLICANT:

If the Respondent has requested additional orders from the Court in Part II of the Response, you must provide your response within a reasonable time before the court date shown on the Claim, but anything less than 5 days' notice will be presumed to be prejudicial to the respondent(s). If you do not come to Court either in person or by your lawyer, the Court may give the Respondent(s) what they want in your absence. You will be bound by any order that the Court makes.

***Family Law Act* forms and information on how you can respond are available from the courthouse or visit: www.albertacourts.ab.ca.**

AR 124/2010 FL-11;85/2016

Form FL-12
[Rule 12.24]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **CERTIFICATE OF LAWYER**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

[To be completed by a lawyer acting on behalf of the Applicant or the Respondent]

I, _____ lawyer for __*(name)*__ *(Applicant or Respondent)* hereby certify that I have complied with the requirements of section 5 of the *Family Law Act*.

My address for service is: _____

My phone number is: _____

My fax number is: _____

My file number is: _____

Dated on _____, at _____, Alberta.

_____
Signature

Form FL-13

[Rule 12.31 and section 4 of the *Protection Against Family Violence Act*]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

CLAIMANT(S)

RESPONDENT

DOCUMENT **QUEEN'S BENCH PROTECTION ORDER QUESTIONNAIRE**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF CLAIMANT(S) FILING THIS DOCUMENT

RELATIONSHIP BETWEEN CLAIMANT AND RESPONDENT: *(specify your relationship to the Respondent)*

DATE AND ACTION NUMBER OF ANY PREVIOUS LEGAL PROCEEDINGS RELATING TO FAMILY VIOLENCE AND WHETHER OR NOT AN ORDER WAS GRANTED:

Year/Month/Day	Action Number	Order Granted (Yes/No)

Names and date(s) of birth of child(ren) in the custody of the Claimant: *(list full name and birthday (yyyy/mm/dd) of each child)*

(a) _____ yyyy/mm/dd.

(b) _____ yyyy/mm/dd.

(c) _____ yyyy/mm/dd.

(d) _____ yyyy/mm/dd.

(e) _____ yyyy/mm/dd.

(f) _____ yyyy/mm/dd.

REASONS FOR REQUESTING A PROTECTION ORDER:

*[Set out details of why you need a protection order against the Respondent stating all **relevant** facts, including the dates, nature and history of family violence, whether any weapons(s) were involved, and if so, the type of weapon(s), which prompted this application]*

I REQUEST THE QUEEN'S BENCH PROTECTION ORDER INCLUDE THE FOLLOWING CONDITIONS:

☐ 1. The Respondent is restrained from attending at, entering or being within 200 metres from the following places:

(a) the Claimant's/family member's residence: *(address)* .

(b) the Claimant's/family member's place of employment: *(address)* .

(c) the Claimant's/family member's other addresses: *(address)* .

or from being within 100 metres of the Claimant and family members anywhere in the Province of Alberta.

☐ 2. The Respondent is restrained from contacting the Claimant or associating in any way with the Claimant. The Respondent is further restrained from subjecting the Claimant to family violence.

☐ 3. The Claimant and other family members are granted exclusive occupation of the residence located at: *(address)* for *(specify time period)* .

☐ 4. The Respondent shall reimburse the Claimant in the amount of $_____ for monetary losses for the following reasons: *(specify reasons)* .

☐ 5. The Claimant/Respondent *(name)* is granted temporary possession of: *(specify personal property)*

☐ 6. The Claimant/Respondent *(name)* may not take, convert, damage or otherwise deal with: *(specify property)*

☐ 7. The Respondent may not make any communication likely to cause annoyance or alarm to the Claimant, including personal, written or telephone contact or contact by any other communication device, directly or through the agency of another person, with the Claimant and other family members or their employers, employees, co-workers or the following specified persons: *(specify persons)*.

☐ 8. A peace officer shall remove the Respondent from the residence located at: *(address)*.

☐ 9. A peace officer shall accompany *(name)* to the residence located at *(address)* within *(specify time period)* to supervise the removal of personal belongings.

☐ 10. The Respondent shall post the following bond: *(specify bond)*.

☐ 11. The Respondent shall attend the following counselling: *(specify)*.

☐ 12. The child *(name)* is authorized to attend counselling without the consent of the Respondent.

☐ 13. A peace officer shall seize and store the following weapons: *(specify weapons)*.

☐ 14. Other: (specify).

I, *(name)* solemnly declare that the facts set out in this document are true. I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Declared before me to be true on
_____, 20____, _____
at _____, Alberta.Signature of Claimant

_____
Commissioner for Oaths in and for Alberta

_____
Print name and expiry/Lawyer/Student-at-Law

NOTE: It is an offence to make a false declaration.

Form FL-14
[Rule 12.33(2)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

APPLICANT(S)

RESPONDENT

DOCUMENT **APPLICATION FOR A RESTRAINING ORDER WITHOUT NOTICE IN A FAMILY LAW SITUATION**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
APPLICANT(S) FILING THIS DOCUMENT

1. Status of Applicant and Respondent:

   ☐ Married
   ☐ Divorced
   ☐ Common-law/Adult Interdependent Partner
   ☐ Other: _____

2. Date relationship commenced: _____

3. Date of separation: _____

4. Date and action number of any previous applications for a restraining order:

   (a) _____

   (b) _____

5. Are there now, or have there ever been, any divorce, custody, child support, or spousal support proceedings against the Respondent in this Court or in the Provincial Court?

   ☐ Yes ☐ No

   If yes, please provide the court file number(s): _____

6. Will the granting of this order require the Respondent to leave his or her residence?

   ☐ Yes ☐ No

7. Are there any children under the age of 16 years of the Applicant and Respondent?

☐ Yes ☐ No

If yes, list the children's names, birth dates, and with whom the children are residing:

Child's full name	Birthdate (yyyy/mm/dd)	Residing with

8. Are there any other children involved? ☐ Yes ☐ No

If yes, list the children's names, birth dates, and relationship to Applicant:

Child's full name	Birthdate (yyyy/mm/dd)	Relationship to Applicant

9. Proposed access for all children:

(a) _____

(b) _____

10. Do you currently have a lawyer for family law matters?

☐ Yes ☐ No

If yes, name of lawyer: _____

11. Does the Respondent have a lawyer?

☐ Yes ☐ No

If yes, name of lawyer: _____

12. Why should notice of this application not be given to the Respondent? *[Note: Judges normally hear from both parties before making decisions. Where there is urgency or danger, for example, the Court could hear from only the Applicant]*.

_____.

REASONS FOR REQUESTING RESTRAINING ORDER

(Set out details of why you need a restraining order against the Respondent, stating all relevant facts, including the dates, nature, and history of the conduct, threats, and/or violence which prompted the application, and whether or not the Respondent has any weapons.)

_____

_____

_____

I, *(name)* solemnly declare that the facts set out in this document are true. I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Declared before me to be true on
_____, 20____, _____
at _____, Alberta.Signature of Applicant

_____
Commissioner for Oaths in and for Alberta

_____
Print name and expiry/Lawyer/Student-at-Law

NOTE: It is an offence to make a false declaration.

Form FL-15
[Rule 12.38(2)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF

DEFENDANT

DOCUMENT **NOTICE TO PRODUCE AN AFFIDAVIT OF RECORDS**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO: [Name of party to be served with this notice]

You are required, within three (3) months of service of this notice on you or your solicitor, to provide an Affidavit of Records disclosing all records relevant and material to the issues in this action, and you are to produce the records during any oral questioning and at the trial of this action.

The Affidavit of Records must comply with Part 5, Division 1, Subdivision 2 of the *Alberta Rules of Court*.

WARNING

If you do not provide an Affidavit of Records within the 3-month period required by this notice, you risk having a penalty imposed on you or an order or sanction being imposed against you by the Court.

AR 124/2010 Form FL-15;163/2010

Form FL-16

[Rule 12.40(2)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF *(Indicate if Applicant/Respondent)*

DEFENDANT *(Indicate if Applicant/Respondent)*

DOCUMENT **NOTICE TO REPLY TO WRITTEN INTERROGATORIES / APPLICATION**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO PARTY SERVED WITH THIS DOCUMENT:

This notice is combined with a court application. You are a Respondent. You must appear at the application referenced at the end of this document.

Go to the end of this document to see what else you can do and when you must do it.

WARNING

If you do not provide answers to the questions set out below within the one month period required by this notice andyou do not provide an objection in the manner indicated below, you risk having a penalty imposed on you or an order or sanction being imposed against you by the Court.

You are required, within one (1) month of service of this notice on you or your solicitor, to provide answers to the following questions, in writing, under oath:

(A maximum of 30 numbered and succinct questions should be listed here.)

NOTICE TO THE RESPONDENT

You are to appear in Court when the application is heard, as shown below:

Date _____
Time _____
Where _____
Before Whom _____

WARNING

If you object to answering any of these questions, you or your lawyer must attend in Court on the date and at the time shown above. You must also serve on the Applicant, or the Applicant's solicitor, an affidavit stating your objection to answering the disputed questions and setting out the reasons for the objection. Any such affidavit must be provided within a reasonable period of time before the application is scheduled to be heard, but anything less than 10 days' notice will be presumed to be prejudicial to the Applicant.

If you do not come to Court either in person or by your lawyer, the Court may give the Applicant what the Applicant wants in your absence. You will be bound by any order that the Court makes.

Form FL-17
[Rule 12.41(3)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF *(Indicate if Applicant/Respondent)*

DEFENDANT *(Indicate if Applicant/Respondent)*

DOCUMENT **NOTICE TO DISCLOSE / APPLICATION**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO PARTY SERVED WITH THIS DOCUMENT:

This notice is combined with a court application. You are a Respondent. Unless you provide all of the financial information and documents requested below and receive confirmation that the Applicant has cancelled the hearing, you must be in Court when the application is heard as shown below.

Date _____
Time _____
Where _____
Before Whom _____

Go to the end of this document to see what you can do and when you must do it.

WARNING

If you do not provide the financial information and documents requested below within the one-month period required by this notice and you do not provide an objection in the manner indicated below, you risk having a penalty imposed on you or an order or sanction being imposed against you by the Court.

(If this form is being used after there has been a final determination in a proceeding relating to child support, spousal support, or adult interdependent partner support, only the documents in items 1 to 9 may be requested.)

You are hereby required to provide to the Applicant within one (1) month of service of this Notice:

☐ 1. A copy of every personal income tax return you have filed for each of the 3 most recent taxation years. If you have not filed a tax return for the previous year, you must provide copies of your T4, T4A, and all other relevant tax slips and statements disclosing any and all sources of income for the previous year.

☐ 2. A copy of every notice of assessment and reassessment issued to you for each of the 3 most recent taxation years, or a copy of the Canada Revenue Agency printout of your last 3 years' income tax returns.

☐ 3. If you are an employee, a copy of each of your 3 most recent statements of earnings indicating your total earnings paid in the year to date, including overtime, or where such a statement is not provided by your employer, a letter from your employer setting out that information, including your rate of annual salary or remuneration.

☐ 4. If you receive income from employment insurance, social assistance, a pension, workers' compensation, disability payments, dividends or any other source, the most recent statement of income indicating the total amount of income from the applicable source during the current year or, if such a statement is not provided, a letter from the appropriate authority stating the required information.

☐ 5. If you are a student, a statement indicating the total amount of student funding you have received during the current academic year, including loans, grants, bursaries, scholarships and living allowances.

☐ 6. If you are self-employed in an unincorporated business:

(a) particulars or copies of every cheque issued to you during the last 6 weeks from any business or corporation in which you have an interest, or to which you have rendered a service;

(b) the financial statements of your business or professional practice for the 3 most recent taxation years; and

(c) a statement showing a breakdown of all salaries, wages, management fees or other payments or benefits paid to yourself, or to persons or corporations with whom you do not deal at arm's length, for the 3 most recent taxation years.

☐ 7. If you are a partner in a partnership, confirmation of your income and draws from, and capital in, the partnership for its 3 most recent taxation years.

☐ 8. If you have a 1% or more interest in a privately held corporation:

(a) the financial statements of the corporation and its subsidiaries for its 3 most recent taxation years;

(b) a statement showing a breakdown of all salaries, wages, management fees or other payments or benefits paid to yourself, or to persons or corporations with whom the corporation, and every related corporation, does not deal at arm's length for the corporation's 3 most recent taxation years; and

(c) a record showing your shareholder's loan transactions for the past 12 months.

☐ 9. A detailed list of any special or extraordinary expenses claimed (where child support is an issue) as well as copies of receipts or other documentation providing the amount of those expenses, namely:

(a) child care costs;

(b) health care and extended medical and dental insurance premiums attributable to the child;

(c) uninsured health care and dental expenses;

(d) extraordinary educational expenses;

(e) post-secondary educational expenses; and

(f) extraordinary expenses for extracurricular activities.

☐ 10. If you are a beneficiary under a trust, a copy of the trust settlement agreement and copies of the trust's 3 most recent financial statements.

☐ 11. Copies of all statements and cancelled cheques for all bank accounts held solely or jointly in your name for the most recent 6 months.

☐ 12. Copies of credit card statements for all credit cards solely or jointly in your name for the most recent 6 months.

☐ 13. Your monthly budget of expenses (where spousal or adult interdependent partner support is an issue).

☐ 14. A sworn itemized list of your income, assets and liabilities (in the form attached as Schedule A).

☐ 15. Copies of the most recent statement for all RRSPs, pensions, term deposit certificates, guaranteed investment certificates, stock accounts and other investments in your name or in which you have an interest.

☐ 16. A list of any exemptions claimed (where the action involves the division of matrimonial property).

The requested documents are to be delivered to: _____

Note: In circumstances where the particulars of the income of the party serving this Notice are necessary to determine the amount of child support, including circumstances where the parties have shared or split custody or parenting, or there are section 7 expenses being claimed, the party serving the Notice to Disclose is required to send to the other party with this Notice to Disclose, his or her information equivalent to the information being requested.

WARNING

If you do not come to Court on the date and at the time shown above, either in person or by your lawyer, the Court may:

(a) order you to provide the documents to the Applicant by a specific date;

(b) order payment of support in an amount the Court considers appropriate, drawing an adverse inference against you and imputing income to you;

(c) order you to pay costs to the Applicant up to an amount that fully compensates the Applicant for all costs incurred in the proceedings;

(d) order that your employer, partner or principal, or any other person, provide to the Applicant and/or the Court, any or all of the financial information requested by the Applicant that is within the knowledge of, in the custody of, or under the control of that person;

(e) grant any other remedy requested by the Applicant.

If you want to present any evidence to the Judge hearing this application, or if you object to providing the financial information and documents requested, you must

(a) swear or affirm an affidavit stating the evidence you want to present or your objection to providing the financial information and documents requested and the reasons for your objection,

(b) file the affidavit with the court clerk, and;

(c) serve the affidavit on the applicant or the Applicant's solicitor a reasonable period of time before the application is scheduled to be heard.

SCHEDULE A to Form FL-17

STATEMENT OF INCOME, ASSETS AND LIABILITIES

This is the statement of income, assets and liabilities of (name) the (Plaintiff/Defendant) in this action.

A. INCOME

All of my sources of income and amounts of income per month are as follows:

(a) Employment income of $_____ from *(employer)*;

(b) Employment insurance benefits of $_____;

(c) Worker's Compensation Benefits of $_____;

(d) Interest and investment income of $_____;

(e) Pension income of $_____;

(f) Government assistance income of $_____ from *(source)*;

(g) Self-employment income of $_____;

(h) Other income of $_____ from *(source)*

My total income **last year** as indicated at line 150 of my (year) tax return was $_____.

I expect my income at line 150 of my tax return this year to be $_____.

B. ASSETS

Asset	Particulars	Date Acquired	Value (Estimated)
1. Real Estate *(List any interest in land, including leasehold interests and mortgages, whether or not you are registered as owner. Provide legal descriptions and indicate estimated market value of your interest without deducting encumbrances or costs of disposition.)(Record encumbrances under debts.)*			
2. Vehicles *(List cars, trucks, motorcycles, trailers, motor homes, boats, etc.)*			
3. Financial Assets *(List savings and chequing accounts, cash, term deposits, GICs, stocks, bonds, Canada Savings Bonds, mutual funds, insurance policies(indicate beneficiaries), accounts receivable, etc.)*			
4. Pensions and RRSPs *(Indicate name of institution where accounts are held, name and address of pension plan and pension details.)*			
5. Corporate/Business Interests *(List any interest you hold, directly or indirectly, in any corporation, unincorporated business, partnership, trust, joint venture, etc.)*			
6. Other *(List anything else of value that you own, including precious metals, collections, works of art, jewellery or household items of high value.* *Include location of any safety deposit boxes.)*			

C. DEBTS

Debt	Particulars	Date Incurred	Balance Owing	Monthly Payment
1. Secured Debts *(List all mortgages, lines of credit, car loans, and any other debt secured against an asset that you own.)*				
2. Unsecured Debts *(List all bank loans, personal loans, lines of credit, overdrafts, credit cards and any other debts that you have.)*				
3. Other *(List any other debts, including obligations that are relevant to a claim for undue hardship – e.g. car lease payment)*				

I, *(name)* solemnly declare that the facts set out in this document are true. I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Declared before me to be true on
_____, 20____,
at _____, Alberta.

_____
Signature of person completing document

_____
Commissioner for Oaths in and for Alberta

_____
Print name and expiry/Lawyer/Student-at-Law

NOTE: It is an offence to make a false declaration.

AR 124/2010 Form FL-17;163/2010;143/2011

Form FL-18
[Rule 12.44(1)(a)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF (Indicate if Applicant)

DEFENDANT (Indicate if Applicant)

DOCUMENT **FAMILY APPLICATION BY [NAME & STATUS]**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO THE RESPONDENT(S):

This application is made against you. You are the Respondent.

You have the right to state your side of this matter before the judge.

To do so, you must be in Court when the application is heard as shown below:

Court Date _____
Time _____
Where _____
Before Whom _____

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1.

Grounds for making this application:

2.

Material or evidence to be relied on:

3.

Applicable rules:

4.

Applicable Acts and regulations:

5.

Any irregularity complained of or objection relied on:

6.

How the application is proposed to be heard or considered:

7.

WARNING

If you do not come to Court on the date and at the time shown above either in person or by your lawyer, the Court may give the Applicant(s) what they want in your absence. You will be bound by any order that the Court makes.

If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the Applicant(s) a reasonable time before the application is to be heard or considered.

AR 124/2010 Form FL-18;140/2013

Form FL-19

[Rule 12.46(1)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

APPLICANT

RESPONDENT

DOCUMENT **PROVISIONAL ORDER INFORMATION FORM**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

1. CLAIMANT INFORMATION

LAST NAME FIRST MIDDLE	SIN (CAN) (SSN USA)			SEX		DATE OF BIRTH		
				M	F	D	M	Y
IS A MAINTENANCE ENFORCEMENT PROGRAM/COURT IN ANOTHER PROVINCE/TERRITORY/STATE ENFORCING YOUR MAINTENANCE ORDER? No ___ Yes ___ IF YES, LIST NAME AND ADDRESS OF PROGRAM/COURT FILE/CASE NUMBER								

2. DEPENDENT CHILDREN/CHILDREN INFORMATION

NAME OF CHILD/CHILDREN IN THE ORDER LAST NAME FIRST MIDDLE	PROVINCE/TERRITORY/ STATE OF RESIDENCE (LAST 6 MONTHS)			SEX OF CHILD		DATE OF BIRTH		
				M	F	D	M	Y
1.								
2.								
3.								
4.								

3. RESPONDENT INFORMATION
(Respondent means person in other jurisdiction)

LAST NAME FIRST MIDDLE	SIN (CAN/SSN USA)			SEX		DATE OF BIRTH		
				M	F	D	M	Y
IS A MAINTENANCE ENFORCEMENT PROGRAM/COURT IN ANOTHER PROVINCE/TERRITORY/STATE ENFORCING YOUR MAINTENANCE ORDER? No ___ Yes ___ IF YES, LIST NAME AND ADDRESS OF PROGRAM/COURT FILE/CASE NUMBER								

ALIASES/OTHER NAMES USED	MOTHER'S MAIDEN NAME	RESPONDENT/PAYOR'S CURRENT SPOUSE
CURRENT OR LAST KNOWN ADDRESS STREET & NUMBER CITY		AREA CODE & PHONE – HOME

PROVINCE/TERRITORY/STATE COUNTRY POSTAL/ZIP CODE		AREA CODE & PHONE – WORK
CURRENT OR LAST KNOWN EMPLOYER	USUAL OCCUPATION (INCLUDE UNION AND LOCAL, TRADE OR PROFESSIONAL MEMBERSHIP)	
ADDRESS – STREET & NUMBER CITY AREA CODE & PHONE		
PROVINCE/TERRITORY STATE COUNTRY POSTAL/ZIP CODE		AREA CODE & FAX

4. DESCRIPTION OF RESPONDENT/PAYOR

HEIGHT	WEIGHT	EYE COLOUR	COMPLEXION	GLASSES/ CONTACT LENSES		PLACE OF BIRTH
				NO	YES	
VISIBLE AND DISTINGUISHABLE MARKS (TATTOOS, BEAUTY MARKS, SCARS, ETC.)						

