

TO BRING A NOTICE OF MOTION

Rule 12(1)

Step 1

COMPLETE the NOTICE OF MOTION. You may use a typewriter or print clearly and firmly. You may wish to submit written evidence in support of your notice of motion. To do so, complete an AFFIDAVIT. Obtain a date and time for your hearing from the registry.

- mail a copy of the notice of motion by registered mail to the person's postal address; or
- leave a copy of the notice of motion directly with the person (this is called personal service).



Step 2

FILE the NOTICE OF MOTION by taking or mailing it and any supporting affidavit(s) to the registry where your file is. If you are asking the court to change or cancel an order made in your absence, be sure to attach a copy of the order.

The staff will apply the registry stamp. Then they will return the copies you need for your records and for serving on the other party.

The purpose of service is to be sure the person(s) affected know what you are asking for and the court date.

However, in special or urgent circumstances, a judge may make an order without notice having been given to the other party. If you are going to ask a judge to do this, tell the registry staff when you file your notice of motion. You must be prepared to give the judge evidence that the circumstances require it.



Step 3

SERVE the other party, and any one else who must be served, with a copy of the notice of motion and any supporting affidavit(s). Normally only the other party must be served, but if you are asking a person who is not a party to produce information or documents, you must serve that person as well.

This must be done at least 7 days before the date of the court hearing.

To serve a party with a notice of motion, you may deliver it:

- by mail to the party's most recent address for service filed with the registry;
- by fax, if the fax number is included in the address for service provided by that party. You must use the special fax cover page, which the registry can give you;
- by leaving the notice of motion with the other party's lawyer; or
- by having another person, at least 19 years of age, leave the notice of motion with the party. These last 2 methods are called personal service.

To serve a person other than a party, you may either:

At the hearing, if the other party or anyone else who must be served does not appear, be ready to prove that you served him or her, or that you were unable to do so. To prove service:

If you or another person personally served the notice of motion, **COMPLETE** the AFFIDAVIT OF PERSONAL SERVICE on the back of the 'proof of service' copy of the notice of motion.

If you served the notice of motion by mail or fax, **COMPLETE** the AFFIDAVIT OF SERVICE on the back of the 'proof of service' copy of the notice of motion.

If you mailed the notice of motion by registered mail, attach to the affidavit of service either:

- original copy of signature obtained at time of delivery; or
- unopened envelope containing the notice of motion, returned by Canada Post Corporation with a reason for non-delivery (e.g. "address unknown", "unclaimed", "refused").

Court File Number:

Copy the court file number, FMEP number (if any) and the court location from the original application.



Case Name:

Copy the names of the parties exactly as they appear on the application.



Filed by:

You must be sure that the address you give is correct because this is where the registry will send any further notices or information to you. If your address changes at any time, you must file a NOTICE OF CHANGE OF ADDRESS form with the registry, and serve a copy of it on the other party.



Notice to