FRIENDS AND/OR RELATIVES WHO KNOW WHERE TO CONTACT THE RESPONDENT/PAYOR

NAME	RELATION	ADDRESS	CITY	PROV/ TERR/ STATE	POSTAL/ ZIP CODE	TELEPHONE NUMBER
1.						
2.						
3.						

5. ASSETS OF RESPONDENT/PAYOR

MOTOR VEHICLES (INCLUDES CARS, BOATS, RECREATIONAL VEHICLES) MAKE	YEAR	COLOUR	LICENCE PLATE NO./FROM WHAT PROVINCE/TERRITORY/STATE
1.			
2.			
3			
REAL ESTATE (INCLUDES HOME(S), COTTAGES, INVESTMENT PROPERTY) STREET ADDRESS	CITY	PROV/ TERR/ STATE	LEGAL DESCRIPTION (IF KNOWN)
1.			

ASSETS/NAME OF BANK	ADDRESS	TYPE OF ACCOUNT	ACCOUNT NUMBER
1.			
2.			
3.			

CREDIT CARDS			
COMPANY NAME	ACCOUNT NUMBER	NAME OF COMPANY	ACCOUNT NUMBER
1.			
2.			

OTHER RELEVANT INFORMATION

ATTACH PHOTO OF RESPONDENT/PAYOR HERE

THE INFORMATION I HAVE GIVEN ON THIS FORM IS TRUE AND CORRECT, TO THE BEST OF MY KNOWLEDGE AND BELIEF.

_____
CLAIMANT OR AUTHORIZED OFFICER

Form FL-20
[Rule 12.47(1)(a)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

APPLICANT

RESPONDENT

DOCUMENT **NOTICE OF CONFIRMATION HEARING**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

NOTICE TO THE RESPONDENT(S):

This application is made against you. You are the Respondent.

You have the right to state your side of this matter before the judge.

To do so, you must be in Court when the application is heard as shown below:

Court Date _____
Time _____
Where _____
Before Whom _____

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. Confirmation of the Provisional Order made against the Respondent by *(name of court)* at *(location of court)* on _____, 20____.

Grounds for making this application:

2. The Court has received a Provisional Order for confirmation under section 19 of the *Divorce Act* (Canada).

Material or evidence to be relied on:

3. All material and evidence forwarded by the court that granted the Provisional Order.

Applicable rules:

4. Rule 12.47 of the *Alberta Rules of Court*.

Applicable Acts and regulations:

5. Sections 18 and 19 of the *Divorce Act* (Canada).

Any irregularity complained of or objection relied on:

6.

How the application is proposed to be heard or considered:

7.

WARNING

If you do not come to Court on the date and at the time shown above either in person or by your lawyer, the Court may give the Applicant(s) what they want in your absence. You will be bound by any order that the Court makes.

If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the Applicant(s) a reasonable time before the application is to be heard or considered.

AR 124/2010 Form FL-20;140/2013

Form FL-21
[Rule 12.50(3)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF

DEFENDANT

DOCUMENT **REQUEST FOR DIVORCE (WITHOUT ORAL EVIDENCE)**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

(Change Statement of Claim to Counterclaim, Defendant to Plaintiff, and Plaintiff to Defendant as required, depending on who is applying for the divorce.)

TO THE COURT CLERK:

1. I, _____, request that this action be set for hearing as an undefended divorce to be considered on the basis of affidavit evidence.

2. The Statement of Claim was served on my spouse by (name of person who served document) on (date), as indicated in the Affidavit of Service, which has been filed.

3. My Affidavit of Applicant to be considered with my Statement of Claim has been filed with this Request for Divorce.

4. The Defendant: *(choose those which apply)*

   ☐ has not responded to the Statement of Claim and has been noted in default;

   ☐ has responded to the Statement of Claim by filing a _____;

   ☐ consents to this Request for Divorce, as indicated by his/her signature (or the signature of his/her counsel) endorsed on the proposed Divorce Judgment (or Divorce Judgment and Corollary Relief Order);

☐ has not consented to this Request for Divorce, but an order has been granted by (name of Judge of Court of Queen's Bench) on (date) to proceed with this Request for Divorce;

5. The Defendant's address for service is _____.

6. The address of the Defendant's solicitor is _____.

7. The address of the Plaintiff's solicitor is _____.

AR 124/2010 Form FL-21;143/2011;85/2016

Form FL-22

[Rule 12.50(3)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

WIFE

HUSBAND

DOCUMENT **JOINT REQUEST FOR DIVORCE (WITHOUT ORAL EVIDENCE)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF WIFE

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF HUSBAND

TO THE COURT CLERK:

1. We hereby apply for a Joint Divorce Judgment (Without Oral Evidence).

2. We have issued a Joint Statement of Claim for Divorce and each acknowledge receiving a copy of that document.

3. The affidavit evidence to be considered with our Joint Statement of Claim for Divorce has been filed and is attached hereto.

4. As we have filed a Joint Statement of Claim for Divorce, no pleadings in response are required.

Wife or Solicitor for the Wife	Husband or Solicitor for the Husband

Form FL-23
[Rule 12.50(3)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF

DEFENDANT

DOCUMENT **AFFIDAVIT OF APPLICANT**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

AFFIDAVIT of _____

SWORN (OR AFFIRMED) on _____, 20____

(Change Statement of Claim to Counterclaim, Defendant to Plaintiff, and Plaintiff to Defendant, as required, depending on who is applying for the divorce.)

I,_____ , of _____, Alberta, swear/affirm:

PARTIES

1. I am the spouse of the *(Plaintiff/Defendant)*, whose last known address is *(address)*.

SERVICE

2. I identify the person in the picture attached as Exhibit __ to the Affidavit of Service filed herein as my spouse, who is the (Plaintiff/Defendant) in this action. *(If the Defendant has not filed a Counterclaim and there is an Order to proceed under Rule 12.50(1)(c), replace with "I acknowledge having received a copy of the Statement of Claim.")*

MARRIAGE

3. I was married to the Defendant on *(date)* at *(city, province and country, if not Canada)*, and attached hereto and marked as Exhibit __ to this my Affidavit is a Certificate of Marriage issued by _____ , which accurately sets forth the particulars of my marriage.

[If a marriage certificate cannot be obtained, or if the marriage took place outside of Canada, then the marriage must be proved by setting out the circumstances of the marriage, using the following paragraph:

3. I was married to the Defendant on *(date)*, at *(city, province, and country (if not Canada))*, and attached hereto and marked as Exhibit __ to this my Affidavit is a copy of the *(marriage licence or certificate from a religious marriage ceremony or marriage certificate from a jurisdiction outside Canada)*. The Defendant and I were married in *(location)* before *(name of officiant)*, a *(title)* who I understand had authority to perform a marriage in the jurisdiction where we married. There were two witnesses, namely *(full name)* and *(full name)*. During the ceremony, the Defendant and I exchanged promises to live together as Husband and Wife, and were pronounced to be Husband and Wife. After the ceremony, the Defendant and I lived together as Husband and Wife and considered ourselves to be legally married under the law and held ourselves out to the community as legally married.

It is expected that marriage certificates for marriages performed within Canada will be obtained.]

RESIDENCE

4. I have [or my spouse has] been ordinarily resident in the Province of Alberta for a period of at least one year immediately preceding the date of filing of the Statement of Claim herein.

GROUNDS

5. There has been a marriage breakdown which is evidenced by the following: *(choose those which apply)*

   ☐ I separated from my spouse on *(date)* at *(city/town)*, in *(province)*, and have lived separate and apart from my spouse since that date, which is a period in excess of one year.

   ☐ My spouse has committed adultery as evidenced by my spouse's Affidavit filed herein;

   ☐ My spouse has treated me with mental and/or physical cruelty, particulars of which are as follows:

   [specify the details of the conduct that the applicant alleges establishes the existence of mental and/or physical cruelty]

BARS TO DIVORCE

6. I have not entered into any agreement or conspiracy, either directly or indirectly, for the purpose of subverting the administration of justice, nor have I entered into any agreement, understanding, or arrangement to fabricate or suppress evidence or to deceive the Court in this action;

[The following two paragraphs are applicable only if the breakdown of the marriage occurred as a result of adultery or mental and/or physical cruelty]

7. I have not done anything to encourage my spouse to commit the acts complained of, nor have I done anything which would have led my spouse to believe that I would agree or not object to such acts;

8. I have not forgiven my spouse for committing the acts described herein and have not taken my spouse back to live with me as my spouse.

CHILDREN, CHILD CARE AND FINANCIAL ARRANGEMENTS FOR CHILDREN

9. There are ____ children of the marriage, as defined by the *Divorce Act*, (Canada), namely:

   (List all dependent children involved in this proceeding, even if no claims are being made in relation to those children.)

   _____, born _____, living with (name, relationship to child), at (city, province and country where child resides);

   _____, born _____, living with (name, relationship to child), at (city, province and country where child resides);

10. There are in existence the following Court Orders from the Court of Queen's Bench of Alberta, the Provincial Court of Alberta or any other jurisdiction relating to the children of the marriage:

And attached hereto and marked Exhibit __ to this Affidavit is a copy of all such orders.

11. There are in existence the following agreements between the parties or with a third party relating to the children of the marriage:

    (a) Agreement, *(dated)* between _____ and _____, clauses _____ of which relate to the children. *(repeat as required)*

Attached hereto and marked Exhibit __ to this Affidavit is a copy of all agreements between my spouse and me or with a third party relating to the children of the marriage.

(if applicable, insert: except Minutes of Settlement pertaining to settlement of this action).

(Note: It is optional to attach Minutes of Settlement which pertain to the settlement of the action. If the Minutes of Settlement have not been attached, details of the provisions relating to the children should be described in the list above).

12. My spouse and I have agreed on a parenting arrangement as follows:
    (specify parenting arrangements)

13. The following arrangements have been made for the support of the children of the marriage and it is my belief that these arrangements are reasonable arrangements as required by paragraph 11(1)(b) of the *Divorce Act* (Canada):

    (a) the amount of $_____ per month will be paid by _____for the support of the children of the marriage;

    (b) in addition to any payments made to date, the payments of the amount referred to in subclause (a) will or did commence on __*(date)*__.

14. In support of the proposed arrangements for the support of the children, the following information is provided:

    (a) the Plaintiff's guideline income is determined as follows:

        (i) employment income of $_____ annually;

        (ii) income from other sources of $_____;

        (iii) for a total income of $_____;
        minus the following adjustments permitted under Schedule III of the Federal Child Support Guidelines:

        (iv) _____;

        (v) for a guideline income of $_____.

    (b) the Defendant's guideline income is determined as follows:

        (i) employment income of $_____;

        (ii) income from other sources of $_____;

        (iii) for a total income of $_____;
        minus the following adjustments permitted under Schedule III of the Federal Child Support Guidelines:

        (iv) _____;

        (v) for a guideline income of $_____.

    (c) the amount of child support payable by _____ under the Federal Child Support Guidelines is $_____;

    (d) special or extraordinary expenses allowable under the Federal Child Support Guidelines are:

        (i) $__ per year babysitting/daycare costs;

        (ii) $__ per year medical/dental insurance premiums related to the children;

        (iii) $__ per year health-related expenses in excess of $100.00;

        (iv) $__ extraordinary school expenses;

        (v) $__ post-secondary school expenses;

        (vi) $__ extraordinary expenses for extracurricular activities.

IMPORTANT NOTE:

When no expenses are claimed for babysitting/daycare costs and the parent with whom the children live works outside the home, please explain why no claim is being made for babysitting/daycare. The explanation will help reduce the likelihood that the application will be returned with a request for more information.

OR

(d) there are no special or extraordinary expenses being claimed at this time;

(e) the *(Plaintiff/Defendant)* will provide medical and dental insurance coverage available through employment for the children;

(Additional provisions under the Federal Child Support Guidelines)

(f) provisions for children over the age of majority are: *(specify)*

(g) split custody; *(specify)*

(h) shared custody; *(specify)*

(i) there has been a deviation from the Federal Child Support Guidelines for the following reasons: *(include all relevant information to substantiate the deviation and, if undue hardship is claimed, state that it is claimed, what it is, and set out the standard of living test)*;

(Optional – if undue hardship is being claimed)

(j) I support dependants other than the children of this marriage, as follows: (list any other dependants supported and the amounts paid in support);

(k) my spouse supports dependants other than the children of this marriage, as follows: (list any other dependants supported and the amounts paid in support);

(l) I do/do not live with another adult who contributes to the costs of our household, as follows:

(m) my spouse does/does not live with another adult who contributes to the cost of their household, as follows:

(n) I am currently unemployed and have been unemployed for ___ months;

(o) I do/do not expect to resume employment, as follows: (provide any other information, including when employment will resume);

(p) my spouse is currently unemployed and has been unemployed for __ months;

(q) my spouse does/does not expect to resume employment, as follows: (provide any other information, including when employment will resume);

(r) *(provide any other information that may be relevant to the amount of child support that is required).*

15. In support of arrangements referred to above, the source of my knowledge in regard to the above information relating to my spouse is as follows: *(specify)* .

SPOUSAL SUPPORT

16. The following arrangements have been made for spousal support:

☐ My spouse and I have, by agreement, waived all spousal support claims we may have against each other, and each party has had independent legal advice with respect to that agreement.

OR

☐ The Plaintiff (or Defendant) will pay spousal support to the Defendant (or Plaintiff) as follows: *(specify)*

OR

☐ No application for spousal support is being made at the present time.

RECONCILIATION

17. There is no possibility of reconciliation between my spouse and me.

STATEMENT OF CLAIM FOR DIVORCE

18. I have read the Statement of Claim for Divorce filed herein and the information contained therein is correct.

OR

18. I have read the Statement of Claim for Divorce filed herein and the following things need to be corrected:

(indicate specific corrections required)

Subject to these corrections, the information contained in the Statement of Claim for Divorce is correct.

RELIEF REQUESTED

19. This Affidavit is made in support of an application for:

(a) a divorce judgment;

(b) an order for a parenting arrangement as set out above;

(c) an order for child support as set out above;

(d) an order for spousal support as set out above;

(e) an order that the husband/wife/both parties maintain the health coverage available through employment for the children of the marriage;

(f) (*add such other relief as required);*

(g) (*address costs).*

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta) _____
(Commissioner for Oaths) Signature of Applicant
in and for the Province of Alberta))

AR 124/2010 Form FL-23;163/2010;122/2012;128/2015;85/2016

Form FL-24

[Rule 12.50(3)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

WIFE

HUSBAND

DOCUMENT **AFFIDAVIT OF APPLICANTS (JOINT)**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
HUSBAND

AFFIDAVIT of _____

SWORN (OR AFFIRMED) on _____, 20____

We, *(Wife's name)* , of *(city/town)* , Alberta, and *(Husband's name)* , of *(city/town)* , Alberta, **severally swear/affirm**:

PARTIES

1. I am the spouse of the other Applicant. The addresses for the Applicants are:

   (a) for the Wife: _____; and,

   (b) for the Husband: _____.

MARRIAGE

2. I was married to the other Applicant, on *(date)* at *(city, province, and country(if not Canada),* and attached hereto and marked Exhibit __ to this Affidavit is a certified copy of a Marriage Certificate issued by _____ which accurately sets forth the particulars of our marriage.

[If a marriage certificate cannot be obtained, or if the marriage took place outside of Canada, then the marriage must be proved by setting out the circumstances of the marriage, using the following paragraph:

3. I was married to the other Applicant on *(date)*, at *(city, province, and country (if not Canada))*, and attached hereto and marked as Exhibit __ to this my Affidavit is a copy of the *(marriage licence or certificate from a religious marriage ceremony or marriage certificate from a jurisdiction outside Canada)*. The other Applicant and I were married in *(location)* before *(name of officiant)*, a *(title)* who I understand had authority to perform a marriage in the jurisdiction where we married. There were two witnesses, namely *(full name)* and *(full name)*. During the ceremony, the other Applicant and I exchanged promises to live together as Husband and Wife, and were pronounced to be Husband and Wife. After the ceremony, the other Applicant and I lived together as Husband and Wife and considered ourselves to be legally married under the law and held ourselves out to the community as legally married.

It is expected that marriage certificates for marriages performed within Canada will be obtained.]

RESIDENCE

3. I have been ordinarily resident in the Province of Alberta for a period of at least one year immediately preceding the date of the issuance of the Joint Statement of Claim for Divorce herein.

   (If one party has not been ordinarily resident in Alberta for at least one year preceding the issuance of the Joint Statement of Claim for Divorce, use "The Wife/Husband has".)

GROUNDS

4. There has been a marriage breakdown which is evidenced by the following:

   I separated from the other Applicant on *(date)* at *(city/town)*, in *(province)*, and have lived separate and apart from the other Applicant since that date, which is a period in excess of one year.

BARS TO DIVORCE

5. I have not entered into any agreement or conspiracy either directly or indirectly for the purpose of subverting the administration of justice, nor have I entered into any agreement, understanding, or arrangement to fabricate or suppress evidence or to deceive the Court in this action;

CHILDREN, CHILD CARE AND FINANCIAL ARRANGEMENTS FOR CHILDREN

6. There are ____ children of the marriage, as defined by the *Divorce Act* (Canada), namely:

   (List all dependent children involved in this proceeding, even if no claims are being made in relation to those children.)

   _____, born _____, living with _(name, relationship to child)_, at _(city, province and country where child resides)_;

   _____, born _____, living with _(name, relationship to child)_, at _(city, province and country where child resides)_;

7. There are in existence the following Court Orders from the Court of Queen's Bench of Alberta, the Provincial Court of Alberta or any other jurisdiction relating to the children of the marriage:

   And attached hereto and marked Exhibit ___ to this Affidavit is a copy of all such Orders.

8. There are in existence the following agreements between the parties or with a third party relating to the children of the marriage:

   Agreement _*(dated)*_, clauses _____ of which relate to the children.

   Attached hereto and marked Exhibit __ to this Affidavit is a copy of all agreements between the parties or with a third party relating to the children of the marriage.

   (*if applicable, insert*: except Minutes of Settlement pertaining to settlement of this action).

   (Note: It is optional to attach Minutes of Settlement which pertain to the settlement of the action. If the Minutes of Settlement have not been attached, details of the provisions relating to the children should be described in the list above).

9. The other Applicant and I have agreed on a parenting arrangement as follows: _*(specify parenting arrangement)*_

10. The following arrangements have been made for the support of the children of the marriage and it is my belief that these arrangements are

reasonable arrangements as required by paragraph 11(1)(b) of the *Divorce Act* (Canada):

(a) the amount of $_____ per month will be paid by _____ for the support of the children of the marriage;

(b) in addition to any payments made to date, the payments of the amount referred to in subclause (a) will or did commence on *(date)* .

11. In support of the arrangements referred to in clause 10 the following information is provided:

(a) the Wife's guideline income is determined as follows:

(i) employment income of $_____ annually;

(ii) income from other sources of $_____;

(iii) for a total income of $_____;

minus the following adjustments permitted under Schedule III of the Federal Child Support Guidelines:

(iv) _____;

(v) for a guideline income of $_____.

(b) the Husband's guideline income is determined as follows:

(i) employment income of $_____;

(ii) income from other sources of $_____;

(iii) for a total income of $_____;

minus the following adjustments permitted under Schedule III of the Federal Child Support Guidelines:

(iv) _____;

(v) for a guideline income of $_____.

(c) the amount of child support payable by _____ under the Federal Child Support Guidelines is $_____;

(d) special or extraordinary expenses allowable under the Federal Child Support Guidelines are:

(i) $__ per year babysitting/daycare costs;

(ii) $__ per year medical/dental insurance premiums related to the children;

(iii) $__ per year health related expenses in excess of $100.00;

(iv) $__ extraordinary school expenses;

(v) $__ post-secondary school expenses;

(vi) $__ extraordinary expenses for extracurricular activities.

IMPORTANT NOTE:

When no expenses are claimed for babysitting/daycare costs and the parent with whom the children live works outside the home, please explain why no claim is being made for babysitting/daycare. The explanation will help reduce the likelihood that the application will be returned with a request for more information.

OR

(d) there are no special or extraordinary expenses being claimed at this time;

(e) the *(Husband/Wife)* will provide medical and dental insurance coverage available through employment for the children;

(Additional provisions under the Federal Child Support Guidelines)

(f) provisions for children over the age of majority are: *(specify)*

(g) split custody; *(specify)*

(h) shared custody; *(specify)*

(i) there has been a deviation from the Federal Child Support Guidelines for the following reasons: *(include all relevant information to substantiate the deviation and, if undue hardship is claimed, state that it is claimed, what it is, and set out the standard of living test)*

12. In support of arrangements referred to above, the source of my knowledge in regard to the above information relating to the other Applicant is as follows: *(specify)*

SPOUSAL MAINTENANCE

13. The following arrangements have been made for spousal maintenance:

The other Applicant and I have, by agreement, waived all spousal maintenance claims we may have against each other, and each party has had independent legal advice with respect to that agreement.

OR

The Wife (or Husband) will pay spousal support to the Husband (or Wife) as follows: *(specify)*

OR

No application for spousal support is being made at the present time.

RECONCILIATION

14. There is no possibility of reconciliation between the other Applicant and me.

STATEMENT OF CLAIM FOR DIVORCE

15. I have read the Joint Statement of Claim for Divorce filed herein and the information contained therein is correct except where otherwise stated in this Affidavit.

OR

15. I have read the Joint Statement of Claim for Divorce filed herein and the following things need to be corrected:

(indicate specific corrections required)

Subject to these corrections, the information contained in the Joint Statement of Claim for Divorce is correct.

RELIEF REQUESTED

16. This Affidavit is made in support of an application for:

(a) a divorce judgment;

(b) an order for a parenting arrangement as set out above;

(c) an order for child support as set out above;

(d) an order for spousal support as set out above;

(e) an order that the Husband/Wife/both parties maintain the health coverage available through employment for the children of the marriage;

(f) *(add such other relief as required)*;

(g) *(address costs).*

SEVERALLY SWORN (OR AFFIRMED))
BEFORE ME at _____, Alberta)
on _____, 20_____,)
)
_____) Signature of Wife
Justice of the Peace or Commissioner for
Oaths in and for the Province of Alberta

SEVERALLY SWORN (OR AFFIRMED))
BEFORE ME at _____, Alberta)
on _____, 20_____,)
)
_____) Signature of Husband
Justice of the Peace or Commissioner for
Oaths in and for the Province of Alberta

AR 124/2010 Form FL-24;163/2010;122/2012;128/2015

Form FL-25

[Rules 12.50(3)(c) and 12.53(a)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF

DEFENDANT

DOCUMENT **DIVORCE JUDGMENT (WITHOUT ORAL EVIDENCE)**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

DATE ON WHICH JUDGMENT WAS GRANTED:

LOCATION OF ADJUDICATION:

NAME OF JUDGE WHO GRANTED THIS JUDGMENT:

UPON THE STATEMENT OF CLAIM FOR DIVORCE coming on before the Court this day;
AND UPON READING the pleadings, and the Affidavit(s) of ___;

IT IS HEREBY ADJUDGED:

THAT the Court grants a Judgment of Divorce between the Plaintiff and the Defendant, who were married on *(date)* at *(city, province and country, if not Canada)* , the divorce to be effective on the 31st day after the day this Judgment is made, unless this Judgment is appealed before that 31st day.

_____
Justice of the Court of Queen's Bench of Alberta

Consent provided for matter to proceed without oral evidence and approved as to form by:

_____
Plaintiff/Solicitor for Plaintiff
(if Plaintiff signs, attach Affidavit of Execution)

Consent provided for matter to proceed without oral evidence and approved as to form by:

_____
Defendant/Solicitor for Defendant
(if Defendant signs, attach Affidavit of Execution)

THE SPOUSES ARE NOT FREE TO REMARRY UNTIL THIS JUDGMENT TAKES EFFECT, AT WHICH TIME EITHER SPOUSE MAY OBTAIN A CERTIFICATE OF DIVORCE FROM THIS COURT. IF AN APPEAL IS TAKEN FROM THIS JUDGMENT, IT MAY DELAY THIS JUDGMENT TAKING EFFECT.

[Note: If the parties have made a joint request for divorce in a proceeding commenced under Rule 12.13(1), then references to Plaintiff and Defendant should be changed to Wife and Husband.]

AR 124/200 Form FL-25;143/2011;122/2012;128/2015

Form FL-26

[Rules 12.50(3)(c) and 12.53(b)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF

DEFENDANT

DOCUMENT **DIVORCE JUDGMENT AND COROLLARY RELIEF ORDER (WITHOUT ORAL EVIDENCE)**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

DATE ON WHICH JUDGMENT WAS GRANTED:

LOCATION OF ADJUDICATION:

NAME OF JUDGE WHO GRANTED THIS JUDGMENT AND ORDER:

THE COURT HAS REVIEWED THE STATEMENT OF CLAIM FOR DIVORCE AND THE AFFIDAVIT OF THE APPLICANT AND HAS BEEN ADVISED OF THE FOLLOWING:

THE DEFENDANT has a guideline income of $_____;
THE PLAINTIFF has a guideline income of $_____;
THE NAME AND BIRTHDATE of each child of the marriage is as follows:

(Indicate full names and dates of birth for each child of the marriage.)

THE PARTIES have agreed to depart from the Federal Child Support Guidelines for the following reasons: *(use where appropriate and summarize reasons here)*

THE PARTIES have agreed to waive spousal support, and each party has had independent legal advice with respect to that agreement. *(use where appropriate)*

IT IS ADJUDGED:

1. THAT the Court grants a Judgment of Divorce between the Plaintiff and the Defendant, who were married on *(date)* at *(city, province and country, if not Canada)*, the divorce to be effective on the 31st day after the day this Judgment is made, unless this Judgment is appealed before that 31st day.

IT IS ORDERED:

2. *(Add such corollary relief clauses as are appropriate in the circumstances – see Form FL-27.)*

_____
Justice of the Court of Queen's Bench of Alberta

Consent provided for matter
to proceed without oral evidence
and consented to as to all matters
of corollary relief by:

_____
Plaintiff/Solicitor for Plaintiff
(if Plaintiff signs, attach Affidavit of Execution)

Consent provided for matter to
proceed without oral evidence
and consented to as to all
matters of corollary relief by:

_____
Defendant/Solicitor for Defendant
(if Defendant signs, attach Affidavit of Execution)

THE SPOUSES ARE NOT FREE TO REMARRY UNTIL THIS JUDGMENT TAKES EFFECT, AT WHICH TIME EITHER SPOUSE MAY OBTAIN A CERTIFICATE OF DIVORCE FROM THIS COURT. IF AN APPEAL IS TAKEN FROM THIS JUDGMENT, IT MAY DELAY THIS JUDGMENT TAKING EFFECT.

[Where the judgment and corollary relief order are granted other than under rule 12.50, the heading and preamble must be modified accordingly]

[Note: If the parties have made a joint request for divorce in a proceeding commenced under Rule 12.13(1) [Joint proceeding under the Divorce Act (Canada)], then references to Plaintiff and Defendant should be changed to Wife and Husband.]

AR 124/2010 Form FL-26;143/2011;128/2015

Form FL-27

[Rule 12.53(c)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF

DEFENDANT

DOCUMENT **COROLLARY RELIEF ORDER**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

DATE ON WHICH ORDER WAS PRONOUNCED:

LOCATION OF HEARING OR TRIAL:

NAME OF JUDGE WHO GRANTED THIS ORDER:

THE COURT HAS REVIEWED THE AFFIDAVITS FILED IN SUPPORT OF THIS APPLICATION AND HAS BEEN ADVISED OF THE FOLLOWING:

THE DEFENDANT has a guideline income of $_____;
THE PLAINTIFF has a guideline income of $_____;
THE NAME AND BIRTHDATE of each child of the marriage is as follows:

(Indicate full names and dates of birth for each child of the marriage.)

THE PARTIES have agreed to depart from the Federal Child Support Guidelines for the following reasons: *(use where appropriate and summarize reasons here)*

(In circumstances where a Divorce Judgment has already been granted)

THE PARTIES were divorced by a Divorce Judgment rendered on *(date)*;

IT IS ORDERED THAT:

(Add such corollary relief clauses as are appropriate in the circumstances, numbered consecutively – see clauses below.)

_____
Justice of the Court of Queen's Bench of Alberta

Consented to by: (OR Approved as Being the Order granted by:)

_____
Plaintiff (OR Solicitor for the Plaintiff)
(if Plaintiff signs, attach Affidavit of Execution)

AND BY:

_____
Defendant (OR Solicitor for the Defendant)
(if Defendant signs, attach Affidavit of Execution)

COROLLARY RELIEF CLAUSES

(These clauses are provided as a guide and are variable – choose those which apply and make such changes as are appropriate in the circumstances.)

1. The Plaintiff and Defendant shall have joint custody of the children of the marriage. The children shall reside primarily with the *(Plaintiff/Defendant)* and the *(Defendant/Plaintiff)* shall have reasonable and generous parenting time with the children.

2. The *(Defendant/Plaintiff)* shall have parenting time with the children as follows:

3. The Plaintiff/Defendant shall pay to the Defendant/Plaintiff the sum of $__ per month for the support of the child(ren) of the marriage, payable on the first day of each month, commencing *(date)*.

4. The Plaintiff/Defendant shall pay to the Defendant/Plaintiff the sum of $__ per month for additional expenses for the child of the marriage, payable on the first day of each month, commencing *(date*, allocated as follows:

NAME OF CHILD	NATURE OF ADD-ON	AMOUNT OR PERCENTAGE

5. The Plaintiff/Defendant shall provide medical and dental insurance coverage for the child/ren of the marriage.

6. The Plaintiff/Defendant shall pay to the Defendant/Plaintiff the sum of $__ per month for a child of the marriage over the age of majority, payable on the first day of each month, commencing *(date)*.

7. The Plaintiff/Defendant, having satisfied the Court that payment of the full amount of child support prescribed in the Federal Child Support Guidelines would cause undue hardship to _____ shall pay to the *(Defendant/Plaintiff)* for the support of the child(ren) , the sum of $__ per month payable on the first day of each month commencing *(date)*.;

   Child support shall be revisited in *(month)* of *(year)*, it being determined that the cause of the undue hardship should be eliminated by that date.

   Commencing on *(date)*, the *(Plaintiff/Defendant)* shall pay child support in the amounts prescribed by the guidelines, namely $__.

8. The Plaintiff/Defendant shall pay spousal support to the Defendant/Plaintiff in the sum of $ _____, payable on the first day of each month commencing *(date)* .

(The following clauses must be included in every support order and should not be changed.)

9. The amounts owing under this Order shall be paid to the Director of Maintenance Enforcement ("MEP"), 7th Floor North, 10365 — 97 Street, Edmonton, Alberta, T5J 3W7, 780 422 5555 (website: www.albertamep.gov.ab.ca) and shall be enforced by MEP on the filing of the Order with MEP by the creditor (recipient of support) or debtor (payor of support). The amounts owing shall continue to be enforced by MEP until the party who filed this Order gives MEP notice in writing withdrawing this Order from filing in accordance with section 9 of the *Maintenance Enforcement Act*.

10. Each party shall provide the other party with a complete copy of his or her income tax return and any notices of assessment and reassessment issued to him or her by the Canada Customs and Revenue Agency on an annual basis, on or before June 30 of each year, as long as there is a child of the marriage as defined by the *Divorce Act* (Canada). In the event that a party has not filed an income tax return for the previous year, he or she shall provide the other party with copies of his or her T4, T4A, and all other relevant tax slips and statements disclosing any and all sources of income, including self employment income.

(One of the following clauses must be included in every support order and should not be changed.)

11. This Order may be recalculated by the Alberta Child Support Recalculation Program ("the Recalculation Program") based on its anniversary date if eligible for recalculation and if the Recalculation Program determines recalculation is permissible and appropriate pursuant to the *Family Law Act* and regulations. Either party may apply to register with the Recalculation Program at 8th Floor, 10365 — 97 Street, Edmonton, Alberta T5J 3W7, telephone 780 401 1111 (website: www.recalculation.alberta.ca). Should either party fail to comply with the income disclosure requirements of the Recalculation Program, then the income of that party may be automatically deemed to have increased as set out in section 55.51 of the *Family Law Act*.

OR

11. This Order shall not be recalculated by the Alberta Child Support Recalculation Program.

AR 124/2010 Form FL-27;143/2011;140/2013;128/2015

Form FL-28
[Rule 12.53(d)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF

DEFENDANT

DOCUMENT **VARIATION ORDER**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

DATE ON WHICH ORDER WAS PRONOUNCED:

LOCATION OF HEARING OR TRIAL:

NAME OF JUDGE WHO MADE THIS ORDER:

THE COURT HAS REVIEWED THE AFFIDAVITS FILED IN SUPPORT OF THIS APPLICATION AND HAS BEEN ADVISED OF THE FOLLOWING:

THE DEFENDANT has a guideline income of $_____;
THE PLAINTIFF has a guideline income of $_____;
THE NAME AND BIRTHDATE of each child of the marriage is as follows:

(Indicate full names and dates of birth for each child of the marriage.)

THE PARTIES have agreed to depart from the Federal Child Support Guidelines for the following reasons: *(use where appropriate and summarize reasons here)*

IT IS ORDERED THAT pursuant to the Divorce Act (Canada), the Judgment/Order rendered/pronounced *(date)*, by the Honourable Justice *(Judge's name)* is hereby varied as follows:

1. Clause _____ is varied to provide that *(use such corollary relief clause as is appropriate)*;

2. Clause _____ is varied to provide that *(use such corollary relief clause as is appropriate)*;

_____
Justice of the Court of Queen's Bench of Alberta

APPROVED AS TO FORM AND CONTENTS:
(or) CONSENTED TO BY:

_____
Plaintiff (OR Solicitor for the Plaintiff)
(if Plaintiff signs, attach Affidavit of *Execution*)

AND BY:

_____
Defendant (OR Solicitor for the Defendant)
(if Defendant signs, attach Affidavit of *Execution*)

AR 124/2010 Form FL-28;143/2011

Form FL-29

[Rule 12.53(e)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF (indicate if Applicant)

DEFENDANT (indicate if Applicant)

DOCUMENT **ORDER FOR EXCLUSIVE POSSESSION OF MATRIMONIAL/PRIMARY HOME**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

DATE ON WHICH ORDER WAS MADE:

LOCATION OF HEARING OR TRIAL:

NAME OF JUDGE WHO MADE THIS ORDER:

THE COURT HAS REVIEWED THE AFFIDAVIT(S) OF _____ FILED IN SUPPORT OF THIS APPLICATION AND HAS BEEN ADVISED OF THE FOLLOWING:

(Add any other points that were significant in the granting of the Order, including which parties appeared at the application, whether or not they were represented by Counsel, and why the Order was necessary)

IT IS ORDERED THAT:

1. The Applicant, *(name)*, is hereby granted exclusive possession of the matrimonial/primary home and the contents of the matrimonial/primary home located at *(address)*;

2. The Respondent, *(name)*, shall vacate the matrimonial/primary home as of *(indicate time of day)* on *(date)*;

3. Effective *(date and time indicated in clause 2)*, the Respondent is restrained from entering or attending at or within *(exact distance according to circumstances)* metres of the matrimonial/primary home [except as required to exercise court ordered access – *use this or change according to circumstances if there is an order for access in place]*

4. The Applicant is hereby granted exclusive possession and use of the *(specify)* motor vehicle.

5. A copy of this Order shall be forthwith served personally on the Respondent.

6. On the Respondent being in breach of any of the terms of this Order, any Police Officer is authorized to forthwith arrest the Respondent, and bring the Respondent, as soon as possible, before a Justice of the Court of Queen's Bench of Alberta to show reason why there should not be a finding of civil contempt. However, the Respondent shall not be arrested unless the Respondent has previously been served with a copy of this Order, or if not served, is shown a copy of this Order by the Police Officer and, on being given an opportunity to do so, does not then obey it.

7. It is further ordered that in making an arrest under this Order, a Police Officer is authorized to do anything necessary to carry out the arrest, including the use of as much reasonable force as may be necessary to make the arrest, and without warrant to enter any place where, on reasonable and probable grounds, the Police Officer believes that the Respondent may be found.

8. This Order is sufficient authority for the keeper of a correctional institution to hold the Respondent in custody pending appearance before a Justice of the Court of Queen's Bench of Alberta.

9. This Order remains in effect up to and including the _____ day of _____, 20_____. However, it ceases to have any force and effect on this action being discontinued or on the trial of this matter unless continued by order of the Court.

10. Either party may apply to vary or strike this Order on providing notice to the other party 5 days or more before the date the application is scheduled to be heard or considered.

11. A civil enforcement agency has authority, after service of this Order has been effected, to evict the Respondent from the land.

_____
Justice of the Court of Queen's Bench of Alberta

APPROVED AS TO FORM AND CONTENTS
OR CONSENTED TO BY:

_____
Plaintiff (OR Solicitor for the Plaintiff)
(if Plaintiff signs, attach Affidavit of Execution)

AND BY:

_____
Defendant (OR Solicitor for the Defendant)
(if Defendant signs, attach Affidavit of Execution)

AR 124/2010 Form FL-29;143/2011

Form FL-30
[Rule 12.53(f)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

APPLICANT(S)

RESPONDENT

DOCUMENT **RESTRAINING ORDER WITHOUT NOTICE**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

DATE ON WHICH ORDER WAS PRONOUNCED:

LOCATION OF HEARING OR TRIAL:

NAME OF JUDGE WHO MADE THIS ORDER:

ON THE APPLICATION of the Applicant, *(name)*; **AND ON** having heard representations of the Applicant; **AND ON** having read the Declaration/Affidavit/Questionnaire of the Applicant, filed; **AND ON NOTING** that the Court is satisfied, pursuant to Rule 6.4 of the *Alberta Rules of Court*, that no notice to the Respondent is necessary or that serving notice of the application on the Respondent might cause undue prejudice to the Applicant;

IT IS ORDERED THAT:

1. The Respondent, *(name)*, is specifically restrained from being within 200 metres of:
   (a) the Applicant's residence: *(address)*
   (b) the Applicant's place of employment: *(address)*
   (c) the Applicant's other addresses: *(addresses)*

or from being within 100 metres of the Applicant anywhere else in the Province of Alberta [except as required to exercise court ordered access – *use this or change according to circumstances if there is an order for access in place]*

2. The Respondent is restrained from harassing, molesting, watching, following, telephoning, or otherwise interfering with or contacting the Applicant, either directly or indirectly, and either personally or by agent, anywhere in the Province of Alberta.

3. A copy of this Order, together with a copy of the Affidavit/Declaration/Questionnaire relied on in support of the application, shall forthwith be personally served on the Respondent.

4. On the Respondent being in breach of any of the terms of this Order, any Police Officer is authorized to forthwith arrest the Respondent, and bring the Respondent, as soon as possible, before a Justice of the Court of Queen's Bench of Alberta to show reason why there should not be a finding of civil contempt. However, the Respondent shall not be arrested unless the Respondent has previously been served with a copy of this Order, or if not served, is shown a copy of this Order by the Police Officer and, on being given an opportunity to do so, does not then obey it.

5. IT IS FURTHER ORDERED THAT, in making an arrest under this Order, a Police Officer is authorized to do anything necessary to carry out the arrest, including the use of as much reasonable force as may be necessary to make the arrest, and without warrant to enter any place where, on reasonable and probable grounds, the Police Officer believes that the Respondent may be found.

6. This Order is sufficient authority for the keeper of a correctional institution to hold the Respondent in custody pending appearance before a Justice of the Court of Queen's Bench of Alberta.

7. This Order remains in effect up to and including the _____ day of _____, 20___. This matter will be back before the Court on that day at 10:00 a.m. so that the Court may consider whether to renew the Order for a further period of time. If the Respondent wishes to appear on that date, the Respondent shall file with this Honourable Court such affidavits as the Respondent intends to rely on. The Respondent shall arrange for a process server or other neutral third party to serve the filed affidavits on the Applicant by leaving a copy with the Applicant or leaving a copy, addressed to the Applicant, at the Applicant's address for service at least 24 hours prior to the hearing. If the Respondent does not appear, an order may be granted in the Respondent's absence.

8. Either party may apply to amend, vary, or strike out the within Order on providing notice to the other party 5 days or more before the date the application is scheduled to be heard or considered.

_____
Justice of the Court of Queen's Bench of Alberta

AR 124/2010 Form FL-30;143/2011;122/2012

Form FL-31

[Rule 12.53(g)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

APPLICANT

RESPONDENT

DOCUMENT **RESTRAINING ORDER**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

DATE ON WHICH ORDER WAS PRONOUNCED:

LOCATION OF HEARING OR TRIAL:

NAME OF JUDGE WHO MADE THIS ORDER:

ON THE APPLICATION of the Applicant, _____; **AND ON** having heard representations by or on behalf of the Applicant and representations by or on behalf of the Respondent (or on proof of service on the Respondent);

(where applicable)

AND ON reviewing the Restraining Order without Notice granted by the Honourable Justice *(Judge's name)*, on *(date)*;

AND ON having read the Affidavit/Declaration of the Applicant, filed;

IT IS HEREBY ORDERED:

1. The Respondent, *(name)*, is specifically restrained from being within 200 metres of:
   (a) the Applicant's residence: (address)
   (b) the Applicant's place of employment: (address)
   (c) the Applicant's other addresses: (address)

or from being within 100 metres of the Applicant anywhere else in the Province of Alberta [except as required to exercise court ordered access – *use this or change according to circumstances if there is an order for access in place]*

2. The Respondent is restrained from harassing, molesting, watching, following, telephoning, or otherwise interfering with or contacting the Applicant, either directly or indirectly, and either personally or by agent, anywhere in the Province of Alberta.

3. A copy of this Order shall forthwith be personally served on the Respondent.

4. On the Respondent being in breach of any of the terms of this Order, any Police Officer is authorized to forthwith arrest the Respondent, and bring the Respondent, as soon as possible, before a Justice of the Court of Queen's Bench of Alberta to show reason why there should not be a finding of civil contempt. However, the Respondent shall not be arrested unless the Respondent has previously been served with a copy of this Order, or if not served, is shown a copy of this Order by the Police Officer and, on being given an opportunity to do so, does not then obey it.

5. IT IS FURTHER ORDERED THAT, in making an arrest under this Order, a Police Officer is authorized to do anything necessary to carry out the arrest, including the use of as much reasonable force as may be necessary to make the arrest, and without warrant to enter any place where, on reasonable and probable grounds, the Police Officer believes that the Respondent may be found.

6. This Order is sufficient authority for the keeper of a correctional institution to hold the Respondent in custody pending appearance before a Justice of the Court of Queen's Bench of Alberta.

7. This Order remains in effect up to and including the _____ day of _____, 20___. However, it ceases to have any force or effect on this action being discontinued or on the trial of this matter unless continued by order of this Court.

8. Either party may apply to amend, vary, or strike out the within Order on providing notice to the other party 5 days or more before the date the application is scheduled to be heard or considered.

_____
Justice of the Court of Queen's Bench of Alberta

AR 124/2010 Form FL-31;143/2011

Form FL-32

[Rule 12.54]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF

DEFENDANT

DOCUMENT **CERTIFICATE OF DIVORCE**

This is to certify that the marriage of *(Plaintiff's full name)* and *(Defendant's full name)* that was solemnized on *(date)*, was dissolved by a Judgment that became effective on the _____ day of _____, 20____.

Dated at _____, Alberta, this _____ day of _____, 20__.

_____
Clerk of the Court of Queen's Bench of Alberta

[Note: If the parties have made a joint request for divorce in a proceeding commenced under Rule 12.13(1) [Joint proceeding under the Divorce Act (Canada)], then references to Plaintiff and Defendant should be changed to Wife and Husband.]

Form FL-33
[Rule 12.61(1)(a)]

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

APPELLANT

RESPONDENT

DOCUMENT **NOTICE OF APPEAL - PROVINCIAL COURT ORDER (*FAMILY LAW ACT*)**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

NOTICE TO THE RESPONDENT(S)

The appellant has filed an appeal in this matter. You are a respondent. You have the right to state your side of this matter before the Court.

To do so, you must be in Court at the initial court appearance as shown below:

Date: _____
Time: _____
Where: _____
Before Whom: _____

At the initial court appearance, the Court will set a date for the appeal to be heard, provide further direction regarding the manner in which the appeal will be heard, and address any other preliminary matters which the parties may wish to raise with the Court in advance of the appeal hearing, including any evidence the Court may permit or require to be given.

Go to the end of this document to see what else you can do and when you must do it.

Nature of appeal to be put before the Court

1. The appellant appeals to the Court of Queen's Bench of Alberta, the decision of Provincial Court Judge *(Name of Judge)* sitting at *(city/town)*, Alberta, who on *(date of Provincial Court hearing)*, 20__, made a *(type of order)* Order.

Grounds on which the appeal is based

2. *(specify)*

Nature of order or other relief sought

3. *(specify)*

4. In addition to the appeal of the decision of the Provincial Court Judge, the appellant will also request an order for the following other relief: *(specify, for example: a stay of execution of the order appealed pending the hearing of the appeal; permission to introduce new evidence; other).*

Evidence to be used in support of this appeal

5. The record of the evidence taken, including the transcript, and all other material in the possession of the Provincial Court that pertains to the matter being appealed.

6. Any further evidence that the Court may require or permit to be given, including: *(specify)*

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the appellant what the appellant wants in your absence. You will be bound by any order that the Court makes, or another order might be given or other proceedings taken which the appellant is entitled to without any further notice to you. If you want to state your side of this matter before the Court, you or your lawyer must attend in Court on the date and at the time shown above. If you intend to ask the Court for permission to introduce new evidence when the appeal is heard or considered, you must give reasonable notice of your intention to the appellant.

Form FL-34

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **ADULT'S STATEMENT – GUARDIANSHIP OF CHILD**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I,_____, swear/affirm that:

(Choose one)

1. ☐ I am a parent of the child(ren).

   ☐ I am an adult who has had care and control of the child(ren) since *(date)*.

2. My relationship to the child(ren) is *(father, aunt, etc.)*.

I provide details of my relationship with the child(ren) as follows: *(Give details of time spent with the child(ren), how often, what responsibilities you carry for the child(ren), etc.)*

3. I ask the Court to appoint me to be a guardian of the child(ren). I am suitable, able and willing to be the child(ren)'s guardian.

4. I live in *(city, province)*. The child(ren) live in *(city, province)*.

5. To the best of my knowledge, I have listed all the current guardians of the child(ren) as Respondents in this application.

6. The child(ren) reside(s) with *(name and relationship to the child(ren))*.

(Choose all that apply)

7. I believe this child (these children) over 12 years of age:

   ☐ consent(s) to my application: *(list names of child(ren) you believe do(es) consent)*. I have the following reasons to believe they consent:

   ☐ do(es) not consent to my application: *(list names of child(ren) you believe do(es) not consent)*. I ask the Court to appoint me as guardian anyway.

8. I believe my guardianship is in the child(ren)'s best interests because: *(You may wish to refer to section 18 of the Family Law Act regarding the best interests of the child.)*

9. I have the following other information in support of my application:

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta) _____
_____) Applicant's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-35

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **CHILD'S STATEMENT – GUARDIANSHIP OF CHILD**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

1. I am a child in this matter. My birthdate is _____.

2. I live with *(name and relationship to the child)*.

(Choose one)

3. ☐ I believe I have no guardians.

   ☐ In my opinion, none of my current guardians are able or willing to be my guardian. To the best of my knowledge, I have listed all of my current guardians as Respondents.

4. I ask the Court to appoint the following person/people to be my guardian(s): *(name and relationship to the child)*

5. I believe the person/people named in paragraph 4 is/are suitable, able and willing to be my guardian.

6. I live in *(Province)*. The person/people named in paragraph 4 live(s) in *(Province)*.

(Check only if applicable)

7. ☐ I ask the Court to terminate the guardianship of my current guardians because they are not able or willing to be my guardian.

8. I believe this application is in my best interests because:

9. I have the following other information in support of my application:

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta) _____
_____) Applicant's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-36

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **STATEMENT – TERMINATE GUARDIANSHIP**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, ____, swear/affirm that:

1. To the best of my knowledge, I have listed all the current guardians of the child(ren) as Respondents to my application.

2. I ask the Court to terminate the guardianship of the following guardian(s):

(Choose one. Attach copy of Guardianship Order if one has been granted.)

3. ☐ I am a guardian of the child(ren).

☐ I am applying to be appointed a guardian of the child(ren)

4. My relationship to the child(ren) is _____.

5. The child(ren) live(s) with *(name and relationship to the child(ren))*.

6. I believe this child (these children) over 12 years of age:

   ☐ consent(s) to terminating guardianship *(list names of child(ren) you believe do(es) consent)*. I have the following reasons to believe they consent:

   ☐ do(es) not consent to terminating guardianship *(list names of child(ren) you believe do(es) not consent)*. I ask the Court to terminate guardianship anyway.

7. I believe it is in the child(ren)'s best interests to terminate the guardianship of the person/people listed in paragraph 2 because:

8. I have the following other information in support of my application:

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Applicant's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-37

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **STATEMENT – REVIEW OF GUARDIAN'S SIGNIFICANT DECISION**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

1. I am a guardian of the child(ren). My relationship to the child(ren) is *(father, aunt, etc.)*.

2. To the best of my knowledge, I have listed all the other guardians of the child(ren) as Respondents in this application.

3. The child(ren) reside(s) with *(name and relationship to the child(ren))*.

4. I ask the Court to review the following decision made by: *(name)*

5. The decision described in paragraph 4: *(provide details for any box checked)*

   ☐ involves a serious risk to the health or safety of the child(ren);

   ☐ is likely to have serious long-term consequences for the child(ren).

6. I ask the Court to:

   ☐ provide advice and directions (guidance) about the decision.

   ☐ change the decision as follows:

7. I believe this review of the guardian's decision is in the child(ren)'s best interests because: *(specify)*

8. I have the following other information in support of my application: *(specify)*

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Applicant's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-38

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **STATEMENT – COURT DIRECTION FOR GUARDIAN**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

1. I am a guardian of the child(ren) and I was appointed a guardian by:

   ☐ the Court. *(attach copy of Order)*

   ☐ a will or a deed. *(attach copy of will or deed)*

2. My relationship to the child(ren) is *(father, aunt, etc.)*.

3. To the best of my knowledge, I have listed all the current guardians of the child(ren) as Respondents in this application.

4. The child(ren) reside(s) with *(name and relationship to the child(ren))*.

5. I ask the Court to provide direction (guidance) about the following question(s) affecting the child(ren): *(specify)*

6. I have the following other information in support of my application: *(specify)*

Sworn/Affirmed before me)
on _____, 20___)
at _____, Alberta.) _____
_____) Applicant's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-39

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **STATEMENT – PARENTING**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

(Choose one)

1. ☐ I am a guardian of the child(ren).

   ☐ I am applying to be a guardian of the child(ren).

2. My relationship to the child(ren) is *(father, aunt, etc.)*.

3. The other guardian(s) and I live separate and apart.

4. I want the parenting time to be shared between the Respondent(s) and me as follows:

(Complete only if applicable)

5. I am willing to have the following conditions placed on my parenting time:

(Complete only if applicable)

6. I want conditions on the Respondent's parenting time as follows:

7. The following decisions about the child(ren) should be:

   1. shared with Respondent.
   2. Applicant's responsibility only.
   3. Respondent's responsibility only.

(Complete one for each statement)

1.	2.	3.	
☐	☐	☐	the child(ren)'s place of residence;
☐	☐	☐	the child(ren)'s education;
☐	☐	☐	the child(ren)'s extracurricular school activities;
☐	☐	☐	the child(ren)'s cultural upbringing;
☐	☐	☐	the child(ren)'s spiritual upbringing;
☐	☐	☐	whom the child(ren) will associate with;

☐ ☐ ☐ whether the child(ren) should work and, if so, the details of the work;

☐ ☐ ☐ give consent to health-related treatment for the child(ren);

☐ ☐ ☐ give consent of a parent or guardian where required;

☐ ☐ ☐ receive and respond to any notice to a parent or guardian;

☐ ☐ ☐ deal with any legal proceedings relating to the child(ren);

☐ ☐ ☐ appoint a person to act on behalf of the guardian in an emergency situation or when the guardian is temporarily absent;

☐ ☐ ☐ receive any health, educational and other information that may significantly affect the child(ren);

☐ ☐ ☐ other:

8. My requests are in the child(ren)'s best interests because:

9. I have the following other information in support of my application:

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Applicant's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-40

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **STATEMENT – PARENTING (SOLE GUARDIAN)**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

1. My relationship to the child(ren) is *(father, aunt, etc.)*.

2. The child(ren) live(s) with _____.

(Choose all that apply)

3. ☐ I have been married to the other parent of the child(ren).

   ☐ I have been the adult interdependent partner of the other parent of the child(ren).

   ☐ I have lived with the other parent of the child(ren).

   ☐ The child(ren) have lived with the other parent.

   ☐ None of the above.

4. *(Explain any boxes you checked in paragraph 3 other than "none of the above")*

5. I believe there are no other guardians of the child(ren).

6. The other parent has the following involvement with the child(ren):

(Choose one)

7. ☐ There are no court orders involving the child(ren)

   ☐ I attach copies of court orders involving the child(ren)

8. I need a Parenting Order because: *(specify)*

9. My request is in the child(ren)'s best interests because:

10. I have the following other information in support of my application: *(specify)*

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Applicant's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-41

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **STATEMENT – VARY PARENTING**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I ,_____, swear/affirm that:

(Choose one)

1. ☐ I am a guardian of the child(ren).

   ☐ I am applying to be a guardian of the child(ren).

2. My relationship to the child(ren) is *(father, aunt, etc.)* .

3. The other guardian(s) and I live separate and apart.

4. I attach a copy of the Parenting Order dated *(date)* that I want to change. If the Parenting Order has had other changes made to it, I attach copies of those changes also.

5. Since the order was made, the following circumstances have changed:

(Choose all that apply)

6. I want to change the following in the Parenting Order:

   ☐ the parenting time schedule (go to paragraph 7).

   ☐ the conditions on the Respondent's or my parenting time (go to paragraph 8).

   ☐ who makes certain decisions about the children (go to paragraph 9 and check only the boxes where you want a change).

(Complete only if applicable)

7. I want the parenting time to be shared between the Respondent(s) and me as follows: *(specify)*

(Complete only if applicable)

8. I ask the Court to change the conditions on the Respondent's or my parenting time as follows: *(specify)*

9. The following decisions about the child(ren) should be:

   1. shared with Respondent.
   2. Applicant's responsibility only.
   3. Respondent's responsibility only.

(Complete one for each statement)

1.	2.	3.	
☐	☐	☐	the child(ren)'s place of residence;
☐	☐	☐	the child(ren)'s education;
☐	☐	☐	the child(ren)'s extracurricular school activities;
☐	☐	☐	the child(ren)'s cultural upbringing;
☐	☐	☐	the child(ren)'s spiritual upbringing;
☐	☐	☐	whom the child(ren) will associate with;
☐	☐	☐	whether the child(ren) should work and, if so, the details of the work;
☐	☐	☐	give consent to health-related treatment for the child(ren);
☐	☐	☐	give consent of a parent or guardian where required;
☐	☐	☐	receive and respond to any notice to a parent or guardian;
☐	☐	☐	deal with any legal proceedings relating to the child(ren);
☐	☐	☐	appoint a person to act on behalf of the guardian in an emergency situation or when the guardian is temporarily absent;
☐	☐	☐	receive any health, educational and other information that may significantly affect the child(ren);
☐	☐	☐	other:

10. My requests are in the child(ren)'s best interests because:

11. I have the following other information in support of my application:

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Applicant's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-42

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **STATEMENT – CONTACT**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

1. I am not a guardian of the child(ren).

2. My relationship to the child(ren) is *(father, aunt, etc.)*.

(Choose one)

3. ☐ I am a parent of the child(ren).

☐ I am a person standing in the place of a parent to the child(ren). *(describe in paragraph 8 below)*

☐ I am a grandparent of the child(ren) whose contact with the child(ren) has been interrupted by:

☐ the separation of the parents which occurred *(approximate date)*.

☐ the death of the *(father or mother)* who died on *(approximate date)*.

☐ I am none of the above, but I have obtained permission from the Court to commence this application. *(attach copy of court order granting permission to apply for contact)*

4. The child(ren) live(s) with _____.

(Choose any applicable statements)

5. I want the following contact with the child(ren):

   ☐ visits: *(provide dates and times that would be most suitable)*

   ☐ oral communication.

   ☐ written communication.

   ☐ other method of communication: *(provide specifics)*

6. I last had contact with the child(ren) *(date)* .

7. I believe the contact I am applying for is in the child(ren)'s best interests because: *(specify)*

8. I believe the Respondent's denial of contact between the child(ren) and me is unreasonable because: *(specify)*

9. I have the following other information in support of my application: *(specify)*

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta) _____
_____) Applicant's Signature

Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

AR 124/2010 Form FL-42;85/2016

Form FL-43

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **STATEMENT – VARY CONTACT**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

(Choose one)

1. ☐ I am a person allowed to have contact with the child(ren) according to a court order.

   ☐ I am a guardian of the child(ren).

2. My relationship to the child(ren) is *(father, aunt, etc.)*.

3. I attach a copy of the Contact Order I want to change dated *(date)*.

4. The child(ren) live(s) with _____.

5. Since the Contact Order, circumstances have changed as follows:
   (specify)

(Choose any applicable statements)

6. I want the Court to change the existing Contact Order as follows:

   ☐ no contact of any type.

   ☐ visits: *(provide dates and times that would be most suitable)*

   ☐ oral communication.

   ☐ written communication.

   ☐ other method of communication: *(provide specifics)*

7. I believe the change I have requested is in the best interests of the child(ren) because: *(specify)*

8. I have the following other information in support of my application:
   (specify)

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Applicant's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-44

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **STATEMENT – PERMISSION FROM THE COURT (TO APPLY FOR CONTACT)**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

1. I am not a parent of the child(ren) or a person standing in the place of a parent to the child(ren). I ask for permission from the Court to make an application for contact with the child(ren).

2. My relationship to the child(ren) is *(aunt, uncle, etc.)*.

3. The child(ren) reside(s) with _____.

4. I have the following relationship with the child(ren):

5. I last had contact with the child(ren) *(date)*.

6. It is in the child(ren)'s best interests for the Court to order contact between the child(ren) and me because:

7. I have the following other information in support of my application:

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Applicant's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

AR 124/2010 Form FL-44;85/2016

Form FL-45

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **STATEMENT – CHILD SUPPORT**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

(Choose one)

1. ☐ I am a parent or guardian of the child(ren) and the child(ren) is/are in my care.

   ☐ I am a person who has care and control of the child(ren). I am the child(ren)'s *(aunt, uncle etc.)*.

   ☐ I am applying to be a guardian of the child(ren).

   ☐ I am the child (one of the children). My birthdate is _____ and I am _____ years old.

   ☐ I have permission from the Court to apply *(attach court order granting permission to apply for child support)*.

(Fill in the names of the children if different statements apply to different children)

2. The Respondent is:

   ☐ a parent of the child(ren).

   ☐ a person standing in the place of a parent to the child(ren). The Respondent showed an intention to treat the child(ren) as his/her own in the following ways:

3. The child(ren): *(Choose one)*

   ☐ live with me all the time.

   ☐ live with the Respondent as follows:

4. I do not have a court order for child support.

(Fill in the names of the children if different statements apply to different children)

5. ☐ I do have a written agreement for child support. *(attach a copy)*

   ☐ I do not have a written agreement for child support.

(Complete if child is 18 years or over)

6. The following children are 18 years of age or over and need child support because they are full-time students at the following institutions: *(attach proof of attendance)*

Child	Date of birth	Institution
_____	_____	_____
_____	_____	_____

(Choose one statement for each child)

7. ☐ I have no special expenses for the child(ren).

   ☐ I have special expenses for the child(ren). I attach a Special Expense List and receipts.

(Special expenses generally include child care expenses, medical and dental insurance premiums, health-related expenses, expenses for post-secondary education, and extraordinary expenses for extracurricular activities and school education.)

8. My annual total income for the last three years was:

   20__ $ _____.
   20__ $ _____.
   20__ $ _____.

   I expect my gross annual income this year to be $ _____.

   Currently, I earn income from _____.

(Choose all that apply)

9. ☐ I want financial information from the Respondent. *(attach written request for financial information)*

   ☐ I made a written request for financial information from the Respondent on *(date)*:

      ☐ The Respondent has responded. I attach the documents from the Respondent.

      ☐ The Respondent has not responded. I attach a copy of my written request given to the Respondent.

☐ I believe the Respondent's annual income should be set at $ _____.

☐ I know the following facts about the Respondent's employment, training, health and ability to work:

(Choose one)

10. ☐ I attach calculations showing how much I believe the Respondent should pay according to the child support guidelines. *(attach calculations)*

☐ I did not attach calculations.

11. Child support payments should start on *(date)*.

12. I have the following other information in support of my application:

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Applicant's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

(Fill in if applicable)

Special Expense List

Name of child(ren):				
Child care expenses - amount charged by caregiver or day care	$	$	$	$
- parent's portion of day care costs	$	$	$	$
Medical and/or dental insurance premiums	$	$	$	$
Health-related expenses *(exceeding insurance reimbursement by at least $100 annually)*	$	$	$	$
Extraordinary primary/ secondary school expenses	$	$	$	$
Expenses for post-secondary education	$	$	$	$
Extraordinary expenses for extracurricular activities	$	$	$	$

Details of above expenses: *(include description of each health, school and extracurricular expense)*

ATTACH RECEIPTS

AR 124/2010 Form FL-45;85/2016

Form FL-46

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **RECIPIENT'S STATEMENT – VARY CHILD SUPPORT**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

(Choose one)

1. ☐ I am a parent or guardian of the child(ren) and the child(ren) is/are in my care.

   ☐ I am a person who has care and control of the child(ren). I am the child(ren)'s *(aunt, uncle, etc.)* .

   ☐ I am the child (one of the children). My birthdate is _____ and I am _____ years old.

2. I attach a copy of the Child Support Order I want to change dated _____.

(Choose all that apply)

3. Since the Child Support Order was made, circumstances have changed as follows:

   ☐ my financial position has changed.

   ☐ I believe the Respondent's financial position has changed.

   ☐ the special expenses for the child(ren) have changed and I attach a Special Expense List and receipts.
   (Special expenses generally include child care expenses, medical and dental insurance premiums, health-related expenses, expenses for post-secondary education, and extraordinary expenses for extracurricular activities and school education.)

☐ the child(ren) live with the Respondent as follows:

☐ other changes: *(specify)*

(Complete if child is 18 years or over)

4. The following children are 18 years or over and need child support because they are full-time students at the following institutions: *(attach proof of attendance)*

Child	Date of birth	Institution
_____	_____	_____
_____	_____	_____

5. My annual total income for the last three years was *(see line 150 of tax return)*:
20__ $ _____.
20__ $ _____.
20__ $ _____.

I expect my gross annual income this year to be $ _____.

Currently, I earn income from _____.

(Choose all that apply)

6. ☐ I want financial information from the Respondent. *(attach written request for financial information)*

☐ I made a written request for financial information from the Respondent on *(date)*:

☐ The Respondent has responded. I attach the documents from the Respondent.

☐ The Respondent has not responded. I attach a copy of my written request given to the Respondent.

☐ I believe the Respondent's annual income should be set at $ _____.

☐ I know the following facts about the Respondent's employment, training, health and ability to work:

7. As of *(date)*, the amount of unpaid support arrears was $ *(arrears)* . *(if available, attach a statement of account)*

(Choose one)

8. ☐ I attach calculations showing how much I believe the Respondent should pay according to the child support guidelines. *(attach calculations)*

☐ I did not attach calculations.

9. The change to child support payments should start on *(date)*.

10. I have the following other information in support of my application:

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Applicant's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

(Fill in if applicable)

Special Expense List

Name of child(ren):				
Child care expenses				
- amount charged by caregiver or day care	$	$	$	$
- parent's portion of day care costs	$	$	$	$
Medical and/or dental insurance premiums	$	$	$	$
Health-related expenses *(exceeding insurance reimbursement by at least $100 annually)*	$	$	$	$
Extraordinary primary/ secondary school expenses	$	$	$	$
Expenses for post-secondary education	$	$	$	$
Extraordinary expenses for extracurricular activities	$	$	$	$

Details of above expenses: *(include description of each health, school and extracurricular expense)*

ATTACH RECEIPTS

Form FL-47

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **PAYOR'S STATEMENT – VARY CHILD SUPPORT**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

1. I pay child support to *(recipient's name)* in accordance with a Child Support Order. I attach a copy of the Child Support Order I want to change dated *(date)*.

(Choose all that apply. Provide details for any box(es) checked.)

2. Since the Child Support Order was made, circumstances have changed as follows:

   ☐ my financial position has changed as described below:

   ☐ I believe the Respondent's financial position has changed as described below:

   ☐ I believe the special expenses for the child(ren) have changed as described below:

   ☐ the child(ren) live with me at least 40% of the time as described below:

   ☐ other changes: *(specify)*

3. My annual total income for the last three years was *(see line 150 of tax return)*:
   20__ $ _____.
   20__ $ _____.
   20__ $ _____.

   I expect my gross annual income this year to be $_____.

   Currently, I earn income from _____.

(Choose all that apply if the Recipient's income is needed to calculate child support)

4. ☐ I want financial information from the Recipient. *(attach written request for financial information)*

☐ I made a written request for financial information from the Recipient on *(date)*:

☐ The Recipient has responded. I attach the documents from the Recipient.

☐ The Recipient has not responded. I attach a copy of my written request given to the Recipient.

☐ I believe the Recipient's annual income should be set at $ _____.

☐ I know the following facts about the Recipient's employment, training, health and ability to work:

(Choose one)

5. ☐ I attach calculations showing how much I believe I should pay to the Recipient according to the child support guidelines. *(attach calculations)*

☐ I did not attach calculations.

6. The change to child support payments should start on *(date)*.

7. As of *(date)*, the amount of unpaid support arrears was $ *(arrears)*. *(if available, attach a statement of account)*

(Complete only if there are arrears)

8. ☐ I do not ask the Court to reduce the arrears.

☐ I ask the Court to reduce the arrears to $_____ because: *(attach financial documentation for each year)*

(Complete only if applicable)

9. I propose paying the remaining arrears at a rate of $ _____ per month.

10. I have the following other information in support of my application: *(specify)*

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Applicant's (Payor's) Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-48

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **STATEMENT – SPOUSAL / PARTNER SUPPORT**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

(Choose one)

1. I am applying for:

   ☐ spousal support from the Respondent.

   ☐ adult interdependent partner support from the Respondent.

2. The Respondent and I began living together on *(date)*. We continued to live together until *(date)*.

(Choose any applicable statements)

3. I ask the Court for support:

   ☐ in the amount of $ ____ per month to commence on and to continue until *(date)*.

   ☐ in a lump sum of $ ____ .

   ☐ other:

(Choose one)

4. The following one statement applies to this application:

   ☐ the Respondent and I are living separate and apart.

☐ the Respondent and I are still living together but we are experiencing such discord that we cannot reasonably be expected to continue to live together.

☐ the Respondent and I are still living together but the Respondent has without sufficient cause refused or neglected to provide me with the necessaries of life.

☐ a declaration of irreconcilability has been granted. *(attach a copy)*

(Complete only if applicable)

5. There is/are ____ child(ren) living in my home. They are:

(Complete only if applicable)

6. ☐ There is a Child Support Order or agreement to support the child(ren) listed in paragraph 5. *(attach a copy of the Order or agreement)*

☐ There is no Child Support Order or agreement to support the child(ren) listed in paragraph 5.

(Complete only if applicable)

7. The Respondent and I have the following agreement(s) regarding my support: *(attach a copy of the agreement(s))*

(Complete only if applicable)

8. Provide details of why that spousal/partner support agreement should or should not be upheld by the Court:

9. Before my relationship with the Respondent, my financial situation, my health and my ability to work were as follows:

10. During the time the Respondent and I lived together, the Respondent and I each contributed towards the household expenses as follows:

(Provide details of income including contributions towards household expenses from others. Provide financial documents.)

11. Now that the Respondent and I have separated, my financial situation, my health and my ability to work are as follows:

12. My annual total income for the last three years was *(see line 150 of tax return)*:
    20__ $ _____.
    20__ $ _____.
    20__ $ _____.

    I expect my gross annual income this year to be $ _____.

    Currently, I earn income from _____. *(attach financial documents)*

13. My current monthly household expenses are as outlined in the attached budget. *(attach a budget)*

14. I am presently unable to fully support myself because:

(Choose all that apply)

15. ☐ I want financial information from the Respondent. *(attach written request for financial information)*

☐ I believe the Respondent's annual income should be set at $ _____.

☐ I know the following facts about the Respondent's employment, training, health and ability to work: *(specify)*

(Complete only if applicable)

16. To the best of my knowledge, the Respondent has a legal obligation to support the following individuals: *(specify)*

17. I have the following other information in support of my application: *(specify)*

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Applicant's Signature

Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-49

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **RECIPIENT'S STATEMENT – VARY SPOUSAL / PARTNER SUPPORT**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

1. There is a court order requiring the Respondent to pay me spousal/partner support. I attach a copy of the most recent Support Order. *(attach a copy)*

2. I ask the Court to change the most recent spousal/partner Support Order as follows:

(Check all that apply. Provide details for any box(es) checked.)

3. Since the most recent spousal/partner Support Order was made, circumstances have changed as follows:

   ☐ my financial position has changed. *(attach financial documents)*

   ☐ my health/ability to work has changed.

   ☐ my household expenses have changed. *(attach a budget)*

   ☐ I believe the Respondent's financial position has changed.

   ☐ other changes:

4. My annual total income for the last three years was *(see line 150 of tax return)*:
   20__ $ _____.
   20__ $ _____.
   20__ $ _____.

   I expect my gross annual income this year to be $ _____.

   Currently, I earn income from _____. *(attach financial documents)*

(Choose all that apply)

5. ☐ I want financial information from the Respondent. *(attach written request for financial information)*

   ☐ I believe the Respondent's annual income should be set at $ _____.

   ☐ I know the following facts about the Respondent's employment, training, health and ability to work:

(Specify date and amount of arrears if applicable)

6. As of *(date)*, the amount of unpaid support arrears was $_____. *(if available, attach a statement of account)*

7. I have the following other information in support of my application:
   (specify)

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Applicant's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-50

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **PAYOR'S STATEMENT – VARY SPOUSAL / PARTNER SUPPORT**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

1. I pay spousal/partner support to _____ in accordance with a support order. I attach a copy of the most recent support order. *(attach a copy)*

2. I ask the Court to change the most recent spousal/partner support order as follows:

(Check all that apply. Provide details for any box(es) checked)

3. Since the most recent spousal/partner support order was made, circumstances have changed as follows:

   ☐ my financial position has changed. *(attach financial documents)*

   ☐ my health/ability to work has changed.

   ☐ my household expenses have changed. *(attach a budget)*

   ☐ I believe the Recipient's ability to support herself/himself has changed.

☐ other changes:

4. My annual total income for the last three years was *(see line 150 of tax return)*:
20__ $ _____.
20__ $ _____.
20__ $ _____.

I expect my gross annual income this year to be $ _____.

Currently, I earn income from _____. *(attach financial documents)*

(Choose all that apply)

5. ☐ I want financial information from the Recipient. *(attach written request for financial information)*

☐ I believe the Recipient's annual income should be set at $ _____.

☐ I know the following facts about the Recipient's employment, training, health and ability to work:

(Specify date and amount of arrears if applicable)

6. As of *(date)*, the amount of unpaid support arrears was $ _____. *(if available, attach a statement of account)*

(Choose one, as applicable. Provide details)

7. ☐ I do not ask the Court to reduce the arrears.

☐ I ask the Court to reduce the arrears to $ _____ because:

(Complete only if applicable)

8. I propose paying the remaining arrears at a rate of $ _____ per month.

9. I have the following other information in support of my application:
(specify)

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Payor's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-51

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **STATEMENT – ENFORCEMENT OF TIME WITH A CHILD**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

1. I attach the most recent court order giving me time with the child(ren). To my knowledge this order has not been varied. *(attach a copy)*

2. My relationship to the child(ren) is *(father, aunt, etc.)*.

3. The Respondent has denied me this time with the child(ren) in the following ways: *(Be specific as to WHEN, HOW and WHY. List all occurrences.)*

(Choose all that apply. Provide details for any box(es) checked.)

4. I ask the Court to order:

   ☐ compensatory time with the child(ren).

   ☐ security from the Respondent.

   ☐ reimbursement for expenses I have because the Respondent denied me time with the child(ren). *(attach receipts)*

   ☐ other: *(specify)*

(Complete if applicable)

5. I ask the Court to order:

   ☐ a fine (money) against the Respondent.

   ☐ imprisonment of the Respondent.

☐ an enforcement officer to assist me in obtaining time with the child(ren).

☐ other: *(describe)*

I believe that these terms are necessary in the Enforcement Order, because none of the items listed in paragraph 4 will help for the following reasons: *(specify reasons)*

6. I have the following other information in support of my application:

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Applicant's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-52

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **STATEMENT – REIMBURSEMENT FOR FAILURE TO EXERCISE TIME**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

1. I am a guardian of the child(ren). I ask the Court to order reimbursement for expenses I have because the Respondent failed to exercise time with the child(ren).

2. My relationship to the child(ren) is *(father, aunt, etc.)*.

3. I attach the most recent court order giving the Respondent time with the child(ren). To my knowledge this order has not been varied. *(attach a copy)*

4. The Respondent failed to exercise time with the child(ren) on the following days when I was expecting the child(ren) to be with him/her: *(Be specific as to WHEN, HOW and WHY. List all occurrences.)*

5. I have the following expenses because of the Respondent's failure to exercise time with the child(ren): *(attach receipts)*

6. I have the following other information in support of my application:

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Applicant's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-53

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **STATEMENT – VARY ENFORCEMENT (TIME WITH A CHILD)**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

1. I attach the most recent court order giving me time with the child(ren). To my knowledge this order has not been varied. *(attach a copy)*

2. My relationship to the child(ren) is *(father, aunt, etc.)*.

3. I attach the Enforcement Order I want to change. *(attach a copy)*

4. Since the Enforcement Order was granted, the following circumstances have changed:

(Choose all that apply. Provide details for any box(es) checked.)

5. I ask the Court to change the existing Enforcement Order to:

☐ include/remove compensatory time with the child(ren).

☐ include/remove security from the Respondent.

☐ include/remove reimbursement for expenses I have because the Respondent denied me time with the child(ren).

☐ include/remove other: *(specify)*

(Complete if applicable)

6. I ask the Court to change the existing Enforcement Order to *(include or remove)* the following:

☐ a fine (money) against the Respondent.

☐ imprisonment of the Respondent.

☐ an enforcement officer to assist me in obtaining time with the child(ren).

I believe that this order is necessary as none of the items listed in paragraph 5 above will be effective for the following reasons:

7. I have the following other information in support of my application:

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Applicant's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-54

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **STATEMENT – EXCLUSIVE POSSESSION OF HOME – HOUSEHOLD GOODS**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

(Choose one)

1. I have also made an application for:

   ☐ child support.

   ☐ spousal or adult interdependent partner support.

(Choose all that apply)

2. I ask the Court to order:

   ☐ exclusive possession of the primary home.

   ☐ the Respondent to be evicted from the primary home.

   ☐ the Respondent to be restrained from entering or attending at or near the primary home.

   ☐ exclusive use of the following household goods: *(Provide detailed description. Include serial numbers where available.)*

(Complete only if applicable)

3. When the Respondent and I lived together, we occupied the primary home located at *(address: include municipal address, and if available, legal description of property)*, which is: *(Choose one)*

   ☐ owned by the Respondent.

   ☐ owned by the Respondent and me.

☐ rented by the Respondent.

☐ rented by the Respondent and me.

☐ other: *(describe)*

(Choose all that apply. Provide details for any box(es) checked.)

4. I am making this request because:

☐ there is other accommodation available to the Respondent.

☐ it is in the child(ren)'s best interests.

☐ I cannot afford other accommodation.

☐ other: *(specify)*

(Complete if applicable)

5. I propose that expenses for the property or goods be paid as follows: *(specify rent, mortgage, utilities, taxes and any other expenses)*

6. I have the following other information in support of my application: *(specify)*

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Applicant's Signature

Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-55

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **STATEMENT - PARENTAGE**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

(Choose one)

1. ☐ I am a person claiming to be a parent of the child(ren).

   ☐ I am a parent of the child(ren) and the child(ren) is/are younger than 18.

   ☐ I am a guardian of the child(ren).

   ☐ I am a person who has care and control of the child(ren).

   ☐ I am the child (one of the children).

2. The child(ren) involved in this parentage application are: *(provide full name and birthdate for each child)*

3. I ask the Court to declare that *(name)* is the:

   ☐ mother ☐ father

   of the child(ren) because: *(choose all that apply)*

   ☐ a DNA test was done to establish parentage. *(attach results)*

   ☐ the person was married to the child(ren)'s mother

   Marriage date: _____
   Separation date: *(if applicable)* _____
   Divorce date: *(if applicable)* _____

   ☐ the person lived with the child(ren)'s mother from *(date)* to *(date)*.

   ☐ the person is registered as a parent of the child(ren) in:

      ☐ Alberta *(attach live birth registration)*

      ☐ another province *(name of province)*

   ☐ another court declared the person was a parent of the child(ren) *(attach copy of order)*

   ☐ I had sexual intercourse with the Respondent during this time period when I believe the child(ren) was/were conceived: *(time period)*

   ☐ the person has accepted she/he is a parent in the following ways: *(provide detailed description)*

   ☐ other reasons: *(specify)*.

4. I have the following other information in support of my application:

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Applicant's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-56

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **STATEMENT - IRRECONCILABILITY**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

(Choose one)

1. ☐ I was married to the Respondent on *(date)* and separated from the Respondent on *(date)*.

   ☐ I was living in an adult interdependent relationship with the Respondent from *(date)* and separated from the Respondent on *(date)*.

2. I ask the Court to declare that the Respondent and I have no prospect of reconciliation with each other because: *(specify)*

3. I have the following other information in support of my application: *(specify)*

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Applicant's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-57

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **REPLY TO ADULT'S STATEMENT – GUARDIANSHIP OF CHILD**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

(Choose one)

1. ☐ I am a guardian of the child(ren). My relationship to the child(ren) is *(father, aunt, etc.)*.

   ☐ I am the child (one of the children).

2. To the best of my knowledge, the (other) guardians of the child(ren) are:

3. The child(ren) live(s) with *(name and relationship to the child(ren))*.

(Choose all that apply. Provide details for any box(es) checked.)

4. Do not appoint the Applicant as a guardian of the child(ren) because:

   ☐ the Applicant is not able to be a guardian.

   ☐ the Applicant is not willing to be a guardian.

   ☐ the Applicant is not suitable to be a guardian.

   ☐ other reason(s): *(specify)*

(Choose all that apply)

5. I believe this child (these children) over 12 years of age:

   ☐ do(es) not consent to the Applicant becoming a guardian: *(list names of child(ren) you believe do(es) not consent)*. I have the following reasons to believe they do not consent:

☐ consent(s) to the Applicant becoming a guardian: *(list names of child(ren) you believe do(es) consent)*. I have the following reasons to believe they consent:

6. I do not believe it is in the best interests of the child(ren) for the Applicant to become a guardian because: *(You may wish to refer to section 18 of the Family Law Act regarding the best interests of the child.)*

7. I have the following other information in reply to the Applicant's Claim: *(specify)*

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Respondent's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-58

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **REPLY TO CHILD'S STATEMENT – GUARDIANSHIP OF A CHILD**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

1. I am a guardian of the child(ren). My relationship to the child(ren) is *(father, aunt, etc.)*.

2. To the best of my knowledge, the other guardians of the child(ren) are:

3. The child(ren) live(s) with *(name and relationship to the child(ren))*.

(Choose all that apply. Provide details for any box(es) checked.)

4. Do not appoint the proposed guardian as requested by the Applicant child because:

   ☐ the proposed guardian is not able to be a guardian.

   ☐ the proposed guardian is not willing to be a guardian.

   ☐ the proposed guardian is not suitable to be a guardian.

   ☐ other reason(s): *(specify)*

5. I do not believe it is in the child(ren)'s best interests to appoint the proposed guardian because: *(You may wish to refer to section 18 of the Family Law Act regarding best interests of the child.)*

(Check only if Applicant is asking for termination)

6. ☐ I do not believe it is in the child(ren)'s best interests to terminate the guardianship as proposed by the Applicant child because: *(specify)*

7. I have the following other information in reply to the Applicant's Claim: *(specify)*

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Respondent's Signature

Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-59

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **REPLY STATEMENT – TERMINATE GUARDIANSHIP**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

(Choose one)

1. ☐ I am a guardian of the child(ren). My relationship to the child(ren) is *(father, aunt, etc.)*.

   ☐ I am the child *(one of the children)*.

2. To the best of my knowledge, the other guardians of the child(ren) are:

3. The child(ren) live(s) with *(name and relationship to the child(ren))*.

(Choose all that apply. Provide details for any box(es) checked.)

4. Do not terminate guardianship as requested by the Applicant because:

   ☐ the guardian is able and willing to be a guardian.

   ☐ the guardian is suitable to be a guardian.

   ☐ the guardian does not consent to termination of his/her guardianship.

   ☐ other reason(s): *(specify)*

(Choose all that apply)

5. I believe this child *(these children)* over 12 years of age:

   ☐ do(es) not consent to terminating guardianship: *(list names of child(ren) you believe do(es) not consent)*. I have the following reasons to believe they do not consent:

   ☐ consent(s) to terminating guardianship: *(list names of child(ren) you believe do(es) consent)*. I have the following reasons to believe they consent:

6. I believe it is not in the child(ren)'s best interests to terminate the guardianship as requested by the Applicant because: *(You may wish to refer to section 18 of the Family Law Act regarding the best interests of the child.)*

7. I have the following other information in reply to the Applicant's Claim: *(specify)*

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Respondent's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-60

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **REPLY STATEMENT – REVIEW OF GUARDIAN'S SIGNIFICANT DECISION**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

(Choose one)

1. ☐ I am a guardian of the child(ren). My relationship to the child(ren) is *(father, aunt, etc.)*.

   ☐ I am the child (one of the children).

2. To the best of my knowledge, the other guardians of the child(ren) are:

3. The child(ren) live(s) with *(name and relationship to the child(ren))*.

(Choose all that apply. Provide details for any box(es) checked.)

4. The decision described by the Applicant:

   ☐ involves a serious risk to the health or safety of the child(ren).

   ☐ does not involve a serious risk to the health or safety of the child(ren).

   ☐ is likely to have serious long-term consequences for the child(ren).

☐ is not likely to have serious long-term consequences for the child(ren).

(Choose all that apply. Provide details for any box(es) checked.)

5. I ask the Court to:

☐ provide advice and directions (guidance) about the decision.

☐ confirm the decision.

6. I believe my request is in the child(ren)'s best interests because: *(You may wish to refer to section 18 of the Family Law Act regarding the best interests of the child.)*

7. I have the following other information in reply to the Applicant's Claim: *(specify)*

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Respondent's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-61

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **REPLY STATEMENT – COURT DIRECTION FOR GUARDIAN**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

(Choose one)

1. ☐ I am a guardian of the child(ren). My relationship to the child(ren) is *(father, aunt, etc.)*.

   ☐ I am the child (one of the children).

2. To the best of my knowledge, the other guardians of the child(ren) are:

3. The child(ren) live(s) with *(name and relationship to the child(ren))*.

(Choose all that apply. Provide details for any box(es) checked.)

4. ☐ I agree that the Court should give direction (guidance) regarding the question asked by the Applicant.

   ☐ I ask the Court to dismiss the Applicant's request for directions (guidance) from the Court because:

   ☐ the Applicant is not a guardian.

   ☐ the Applicant's guardianship did not come from appointment by the Court, by will or by deed.

   ☐ other reason(s): *(specify)*

5. I have the following other information the Court should know if it gives direction (guidance) to the question asked by the Applicant:

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Respondent's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-62

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **REPLY STATEMENT - PARENTING**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

1. I am a guardian of the child(ren) named by the Applicant.

2. My relationship to the child(ren) is *(father, aunt, etc.)*.

(Choose one)

3. ☐ I agree with the Applicant's proposed schedule for sharing parenting time.

   ☐ I do not completely agree with the Applicant's proposed schedule for sharing parenting time. I want the parenting time to be shared between the Applicant and me as follows: *(describe schedule here or attach schedule)*

(If Applicant asks for conditions)

4. The Applicant asks for conditions on parenting time. I reply as follows to these conditions:

5. The decisions about the child(ren) should be:

   1. shared with Applicant.
   2. Applicant's responsibility only.
   3. Respondent's responsibility only.

(Complete one for each statement)

1.	2.	3.	
☐	☐	☐	the child(ren)'s place of residence;
☐	☐	☐	the child(ren)'s education;
☐	☐	☐	the child(ren)'s extracurricular school activities;
☐	☐	☐	the child(ren)'s cultural upbringing;
☐	☐	☐	the child(ren)'s spiritual upbringing;
☐	☐	☐	whom the child(ren) will associate with;
☐	☐	☐	whether the child(ren) should work and, if so, the details of the work;

☐ ☐ ☐ give consent to health-related treatment for the child(ren);

☐ ☐ ☐ give consent of a parent or guardian where required;

☐ ☐ ☐ receive and respond to any notice to a parent or guardian;

☐ ☐ ☐ deal with any legal proceedings relating to the child(ren);

☐ ☐ ☐ appoint a person to act on behalf of the guardian in an emergency situation or when the guardian is temporarily absent;

☐ ☐ ☐ receive any health, educational and other information that may significantly affect the child(ren);

☐ ☐ ☐ other:

6. I believe my requests are in the child(ren)'s best interests because:
(You may wish to refer to section 18 of the Family Law Act regarding best interests of the child.)

7. I have the following other information in reply to the Applicant's Claim:

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Respondent's Signature

Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-63

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **REPLY STATEMENT – VARY PARENTING**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

1. I am a guardian of the child(ren) named by the Applicant.

2. My relationship to the child(ren) is *(father, aunt, etc.)* .

(Choose one. Attach a copy of the Parenting Order if the Applicant did not.)

3. Since the Parenting Order dated *(date)* was made:

☐ there has been no change in circumstances.

☐ the following circumstances have changed: *(specify)*

(If the Applicant or you want to change the sharing of parenting time, choose one)

4. ☐ I do not agree the current parenting time should be changed at all.

☐ I agree with the changes in parenting time that the Applicant requests.

☐ I agree the current parenting time should be changed, but I do not agree with the changes that the Applicant requests. Instead, I want the parenting time to be shared between the Applicant and me as follows: *(describe schedule here, or attach schedule)*

(If the Applicant or you want to change the conditions for parenting time, choose one)

5. ☐ I agree with the changes to parenting time conditions asked for by the Applicant.

☐ I disagree with the changes to parenting time conditions asked for by the Applicant. I want conditions on

☐ the Applicant's parenting time as follows:

☐ my parenting time as follows:

(If the Applicant or you want to change the sharing of decisions, choose one for each change)

6. The decisions about the child(ren) should be:

1. shared with Applicant.
2. Applicant's responsibility only.
3. Respondent's responsibility only.

(Check only those statements where a change is requested)

1. 2. 3.

☐ ☐ ☐ the child(ren)'s place of residence;

☐ ☐ ☐ the child(ren)'s education;

☐ ☐ ☐ the child(ren)'s extracurricular school activities;

☐ ☐ ☐ the child(ren)'s cultural upbringing;

☐ ☐ ☐ the child(ren)'s spiritual upbringing;

☐ ☐ ☐ whom the child(ren) will associate with;

☐ ☐ ☐ whether the child(ren) should work and, if so, the details of the work;

☐ ☐ ☐ give consent to health-related treatment for the child(ren);

☐ ☐ ☐ give consent of a parent or guardian where required;

☐ ☐ ☐ receive and respond to any notice to a parent or guardian;

☐ ☐ ☐ deal with any legal proceedings relating to the child(ren);

☐ ☐ ☐ appoint a person to act on behalf of the guardian in an emergency situation or when the guardian is temporarily absent;

☐ ☐ ☐ receive any health, educational and other information that may significantly affect the child(ren);

☐ ☐ ☐ other:

7. My requests are in the child(ren)'s best interests because:
(You may wish to refer to section 18 of the Family Law Act regarding best interests of the child.)

8. I have the following other information in reply to the Applicant's Claim:
(specify)

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Respondent's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-64

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **REPLY STATEMENT – CONTACT**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

1. I am a guardian of the child(ren) the Applicant wants to have contact with.

2. My relationship to the child(ren) is *(father, aunt, etc.)*.

3. The child(ren) live(s) with _____.

(Choose any applicable statements)

4. I do not agree that the Applicant should have the contact with the child(ren) the Applicant has requested. Instead, I ask that the Applicant's contact be as follows:

   ☐ no contact of any type.

   ☐ visits: *(provide dates and times that would be most suitable)*

   ☐ oral communication.

   ☐ written communication.

   ☐ other method of communication: *(provide specifics)*

5. The Applicant's contact with the child(ren) should be limited to my proposal in paragraph 4 because:

6. I believe the contact I have proposed for the Applicant is in the child(ren)'s best interests because:
   (You may wish to refer to section 18 of the Family Law Act regarding best interests of the child.)

7. I have the following other information in reply to the Applicant's Claim:
(specify)

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Respondent's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-65

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **REPLY STATEMENT – VARY CONTACT**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

(Choose one. Attach a copy of the Contact Order if the Applicant did not.)

1. ☐ I am a person allowed to have contact with the child(ren) according to a court order.

   ☐ I am a guardian of the child(ren).

2. My relationship to the child(ren) is *(father, aunt, etc.)*.

3. The child(ren) live(s) with _____.

4. ☐ I agree that circumstances have changed since the contact order was granted.

   ☐ There has been no change in circumstances since the contact order was granted.

(Choose one)

5. I do not agree that contact with the child(ren) should be changed in the way the Applicant has requested.
   Instead, I request that contact:

   ☐ continue as it is in the existing contact order.

   ☐ be changed as follows: *(choose any applicable statements)*

   ☐ no contact of any type.

   ☐ visits: *(provide dates and times that would be most suitable)*

   ☐ oral communication.

   ☐ written communication.

   ☐ other method of communication: *(provide specifics)*:

6. I believe that the contact I have requested is in the best interests of the child(ren) because:
   (You may wish to refer to section 18 of the Family Law Act regarding best interests of the child.)

7. I have the following other information in reply to the Applicant's Claim:
   (specify)

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Respondent's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-66

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **REPLY STATEMENT – PERMISSION FROM THE COURT (TO APPLY FOR CONTACT)**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

1. I am a guardian of the child(ren).

2. My relationship to the child(ren) is *(father, aunt, etc.)*.

3. The child(ren) live(s) with _____.

4. I limit the amount of contact the Applicant has with the child(ren) because:

5. I believe it would be in the best interests of the child(ren) for the Court to refuse to allow the Applicant to make an Application for Contact because: *(You may wish to refer to section 18 of the Family Law Act regarding best interests of the child.)*

6. I have the following other information in reply to the Applicant's Claim: *(specify)*

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Respondent's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

AR 124/2010 Form FL-66;85/2016

Form FL-67

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **REPLY STATEMENT – CHILD SUPPORT**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

(Choose one)

1. ☐ I am a parent of the child(ren).

   ☐ I am a person standing in the place of a parent to the child(ren).

   ☐ I am not a parent of the child(ren).

   ☐ I request paternity testing. *(if applicable)*

   ☐ I am not a person standing in the place of a parent to the child(ren).

2. My annual total income for the last three years was *(see line 150 of tax return)*:
   20__ $ _____.
   20__ $ _____.
   20__ $ _____.

   I expect my gross annual income this year to be $ _____.

   Currently, I earn income from _____. *(attach financial documents)*

(Choose all that apply. Provide details for any box(es) checked.)

3. I do not agree with the amount of child support requested by the Applicant because:

   ☐ my income is not what the Applicant claims it is.

   ☐ the Applicant's income is not what the Applicant claims it is.

      ☐ I request financial information from the Applicant. *(attach written request for financial information)*

   ☐ the special expenses are not what the Applicant claims they are. *(explain below)*

   ☐ the child(ren) do(es) not live with the Applicant at all.

   ☐ the child(ren) live(s) with me at least 40% of the time: *(describe schedule below)*

☐ other reasons: *(specify)*

(Choose one)

4. ☐ I attach calculations showing how much I believe I should pay to the Applicant according to the child support guidelines. *(attach calculations)*

☐ I do not attach calculations.

5. I have the following other information in reply to the Applicant's Claim:

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Respondent's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

AR 124/2010 Form FL-67;163/2010

Form FL-68

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **REPLY TO RECIPIENT'S STATEMENT – VARY CHILD SUPPORT**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

(Choose one. Attach a copy of the most recent order if the Applicant did not.)

1. ☐ I agree that circumstances have changed since the Child Support Order was granted.

☐ There has been no change in circumstances since the Child Support Order was granted.

2. My annual total income for the last three years was *(see line 150 of tax return)*:
   20__ $ _____.
   20__ $ _____.
   20__ $ _____.

   I expect my gross annual income this year to be $_____.

   Currently, I earn income from _____. *(attach financial documents)*

(Choose all that apply. Provide details for any box(es) checked.)

3. I do not agree with the amount of child support requested by the Applicant because:

   ☐ my income is not what the Applicant claims it is.

   ☐ the Applicant's income is not what the Applicant claims it is.

      ☐ I request financial information from the Applicant. *(attach written request for financial information)*

   ☐ the special expenses are not what the Applicant claims they are. *(explain below)*

   ☐ the child(ren) do(es) not live with the Applicant at all.

   ☐ the child(ren) live(s) with me at least 40% of the time: *(describe schedule below)*

   ☐ other reason(s): *(specify)*

(Choose one)

4. ☐ I attach calculations showing how much I believe I should pay to the Applicant according to the child support guidelines. *(attach calculations)*

   ☐ I do not attach calculations.

5. As of _____, the amount of unpaid support arrears was $_____. *(if available, attach a statement of account)*

6. I have the following other information in reply to the Applicant's Claim: *(specify)*

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Respondent's (Payor's) Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

AR 124/2010 Form FL-68;163/2010

Form FL-69

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **REPLY TO PAYOR'S STATEMENT – VARY CHILD SUPPORT**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

(Choose one. Attach a copy of the most recent order if the Applicant did not.)

1. ☐ I agree that circumstances have changed since the Child Support Order was granted.

   ☐ There has been no change in circumstances since the Child Support Order was granted.

2. My annual total income for the last three years was *(see line 150 of tax return):*
   20__ $ _____.
   20__ $ _____.
   20__ $ _____.

   I expect my gross annual income this year to be $ _____.

   Currently, I earn income from _____. *(attach financial documents)*

(Choose all that apply. Provide details for any box(es) checked.)

3. I do not agree with the amount of child support requested by the Payor because:

   ☐ my income is not what the Payor claims it is.

☐ the Payor's income is not what the Payor claims it is.

☐ I request financial information from the Payor. *(attach written request for financial information)*

☐ there are special expenses for the child(ren) and I attach a Special Expense List and receipts.
(Special expenses generally include child care expenses, medical and dental insurance premiums, health-related expenses, expenses for post-secondary education, and extraordinary expenses for extracurricular activities and school education.)

☐ the child(ren) do(es) not live with the Payor at least 40% of the time: *(describe schedule below)*

☐ other reasons: *(specify)*

(Choose one)

4. ☐ I attach calculations showing how much I believe the Payor should pay according to the child support guidelines. *(attach calculations)*

☐ I do not attach calculations.

5. As of _____, the amount of unpaid support arrears was $ _____. *(if available, attach a statement of account)*

(Complete only if there are arrears. Choose one)

6. ☐ I agree that the Court should reduce the child support arrears to $ _____.

☐ I do not agree that the Court should reduce the child support arrears because:

7. I have the following other information in reply to the Payor's Claim:

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Respondent's (Recipient's)
Justice of the Peace or Signature
Commissioner for Oaths
in and for the Province of Alberta

(Fill in if applicable)

Special Expense List

Expenses:

Name of Child(ren):				
Child care expenses				
- amount charged by caregiver or day care	$	$	$	$
- parent's portion of day care costs	$	$	$	$
Medical and/or dental insurance premiums	$	$	$	$
Health-related expenses *(exceeding insurance reimbursement by at least $100 annually)*	$	$	$	$
Extraordinary primary/ secondary school expenses	$	$	$	$
Expenses for post-secondary education	$	$	$	$
Extraordinary expenses for extracurricular activities	$	$	$	$

Details of above expenses: *(include description of each health, school and extracurricular expense)*

ATTACH RECEIPTS

AR 124/2010 Form FL-69;163/2010

Form FL-70

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **REPLY STATEMENT – SPOUSAL / PARTNER SUPPORT**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

(Choose one)

1. ☐ I am (or was) the Applicant's spouse.

   ☐ I was the Applicant's adult interdependent partner.

   ☐ I have never been the Applicant's spouse or adult interdependent partner.

(Choose all that apply. Provide details for any box(es) checked.)

2. I do not agree with the amount of spousal/partner support requested by the Applicant because:

   ☐ my financial position is not what the Applicant claims it is. *(attach a budget)*

   ☐ my health/ability to work is not what the Applicant says it is.

   ☐ the Applicant's financial position is not what he/she claims it is.

   ☐ I request financial information from the Applicant. *(attach written request for financial information)*

   ☐ the Court should uphold the support agreement the Applicant and I currently have. *(if available, attach a copy of agreement)*

   ☐ other reasons: *(specify)*

3. My annual total income for the last three years was *(see line 150 of tax return)*:
   20__ $ _____.
   20__ $ _____.
   20__ $ _____.

   I expect my gross annual income this year to be $ _____.

   Currently, I earn income from _____. *(attach financial documents)*

4. I have a legal obligation to support the following individuals:

5. The amount of support that I believe I should pay to the Applicant is $ _____ each month.

6. I have the following other information in reply to the Applicant's Claim: *(specify)*

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Respondent's Signature
Justice of the Peace or
Commissioner for Oaths

in and for the Province of Alberta

AR 124/2010 Form FL-70;163/2010

Form FL-71

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **REPLY TO RECIPIENT'S STATEMENT – VARY SPOUSAL / PARTNER SUPPORT**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

(Choose one)

1. ☐ I agree that circumstances have changed since the most recent spousal/partner Support Order was granted. *(attach a copy of the order if the Applicant did not)*

   ☐ There has been no change in circumstances since the most recent spousal/partner Support Order was granted.

(Choose all that apply. Provide details for any box(es) checked.)

2. I do not agree with the amount of spousal/partner support the Applicant is requesting because:

   ☐ my financial position is not what the Applicant claims it is.

   ☐ my health/ability to work is not what the Applicant claims it is.

   ☐ my monthly household expenses have changed since the most recent Support Order was granted. *(attach a budget)*

   ☐ the Applicant's financial position is not what the Applicant claims it is.

      ☐ I request financial information from the Applicant. *(attach written request for financial information)*

☐ the Applicant's monthly household expenses are not what the Applicant claims.

☐ other reason(s): *(specify)*

3. My annual total income for the last three years was *(see line 150 of tax return)*:
   20__ $ _____.
   20__ $ _____.
   20__ $ _____.

   I expect my gross annual income this year to be $ _____.

   Currently, I earn income from _____. *(attach financial documents)*

4. The amount of spousal/partner support I believe I should pay to the Applicant is $ _____ per month.

(Specify date and amount of arrears, if applicable)

5. As of _____, the amount of unpaid support arrears was $ _____. *(if available, attach a statement of account)*

6. I have the following other information in reply to the Applicant's Claim: *(specify)*

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Respondent's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

AR 124/2010 Form FL-71;163/2010

Form FL-72

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **REPLY TO PAYOR'S STATEMENT – VARY SPOUSAL / PARTNER SUPPORT**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

(Choose one)

1. ☐ I agree that circumstances have changed since the most recent spousal/partner Support Order was granted.

   ☐ There has been no change in circumstances since the most recent spousal/partner Support Order was granted.

(Choose all that apply. Provide details for any box(es) checked.)

2. I do not agree with the change in the amount of spousal/partner support requested by the Payor because:

   ☐ my financial position is not what the Payor claims it is.

   ☐ my health/ability to work is not what the Payor says it is.

   ☐ my monthly household expenses have changed since the most recent Support Order was granted. *(attach a budget)*

   ☐ the Payor's financial position is not what the Payor claims it is.

      ☐ I request financial information from the Payor. *(attach written request for financial information)*

   ☐ the Payor's monthly household expenses are not what the Payor claims.

   ☐ other reason(s):

3. My annual total income for the last three years was *(see line 150 of tax return)*:
   20__ $ _____.
   20__ $ _____.
   20__ $ _____.

   I expect my gross annual income this year to be $ _____.

   Currently, I earn income from _____. *(attach financial documents)*

(Specify date and amount of arrears, if applicable)

4. As of _____, the amount of unpaid support arrears was $ _____. *(if available, attach a statement of account)*

5. I have the following other information in reply to the Payor's Claim: *(specify)*

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Respondent's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

AR 124/2010 Form FL-72;163/2010

Form FL-73

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **REPLY STATEMENT – ENFORCEMENT (TIME WITH A CHILD)**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

1. There is a court order giving the Applicant time with the child(ren). *(attach a copy of the order if the Applicant did not)*

2. My relationship to the child(ren) is *(father, aunt, etc.)*.

(Choose one)
3. ☐ I have not denied the Applicant time with the child(ren).

☐ I have denied the Applicant time with the child(ren) in the following ways because: *(Be specific as to WHEN, HOW and WHY. List all occurrences. Attach separate sheet if necessary.)*

(Choose all that apply. Provide details for any box(es) checked.)

4. I ask the Court to:

☐ refuse the Applicant's request for an Enforcement Order.

☐ grant an Enforcement Order providing the Applicant with compensatory time with the child(ren).

☐ grant an Enforcement Order providing that I reimburse the Applicant's expenses in the amount of $ _____.

☐ other: *(specify)*

(Complete if applicable)

5. I ask the Court to refuse the Applicant's request for terms in an Enforcement Order to:

☐ impose a fine (money) against me.

☐ imprison me.

☐ assign an enforcement officer.

I do not believe these terms are necessary in an Enforcement Order because:

6. I have the following other information in reply to the Applicant's Claim: *(specify)*

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Respondent's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-74

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **REPLY STATEMENT – REIMBURSEMENT FOR FAILURE TO EXERCISE TIME**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

1. There is a court order giving me time with the child(ren). *(attach a copy of the order if the Applicant did not)*

2. My relationship to the child(ren) is *(father, aunt, etc.)*.

(Choose all that apply. Provide details for any box(es) checked.)

3. I do not agree that the Applicant is entitled to reimbursement of expenses as claimed because:

   ☐ I provided reasonable notice to the Applicant that I would not be exercising my time with the child(ren).

   ☐ the expenses claimed were not actually paid by the Applicant.

   ☐ it was not necessary for the Applicant to pay the expenses claimed.

   ☐ the expenses are not a result of time I did not spend with the child(ren).

   ☐ other: *(specify)*

(Choose one)

4. ☐ I ask the Court to deny the Applicant's claim for reimbursement of expenses.

   ☐ I ask the Court to allow the Applicant's claim for expenses in the amount of $ _____.

5. I have the following other information in reply to the Applicant's Claim:
(specify)

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Respondent's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-75

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **REPLY STATEMENT – VARY ENFORCEMENT (TIME WITH A CHILD)**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

1. There is a court order giving the Applicant time with the child(ren).
(attach a copy of the order if the Applicant did not)

2. My relationship to the child(ren) is *(father, aunt, etc.)*.

3. There is an Enforcement Order *(attach a copy if the Applicant did not)*.
Since the Enforcement Order,

☐ there has been no change of circumstances.

☐ circumstances have changed.

(Choose one or both, and provide details.)

4. I ask the Court to:

☐ refuse the Applicant's request to change the Enforcement Order because:

☐ change the Enforcement Order as follows: *(give reasons)*

5. I have the following other information in reply to the Applicant's Claim: *(specify)*

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Respondent's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-76

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **REPLY STATEMENT – EXCLUSIVE POSSESSION OF HOME – HOUSEHOLD GOODS**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

(Choose all that apply)
1. I ask the Court not to grant an order:

☐ giving the Applicant exclusive possession of the primary home.

☐ evicting me from the primary home.

☐ restraining me from entering or attending at or near the primary home.

☐ giving the Applicant exclusive use of the household goods as detailed by the Applicant.

(Choose all that apply. Provide details for any box(es) checked.)

2. I am not in agreement with the Applicant's Claim because:

☐ I do not have any other accommodation available to me.

☐ there is other accommodation available to the Applicant.

☐ I cannot afford other accommodation.

☐ it is not in the child(ren)'s best interest.

☐ other: *(specify)*

(Complete if applicable)

3. I propose that expenses for the property or goods be paid as follows: *(specify rent, mortgage, utilities, taxes and any other expenses)*

4. I have the following other information in reply to the Applicant's Claim: *(specify)*

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Respondent's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-77

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **REPLY STATEMENT – PARENTAGE**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

(Choose one)

1. ☐ The Applicant claims that she/he is the parent of the child(ren). I do not believe the Applicant is the parent of the child(ren) because:

   ☐ The Applicant claims that I am the parent of the child(ren). I do not believe that I am the parent of the child(ren) because:

(Choose one)

2. ☐ I want a DNA test.

   ☐ I do not want a DNA test.

   ☐ DNA tests have been done *(attach results)*

3. I have the following other information in reply to the Applicant's Claim:

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Respondent's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-78

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **REPLY STATEMENT – IRRECONCILABILITY**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

(Choose all that apply)

1. ☐ I agree with the dates provided by the Applicant for the start of our relationship and our separation.

   ☐ I was married to the Applicant on (date) and separated from the Applicant on (date).

☐ I was living in an adult interdependent relationship with the Applicant from (date) and separated from the Applicant on (date).

☐ I was never married to the Applicant.

☐ I was never the Applicant's adult interdependent partner.

(Complete only if applicable)

2. I do not agree that the Applicant and I have no prospect of reconciliation with each other because:

3. I have the following other information in reply to the Applicant's Claim: *(specify)*

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Respondent's Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Form FL-79
[Rule 12.22(2)]

Clerk's stamp:

COURT FILE NUMBER

COURT ☐ PROVINCIAL COURT OF ALBERTA
☐ COURT OF QUEEN'S BENCH

JUDICIAL CENTRE (QUEEN'S BENCH)

COURT LOCATION (PROVINCIAL COURT)

APPLICANT(S)

RESPONDENT(S)

DOCUMENT **UPDATE STATEMENT**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

I, _____, swear/affirm that:

1. I swore/affirmed a Statement or Reply Statement filed (date).

2. It is important for the Court and the other parties to know the following **new information** about my situation:
(If more than one paragraph is needed, number the paragraphs).

Note: This document is only for new information that was not available at the time you swore your Statement or Reply Statement.

Do not use this document if you are trying to change an existing Order.

Sworn/Affirmed before me)
on _____, 20____,)
at _____, Alberta.) _____
_____) Signature
Justice of the Peace or
Commissioner for Oaths
in and for the Province of Alberta

Division 3
Forms for Part 14

	Rule #	Form #
Civil Notice of Appeal	14.8 and 14.12	AP-1
Civil Notice of Cross Appeal	14.11	AP-2
Application	14.53	AP-3
Discontinuance of Appeal	14.66	AP-4
Cover Page	14.87	AP-5
Style of Cause	14.87	AP-6

COURT OF APPEAL OF ALBERTA

Form AP-1
[Rules 14.8 and 14.12]

Registrar's stamp:

COURT OF APPEAL FILE NUMBER:

TRIAL COURT FILE NUMBER:

REGISTRY OFFICE

PLAINTIFF/APPLICANT:

STATUS ON APPEAL:

DEFENDANT/RESPONDENT:

STATUS ON APPEAL:

DOCUMENT **CIVIL NOTICE OF APPEAL**

APPELLANT'S ADDRESS FOR SERVICE AND CONTACT INFORMATION:

WARNING
To The Respondent: If you do not respond to this appeal as provided for in the *Alberta Rules of Court*, the appeal will be decided in your absence and without your input.

1 Particulars of Judgment, Order or Decision Appealed from:

Date pronounced: _____

Date entered: _____

Date served: _____

Official neutral citation of reasons for decision if any:
(do not attach copy) _____

(Attach a copy of order or judgment: Rule 14.12(3). If a copy is not attached, indicate under item 14 and file a copy as soon as possible: Rule 14.18(2).)

2 Indicate where the matter originated:

☐ **Court of Queen's Bench**

Judicial Centre: _____

Justice: _____

On appeal from a Queen's Bench Master or Provincial Court Judge? ☐ Yes ☐ No

Official neutral citation of reasons for decision, if any, of the Master or Provincial Court Judge:
(do not attach copy) _____

(If originating from an order of a Queen's Bench Master or Provincial Court Judge, a copy of that order is also required: Rule 14.18(1)(c).)

☐ **Board, Tribunal or Professional Discipline Body**

Specify Body: _____

3 Details of Permission to Appeal, if required (Rules 14.5 and 14.12(3)(a)).

☐ Permission not required, or ☐ Granted:

Date: _____

Justice: _____
(Attach a copy of order, but not reasons for decision.)

4 Portion being appealed (Rule 14.12(2)(c)):

☐ Whole, or

☐ Only specific parts (if specific part, indicate which part):

(Where parts only of a family law order are appealed, describe the issues being appealed, e.g. property, child support, parenting, etc.)

5 Provide a brief description of the issues:

_____
_____
_____

6 Provide a brief description of the relief claimed:

_____
_____
_____

7 Is this appeal required to be dealt with as a fast track appeal? (Rule 14.14)

☐ Yes ☐ No

8 Does this appeal involve the custody, access, parenting or support of a child? (Rule 14.14(2)(b))

☐ Yes ☐ No

9 Will an application be made to expedite this appeal?

☐ Yes ☐ No

10 Is Judicial Dispute Resolution with a view to settlement or crystallization of issues appropriate? (Rule 14.60)

☐ Yes ☐ No

11 Could this matter be decided without oral argument? (Rule 14.32(2))

☐ Yes ☐ No

12 Are there any restricted access orders or statutory provisions that affect the privacy status of this file? (Rules 6.29, 14.12(2)(e), 14.83)

☐ Yes ☐ No

If yes, provide details: _____
(Attach a copy of any order.)

13 List respondent(s) or counsel for the respondent(s), with contact information.

_____

_____

If specified constitutional issues are raised, service on the Attorney General is required under s24 of the Judicature Act: Rule 14.18(1)(c)(viii).

14 Attachments (as applicable)

Order or judgment under appeal if available (not reasons for decision) (Rule 14.12(3))

Earlier order of Master, etc. (Rule 14.18(1)(c))

Order granting permission to appeal (Rule 14.12(3)(a))

Copy of any restricted access order (Rule 14.12(2)(e))

If any document is not available, it should be appended to the factum, or included elsewhere in the appeal record.

AR 41/2014 s7

COURT OF APPEAL OF ALBERTA

Form AP-2
[Rule 14.11]

Registrar's stamp:

COURT OF APPEAL FILE NUMBER:

TRIAL COURT FILE NUMBER:

REGISTRY OFFICE

PLAINTIFF/APPLICANT:

STATUS ON APPEAL:

DEFENDANT/RESPONDENT:

STATUS ON APPEAL:

DOCUMENT **CIVIL NOTICE OF CROSS APPEAL**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF RESPONDENT/CROSS APPELLANT FILING THIS DOCUMENT:

and CONTACT INFORMATION OF ALL OTHER PARTIES:

TAKE NOTICE THAT ON THE APPEAL the Respondent/Cross Appellant intends to argue that the decision under appeal be varied.

1. Particulars of portions of decision to be varied:

2. Relief Requested:

AR 41/2014 s7

COURT OF APPEAL OF ALBERTA

Form AP-3
[Rule 14.53]

Registrar's stamp:

COURT OF APPEAL FILE NUMBER:

TRIAL COURT FILE NUMBER:

REGISTRY OFFICE

PLAINTIFF/APPLICANT:

STATUS ON APPEAL:

DEFENDANT/RESPONDENT:

STATUS ON APPEAL:

DOCUMENT **APPLICATION OF**
(name of party and status on appeal)

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT:

and CONTACT INFORMATION OF ALL OTHER PARTIES:

NOTICE TO RESPONDENT(S)

(Indicate name(s) of respondent(s) to this application, and their status on appeal.)

WARNING

If you do not come to Court on the date and time shown below either in person or by your lawyer, the Court may give the applicant what it wants in your absence. You will be bound by any order that the Court makes. If you intend to rely on other evidence or a memorandum in support of your position when the application is heard or considered, you must file and serve those documents in compliance with the Rules. (Rules 14.41 and 14.43)

NOTICE TO RESPONDENT(S)

You have the right to state your side of this matter before the Court.

To do so, you must be in court when the application is heard as shown below.

Date _____

Time _____

Where _____

Before □ single judge of the court (Rule 14.37)

□ panel of the court (Rule 14.38)

Nature of application and relief sought:

1.

Grounds for making this application:

2.

Material or evidence to be relied on:

3.

Applicable Acts, regulations and rules:

4.

AR 41/2014 s7

COURT OF APPEAL OF ALBERTA

Form AP-4
[Rule 14.66]

Registrar's stamp:

COURT OF APPEAL FILE NUMBER:

TRIAL COURT FILE NUMBER:

REGISTRY OFFICE

PLAINTIFF/APPLICANT:

STATUS ON APPEAL:

DEFENDANT/RESPONDENT:

STATUS ON APPEAL:

DOCUMENT **DISCONTINUANCE OF APPEAL**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT:

and CONTACT INFORMATION OF ALL OTHER PARTIES:

The Appellant(s) discontinues this appeal [*specify whole, or parts discontinued*] against the Respondent(s) [*or name applicable Respondent(s)*].

Dated this ____ day of _____, 20___.

NOTE

If you discontinue the appeal, the other party is entitled to costs (Rule 14.66) unless the other party has consented to a discontinuance without costs.

AR 41/2014 s7

COURT OF APPEAL OF ALBERTA

Form AP-5
[Rule 14.87]

Registrar's stamp:

COURT OF APPEAL FILE NUMBER:

TRIAL COURT FILE NUMBER:

REGISTRY OFFICE

PLAINTIFF/APPLICANT:

STATUS ON APPEAL:

DEFENDANT/RESPONDENT:

STATUS ON APPEAL:

DOCUMENT **COVER PAGE**

Appeal from the Decision of

The Honourable Mr./Madam Justice _____

Dated the ____ day of_____, 20__

Filed the ____ day of _____, 20__

Title of Book (including name and status on appeal of filing party), volume number, and page numbers and/or tabs included in volume

---

Party's name, counsel's name, address, telephone and fax numbers of party filing this document.

Contact information of all other parties to the appeal

Name etc. of the organization
that prepared this document

(When the cover page is being used on an appeal record, include:)

The appeal record has been prepared in ☐ electronic format
☐ document format

AR 41/2014 s7;85/2016

COURT OF APPEAL OF ALBERTA

Form AP-6
[Rule 14.87]

Registrar's stamp:

COURT OF APPEAL FILE NUMBER:

TRIAL COURT FILE NUMBER:

REGISTRY OFFICE

PLAINTIFF/APPLICANT:

STATUS ON APPEAL:

DEFENDANT/RESPONDENT:

STATUS ON APPEAL:

DOCUMENT _____
(type of document)

(name of party and status on appeal)

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT:

and CONTACT INFORMATION OF ALL OTHER PARTIES:

AR 41/2014 s7

Schedule B: Court Fees and Witness and Other Allowances

Schedule B:
Court Fees and Witness and Other Allowances

	Starts at item #
Division 1: Court Clerk Fees	1
Division 2: Sheriff's Fees	14
Division 3: Allowances Payable to Witnesses in Civil Proceedings	16
Division 4: Tariff of Fees Payable for Court Reporting Services	22
Division 5: Fees for Receiver Functions	29
Division 6: Registrar's Fees	30

Schedule B:
Court Fees and Witness and Other Allowances

Division 1
Court Clerk Fees

1 The fee for (a) commencement of an action by statement of claim or originating application, or (b) if there is no action number already assigned, continuing proceedings under the action number then assigned to that application, is	$250.00
2 The fee for filing a claim under the *Family Law Act* or an originating application under the *Extra-provincial Enforcement of Custody Orders Act* is	$50.00
3.1 The fee for filing a statement of defence is	$50.00
3.2 The fee for filing a counterclaim, in addition to the fee in item 3.1, is	$150.00
3.3 The fee for filing a third party claim is	$150.00
3.4 The fee for filing an application in the course of an action or proceeding is	$50.00
4 The fee to set a trial date, on request to the court clerk or at the discretion or order of the Court, is	$600.00
5 The fee for an application for a trial date for an action or proceeding under the *Family Law Act*, except for a matter listed in section 3(2)(a) or (c) of that Act, is	no charge
5.1 The fee for each day spent in whole or in part at trial, unless the attendance on that day is for judgment only, and except for a trial in respect of an action or proceeding under the *Divorce Act* (Canada), the *Family Law Act* or the *Matrimonial Property Act*, (a) for the first 4 days, is	$0
(b) for each day after the fourth day, is	$250.00
6 The fee for each appointment for review by a review officer is	$100.00
7 The fee for certification of a document is	$10.00

8 The fee for certification of one copy of a document at time of filing the document is	no charge
9 The fee to search a name, including the inspection of one file, is	$10.00
10 The fee to inspect a court file is	$10.00
11 The fee to copy a document is, per page,	$1.00
12 The fee for commencement of interpleader proceedings or proceedings to determine the rights of various parties is	$100.00
13 If an action has not been commenced, the fee for filing a court order, together with related affidavits, is	$25.00

Division 2
Sheriff's Fees

14 The fee for selecting jurors and preparing the list is	$200.00
15 The fee for serving each juror is	$20.00

Division 3
Allowances Payable to Witnesses in Civil Proceedings

Note: *Allowances to witnesses may be increased under special circumstances by a judge.*

16 The allowance payable for each day or part of a day necessarily spent by a witness in travelling to, staying as long as is reasonably necessary to give evidence and travelling back from the place of trial is $50.00

17 If a witness does not reside within reasonable commuting distance of the place of trial, the witness is to be reimbursed the amount paid for accommodation that an assessment officer considers reasonable.

18 For necessary meals and accommodation, the same rate is to be paid to witnesses as is payable to Government employees under regulations made under the *Public Service Act* or any successor Act.

19 For every kilometre necessarily travelled by a witness in going to and returning from the place of trial

(a) by train, bus or other public transportation, the witness is to be reimbursed the reasonable fare actually paid by the witness;

(b) by private vehicle, the witness is to be paid at the same rate as is payable to Government employees under regulations made under the *Public Service Act* or any successor Act.

20 If a witness is not a party to the action and is called as an expert to give evidence that witness is entitled to the following

(a) for securing the attendance of the expert, for each day or part of the day necessarily spent by the expert in travelling to the place of trial, staying as long as required to give evidence and travelling back from the place of trial, $100.00

(i) an allowance of _____

(ii) every fee or expense to which a witness is entitled under items 17, 18, 19 and 21 of this Division,

and

(b) the reasonable fees that the Court may order under rule 10.31(1)(a) *[Court-ordered costs award]* or the assessment officer may fix under rule 10.41 *[Assessment officer's decision]*.

21 If a witness has to travel over 200 kilometres and uses a regularly scheduled air carrier, the witness is to be reimbursed the reasonable airfare actually paid by the witness.

Division 4
Tariff of Fees Payable for Court Reporting Services

Transcripts

22 For transcripts of court proceedings:

(a) for each transcript produced within 30 calendar days, per character $0.0040

(b) for each transcript produced within 10 business days, per character 0.0052

(c) for each transcript produced within 5 business days, per character	0.0062
(d) for each transcript produced within 2 business days, per character	0.0072

Real-time reporting services

23 For real-time court reporting services, in addition to the tariff set out in item 22(d), per character	$0.0010

Appeal record

24 For the appeal record in the Court of Appeal of Alberta, bound:

(a) for title pages, tables of contents and certificates for appeal record, per page	$3.70
(b) for pleadings and final documents, per page	2.00

Copies of transcript or appeal record

25 For each additional copy of the transcript of court proceedings or any part of the appeal record

(a) ordered at the same time as the original transcript or appeal record, per page	$0.40
(b) ordered following delivery of the original transcript or appeal record, per page	1.00

[Parties may purchase the original transcript or appeal record and make their own copies.]

Electronic copies

26 For an electronic copy of the transcript of court proceedings or any part of the appeal record

(a) ordered at the same time as the original transcript or appeal record, per page	no charge
(b) ordered following delivery of the original transcript or appeal record, per page	$0.40

Other transcripts

27 Transcriptions of proceedings when required by a trial judge

(a) in civil cases are charged on the above tariff of fees and become costs of the action;

(b) in criminal cases are charged on the above tariff of fees and are paid by the Crown.

28 The fee for any transcription or work required to be done by an official court reporter that is not specified by this tariff is to be fixed by analogy.

Division 5
Fees for Receiver Functions

29 Fees payable to the court clerk or sheriff when acting as a receiver are to be computed as follows on gross income received and are subject to be increased or decreased in special cases in the discretion of a judge:

On first $ 1000.00 or fraction, a fee of	6%
On next $ 1,500.00 or fraction, a fee of	5%
On next $ 2,500.00 or fraction, a fee of	4%
On next $ 5,000.00 or fraction, a fee of	3%
On next $ 90,000.00 or fraction, a fee of	2%
Above $ 100,000.00 or fraction, a fee of	1%

Division 6
Registrar's Fees

30 If permission to appeal is required, the fee for filing an application for permission to appeal is $600.00

31 The fee for filing an application to restore an appeal or a written consent to restore an appeal is, unless otherwise ordered:	
(a) for the first restoration of the appeal	$200
(b) for the 2nd restoration of the appeal	$500
(c) for any subsequent restoration of the appeal	$1000
32 If permission to appeal is not required, the fee for filing a notice of appeal is	$600.00
32.1 The fee for filing an application in the course of an appeal is	$50.00
33 The fee for certification of a document is	$10.00
34 The fee for certification of one copy of a document at time of filing document is	no charge
35 The fee to search a name, including the inspection of one file is	$10.00
36 The fee to inspect a file	$10.00
37 The fee for a copy of a document, per page, is	$1.00

AR 124/2010 Sched. B;163/2010;41/2014:71/2015

Schedule C:
Tariff of Recoverable Fees

Schedule C:
Tariff of Recoverable Fees

Division 1
Division 2: The Tariff

Schedule C:
Tariff of Recoverable Fees

Division 1
Introduction

Framework

1(1) This Schedule specifies the lawyer's fees that may be recovered as costs by one party from another.

(2) Each column of the tariff in Division 2 *[The Tariff]* gives a dollar amount range for the purpose of determining the lawyer's fee under that column for the work described under each item.

(3) Subject to subrule (4), the dollar range indicates the amount recoverable

(a) as against the plaintiff, with reference to the amount claimed by the plaintiff,

(b) as against the defendant, with reference to the amount of the judgment or order against the defendant, or

(c) in the case of an interlocutory application, as against the person liable to pay the costs with reference to the amount claimed by the plaintiff.

(4) Unless the Court otherwise orders,

(a) when a remedy is given in a judgment or order other than or in addition to the payment of money, or

(b) when judgment is given for a defendant in an action in which a remedy other than or in addition to the payment of money is sought,

costs must be assessed according to the higher of Column 1 of the tariff in Division 2 *[The Tariff]*, and the scale that would have applied if the other remedy had not been given or sought.

Information note

Note rule 10.42 *[Actions within Provincial Court jurisdiction]*.

What the items in the tariff include

2(1) The description of items in Division 2 *[The Tariff]* includes, with respect to each item:

(a) instructions from a client;

(b) all preparatory work related to the commencement of an action and preparatory work related to an item and the preparation of all records and material;

(c) the drafting, issuing and service of any required commencement document, pleading, affidavit and related documents;

(d) attendances;

(e) correspondence;

(f) all material read or written;

(g) if an application is abandoned, all work done in connection with the abandonment;

(h) other activity undertaken or implied in the item, including necessary or convenient services.

(2) If an item described in the tariff has been started but not completed, or is only partially completed, a proportion of the fee may be allowed.

Information note

For rules related to the application of the tariff see *[Lawyer's Charges, Recoverable Costs of Litigation and Sanctions]* Division 2 *[Recoverable costs of litigation]*, and in particular rule 10.31 *[Court-ordered costs award]* and rule 10.41 *[Assessment officer's decision]*.

Application of the tariff

3 The tariff in Division 2 *[The Tariff]* applies whether the services described in the tariff are provided before, at the time or after these rules come into force.

Division 2
The Tariff

ITEM AND ITEM NUMBER	COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5
	Up to and including $50,000	Over $50,000 up to and including $150,000	Over $150,000 up to and including $500,000	Over $500,000 up to and including $1.5 million	Over $1.5 million

Unless the Court otherwise orders, matters which have no monetary amounts, for example, injunctions, will be dealt with under Column 1. Costs in relation to residential tenancies are not dealt with under any of these columns and are in the discretion of the Court. For monetary amounts within the jurisdiction of the Provincial Court, see rule 10.42 *[Actions within Provincial Court jurisdiction]*.

Commencement documents, pleadings related documents					
1(1) Commencement documents, affidavits, pleadings and related documents, and amendments. (2) When the matter is uncontested (a default judgment is an example of an uncontested matter), the limit of recovery is 50% of this amount.	1000	1500	2000	2500	3500
Uncontested trial					
2 Uncontested trial appearance.	200	400	600	800	1000
Disclosure under Part 5 ***[Disclosure of Information]***					
3(1) Disclosure of records under Part 5 *[Disclosure of Information]*, including affidavit of records. (2) Review of opposite party documents (once per action), including statement of property: the equivalent of a ½ day fee under item 5(2); this amount may be increased if the circumstances warrant.	500	750	1000	1250	1500

(3) If there are only a few records requiring a limited amount of time to review, the fee may be reduced.					
Expedition or better definition of the case					
4 Notice to admit facts, opinion or non-adverse inference or the admission of any of these if, in the opinion of the Court, the notice or admission resulted in expediting the case or better defining the matters in question.	200	400	800	1200	1600
Oral questioning under Part 5 *[Disclosure of Information]*					
5(1) Preparation for questioning under Part 5 (once per action): the equivalent of a ½ day attendance fee under item 5(2).					
(2) First ½ day or portion of it for attendance for questioning under Part 5 of parties or witnesses or cross-examination on an affidavit.	500	750	1000	1250	1500

(3) Each additional ½ day (if an attending counsel is acting for neither witness nor examining party, 50% of these amounts).	500	750	1000	1250	1500
(4) Preparation of and response to written questions – a fee equivalent to one full day's attendance for oral questioning under this item.					
Applications: uncontested					
6(1) Uncontested applications	300	400	600	700	800
(2) Applications without notice to another party	100	100	100	100	100
Applications: contested					
7(1) Contested applications or assessments and reviews before a master, judge, assessment officer or review officer and appeal from Provincial Court, masters, review officers and assessment officers.	500	750	1000	1250	1500
(2) Contested adjournment applications.	150	150	150	150	150

(3) Abandoned applications: A fee equivalent to 50% of the fee that would be payable under this item if the application had not been abandoned.					
Applications: requiring written briefs					
8(1) Applications when a brief is required or allowed by the Court, including preparation of confirming letters required for Family Law Special Chambers:					
First ½ day or portion of it.	1000	1250	1500	1750	2000
Each additional ½ day (limited to ½ day unless the Court otherwise orders).	500	625	750	875	1000
For complex chambers applications, the Court may direct that costs relating to an Appearance to argue before Appeal Court apply, instead of the costs in this item.					

(2) Abandoned applications A fee equivalent to 50% of the fee that would be payable under this item if the application had not been abandoned.					
Trial readiness/case management					
9(1) Each pre-trial application to schedule a trial date and each case management attendance (including an interlocutory application if it is heard during those applications or attendances other than an application under rule 6.3 *[Applications generally]*).	250	400	600	800	1000
(2) If an interlocutory application is brought under rule 6.3 *[Applications generally]* and heard during case management attendance, the fee awarded may include either a fee for the application or fees for both the application and case management attendance, depending on the duplication of work, if any.					

Trial and summary trial					
10(1) Preparation for trial and summary trial.	2000	4000	6000	8000	10 000
(2) This item amount may be varied up or down depending on the length and complexity of the trial or summary trial.					
11 Trial and summary trial					
For first ½ day or portion of it	1000	1250	1500	1750	2000
Second counsel fee (when allowed by trial judge)	500	625	750	875	1000
Each additional ½ day	500	700	900	1200	1500
Second counsel fee (when allowed by trial judge)	250	350	450	600	750
Written argument					
12 Submission of written argument at the request of the trial judge or where allowed by the trial judge.	1000	2000	3000	4000	5000

Post-judgment					
13(1) Issue of writ of enforcement including the registration of the writ in the Personal Property Registry	200	250	300	350	400
(2) Registering a status report in the Personal Property Registry to renew the writ (allowed once every 2 years)	100	100	100	100	100
(3) Registering a status report in the Personal Property Registry to amend the writ	25	25	25	25	25
14(1) Request and review of a financial report from enforcement debtor	100	200	300	400	500
(2) Examination in Aid of Enforcement under the *Civil Enforcement Act*	100	200	300	400	500
15 Seizure and related matters	100	200	300	400	500
16 Garnishee Summons, Notice of Continuing Attachment under the *Maintenance Enforcement Act*, or Garnishee Summons Renewal Statement	200	250	300	350	400

17 Sale of lands under order or judgment (including attendance at sale whether aborted or not)	200	300	400	500	600
Appeals					
18 All steps taken to file Notice of Appeal and speak to the list	200	300	400	500	600
19 Preparation for appeal					
Preparation of factum	1000	2000	4000	6000	8000
All other preparation	500	1000	2000	3000	4000
20 Appearance to argue before Appeal Court for first 1/2 day or part of it.					
First counsel	1000	1500	2000	2500	3000
Second counsel (when allowed by the Court)	500	750	1000	1250	1500
21 Appearance to argue before Appeal Court for each full 1/2 day occupied after the first 1/2 day.					
First counsel	500	750	1100	1300	1600
Second counsel (when allowed by the Court)		375	500	650	800

22 Appearance on contested application before Appeal Court, including brief.	750	1250	1750	2000	2500

AR 124/2010 Sched. C;41/2014

Appendix: Definitions

Appendix
Definitions

In these rules,

"abandoned goods" in rule 9.28 *[Abandoned goods]* means personal property left on land or at premises by a person who has

(a) been evicted from the land or premises by a civil enforcement agency, or

(b) vacated the land or premises as a result of a judgment or order of possession;

"Act" in Part 9 *[Judgments and Orders]*, Division 7 *[Reciprocal Enforcement of United Kingdom Judgments]* means Part 3 of the *International Conventions Implementation Act* and includes the Convention;

"action for unjust enrichment" in Part 12 means an action that is based on the equitable doctrine of unjust enrichment between 2 parties who have lived together in a relationship of interdependence;

"applicant" in Part 6 *[Resolving Issues and Preserving Rights]*, Division 9 means an applicant for an interpleader order, whether an originating applicant or applicant, as the context requires;

"application for an interpleader order" in Part 6, Division 9*[Interpleader]* means an application filed under rule 6.56 *[Application for interpleader order]* whether an originating application or an application;

"assessment officer" means the court clerk for the judicial centre in which the action is located;

"certificate" in rule 13.36 *[Fee waiver: legal aid]* means a Legal Aid Certificate issued by the Legal Aid Society of Alberta;

"certified copy" in Part 9 *[Judgments and Orders]*, Division 7 *[Reciprocal Enforcement of United Kingdom Judgments]* means the original document or a copy of the document certified as being a true copy by the original or facsimile signature of a proper officer of the foreign court;

"Chief Justice" means

(a) the Chief Justice of the Court of Queen's Bench of Alberta,

(b) the Associate Chief Justice of the Court of Queen's Bench of Alberta, or

(c) a judge designated to act on behalf of the Chief Justice by the Chief Justice or by the Associate Chief Justice;

"civil enforcement agency" has the same meaning as "agency" in the *Civil Enforcement Act*, and where the context permits, includes a bailiff appointed under the *Civil Enforcement Act*;

"civil enforcement proceedings" includes

(a) writ proceedings,

(b) distress proceedings authorized under the *Civil Enforcement Act* or any other law that is in force in Alberta, and

(c) evictions authorized pursuant to a law in force in Alberta or an order of a court;

"claim" means a claim in respect of a matter in which a plaintiff, originating applicant, plaintiff-by-counterclaim or third party plaintiff seeks a remedy;

"claimant" in Part 6 *[Resolving Issues and Preserving Rights]*, Division 9 *[Interpleader]* means a person who files or is expected to file an adverse claim against personal property;

"client" includes a former client and

(a) any person to whom a lawyer has rendered an account for lawyer's charges, or

(b) a person who is or may be liable to pay or who has paid lawyer's charges or part of them;

"commencement document" means

(a) a statement of claim,

(b) an originating application,

(c) a counterclaim,

(d) a third party claim, and

(e) a claim under the *Family Law Act*,

and includes an amended commencement document;

"contingency fee agreement" means an agreement under rule 10.7 *[Contingency fee agreement requirements]*;

"Convention" in Part 9 *[Judgments and Orders]*, Division 7 *[Reciprocal Enforcement of United Kingdom Judgments]* means the Convention in Schedule 3 to the Act;

"convention judgment", "convention judgment creditor", "convention judgment debtor" and "original court" in Part 9 *[Judgments and Orders]*, Division 7 *[Reciprocal Enforcement of United Kingdom Judgments]* have the same meanings respectively as "judgment", "judgment creditor", "judgment debtor", and "original court" have in the Convention;

"corporate representative" means a person appointed as the representative of a corporation under rule 5.4 *[Appointment of corporate representatives]*;

"corporate witness" means

(a) an employee or former employee of a corporation,

(b) an officer or former officer of a corporation, other than the corporate representative, and

(c) a person questioned under rule 5.18 *[Persons providing services to a corporation]* who is called as a witness;

"costs award" means the amount payable by one party to another in accordance with either or both of

(a) an order under rule 10.31 *[Court-ordered costs award]*, and

(b) a certificate under rule 10.43 *[Certification of costs payable]*;

"Court" means the Court of Queen's Bench of Alberta acting by a judge or master except

(a) when the context refers to the Court as an institution, and

(b) in a form set out in Division 2 of Schedule A, where it means either the Court of Queen's Bench of Alberta or the Provincial Court of Alberta, as the circumstances require;

"court clerk" means the clerk, deputy clerk or acting clerk of the Court at a judicial centre, and includes a person authorized by the clerk;

"defendant" means a person against whom a remedy is sought in a statement of claim;

"document" in rule 13.36 *[Fee waiver: legal aid]* means any document that may be filed for which a fee is payable under any of items 1 to 4, Schedule B *[Court Fees and Witness and Other Allowances]*;

"electronic hearing" in rule 6.10(1) *[Electronic hearings]* means an application, proceeding, summary trial or trial conducted, in whole or part, by electronic means in which all the participants in the hearing and the Court can hear each other, whether or not all or some of the participants and the Court can see each other or are in each other's presence;

"enactment" means an Act or a regulation or any portion of an Act or regulation of Alberta or Canada, but does not include these rules;

"encumbrance" means a registered charge on secured property securing payment of money or performance of an obligation;

"examination" in rule 10.54 *[Mental disorder]* means a medical examination conducted for the purpose of determining a person's mental state;

"existing proceeding" in rule 15.1 *[Definitions]* means a court proceeding commenced but not concluded under the former rules;

"expert" means a person who is proposed to give expert opinion evidence;

"facility" in rule 10.54 *[Mental disorder]* means

(a) a facility as defined in the *Mental Health Act*, or

(b) a correctional institution as defined in the *Corrections Act*;

"file" means to present the correct document and obtain an acknowledgment

(a) by the court clerk that a commencement document, pleading, affidavit or other document is part of the court file, or

(b) in the case of an appeal or an application under Part 14, by the Registrar of the Court of Appeal that the document is part of the Court of Appeal Record;

"foreclosure action" includes

(a) an action for recovery of money secured by a mortgage, agreement for sale or encumbrance,

(b) an action for enforcement of any provision of a mortgage, agreement for sale or encumbrance, and

(c) an action for sale, foreclosure, redemption or specific performance with respect to land, with or without other security, that is subject to a mortgage, agreement for sale or encumbrance;

"foreclosure order" includes an order cancelling or determining an agreement for sale;

"former rules" in rule 15.1 *[Definitions]* means the *Alberta Rules of Court* in effect immediately before these rules come into force;

"health care professional" means

(a) a person entitled to practise a profession as

(i) a member of the College of Physicians and Surgeons of Alberta under the *Health Professions Act*,

(ii) a chiropractor under the *Health Professions Act*,

(iii) a dentist under the *Health Professions Act*,

(iv) an occupational therapist under the *Health Professions Act*,

(v) a physical therapist under the *Physical Therapy Profession Act*,

(vi) a psychologist under the *Health Professions Act*, or

(vii) a registered nurse under the *Health Professions Act*,

(b) a health care professional who is a medical practitioner, chiropractor, dentist, occupational therapist, physical therapist, registered nurse or psychologist who is regulated, registered or certified in that capacity in another jurisdiction and who is agreed to by the parties or approved by the Court, or

(c) a person appointed by the Court who is qualified to conduct a medical examination;

"instructing creditor" in Part 6 *[Resolving Issues and Preserving Rights]*, Division 9 *[Interpleader]* has the same meaning as it has in the *Civil Enforcement Act*;

"judge" means a judge of the Court and includes a supernumerary judge of the Court;

"judgment" means a judgment of the Court;

"judgment creditor" means a person who has a judgment or order requiring a person who is the subject of the judgment or order or part of it to pay money;

"judgment debtor" means a person who is the subject of a judgment or order or part of it requiring the person to pay money;

"judgment holder" in rule 9.28 *[Abandoned goods]* means a person who has a judgment or order of possession;

"judicial centre" means the office of the Court in

(a) Calgary,

(b) Drumheller,

(c) Edmonton,

(d) Fort McMurray,

(e) Grande Prairie,

(f) Lethbridge,

(g) Medicine Hat,

(h) Peace River,

(i) Red Deer,

(j) St. Paul, or

(k) Wetaskiwin;

"land" means real property;

"lawyer" means a person entitled to practise law in Alberta;

"lawyer's charges" means

(a) the fees charged by a lawyer for services performed,

(b) any disbursements paid or payable by the lawyer in the performance of services, and

(c) other charges, if any, by a lawyer;

"liquidated demand" in rule 3.39 *[Judgment for debt or liquidated demand]* means

(a) a claim for a specific sum payable under an express or implied contract for the payment of money, including interest, not being in the nature of a penalty or unliquidated damages, where the amount of money claimed can be determined by

(i) the terms of the contract,

(ii) calculation only, or

(iii) taking an account between the plaintiff and the defendant,

or

(b) a claim for a specific sum of money, whether or not in the nature of a penalty or damages, recoverable under an enactment that contains an express provision that the sum that is the subject of the claim may be recovered as a liquidated demand or as liquidated damages;

"litigation representative" includes but is not limited to a guardian ad litem and next friend;

"master" means a master in chambers as defined in the *Court of Queen's Bench Act*;

"medical examination" means an examination or assessment of an individual's mental or physical condition;

"Minister" means the Minister of Justice and Solicitor General for Alberta;

"official court reporter" means

(a) a person appointed as an official court reporter under the *Recording of Evidence Act*,

(b) a certified shorthand reporter under the *Alberta Shorthand Reporters Regulation* (AR 197/96), or

(c) a person appointed as an official court reporter under the *Alberta Rules of Court* (AR 390/68) whose appointment has not expired;

"order" means an order of the Court;

"outside Alberta" means outside Alberta and Canada except

(a) in the expressions "outside Alberta but within Canada", "outside Alberta but in Canada" and "outside Alberta and in Canada", and

(b) in rules 12.14, 12.26(1) and (5), 12.46(1)(b) and 12.52;

"partnership" means a partnership to which the *Partnership Act* applies;

"party" means a party to an action; in Part 10, Division 2 the word "party" has an extended meaning that includes a person filing or participating in an application or proceeding who is or may be entitled to or subject to a costs award; in Part 12, in respect of a proceeding under the *Family Law Act*, "party" includes a public official, including the Director acting under Part 5 of the *Income and Employment Supports Act*, who, pursuant to any enactment, has the right to commence, defend, intervene in or take any step in respect of the application and exercises that right; in Part 14, "party" means a party to an appeal or an application under Part 14, and includes an intervenor where the context requires;

"peace officer" in rule 13.35 *[Fee exemption]* means a peace officer as defined in the *Provincial Offences Procedures Act*;

"personal property" in Part 6 *[Resolving Issues and Preserving Rights]*, Division 9 *[Interpleader]* includes a debt;

"personal representative" has the same meaning as it has in section 1(l) of the *Surrogate Rules* (AR 130/95);

"plaintiff" means a person who is named as plaintiff in a statement of claim;

"pleading" means

(a) a statement of claim,

(b) a statement of defence,

(c) a counterclaim,

(d) a defence to a counterclaim,

(e) a reply to a statement of defence,

(f) a reply to a statement of defence to a counterclaim,

(g) a third party claim,

(h) a defence to a third party claim,

(i) a reply to a third party's statement of defence, or

(j) a response to a request for particulars or a response to an order for particulars;

"prescribed form" means the appropriate form in Schedule A *[Forms]*, completed and modified as circumstances require;

"procedural order" means an order relating to practice or procedure under rule 1.4 *[Procedural orders]* or any other rule respecting practice or procedure;

"property" includes land and personal property;

"provisional order" means a provisional order under the *Divorce Act* (Canada);

"record" includes the representation of or a record of any information, data or other thing that is or is capable of being represented or reproduced visually or by sound, or both;

"recorded mail" means a form of document delivery by mail or courier in which receipt of the document must be acknowledged in writing as specified in Part 11 *[Service of Documents]*;

"redemption order" includes an order nisi and an order for specific performance;

"referee" means a person who is a referee under rule 6.44 *[Persons who are referees]*;

"related writ" in Part 6 *[Resolving Issues and Preserving Rights]*, Division 9 *[Interpleader]* has the same meaning as it has in the *Civil Enforcement Act*;

"relevant and material" is defined in rule 5.2 *[When something is relevant and material]* for the purposes of Part 5 *[Disclosure of Information]*;

"remedy" means relief or a remedy described or referred to in rule 1.3(1) *[General authority of the Court to provide remedies]*;

"restraining order" in rule 13.37 *[Fee waiver: restraining orders]* means a restraining order in respect of an interpersonal matter between individuals or a protection order under the *Protection Against Family Violence Act* and includes the costs associated with respect to that restraining order or protection order;

"retainer agreement" means an express or implied agreement between a lawyer and a client with respect to the payment by the client of lawyer's charges, and includes a contingency fee agreement;

"review officer" means an assessment officer who, in the opinion of the clerk of the Court, has for the purpose of reviewing contingency fee or retainer agreements and lawyers' charges

(a) an acceptable degree in law, and

(b) sufficient experience in the practice of law,

and who is designated as a review officer by

(c) the clerk of the Court for the judicial centre in which the action is located, or

(d) if there is no clerk of the Court for the judicial centre in which the action is located, the Minister;

"rules" includes the Schedules and this Appendix to these rules but does not include any information notes and other informational guides that may appear in an annotated version of these rules;

"secured land" means all or part of the secured land about which a claim is made in a foreclosure action;

"secured property" means the secured land and all secured personal property about which a claim is made in a foreclosure action, or any part of either or both;

"third party defendant" means the person named as defendant in a third party claim;

"third party plaintiff" means

(a) a defendant who files a third party claim against another person, or

(b) any third party defendant who files a third party claim against another person;

"trustee" means

(a) an executor, an administrator, or a trustee of the estate of a person,

(b) a person expressly appointed as trustee,

(c) a person who is or becomes a trustee at law, either expressly or by implication,

(d) a person who is appointed as a trustee under an enactment or who becomes a trustee by virtue of an enactment,

(e) several joint trustees, or

(f) a person appointed as a trustee by the Court;

"writ proceedings" means any action, step or measure authorized by the *Civil Enforcement* Act to be taken for the purpose of enforcing a money judgment.

AR 124/2010 Appendix;170/2012;140/2013;41/2014;71/2015

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FL	References to Family Forms are abbreviated as FL, e.g. FL–28.
CC	References to Criminal Forms are abbreviated CC, e.g. CC–1.
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CommN	References to Court of Queen's Bench Commercial Practice Notes.
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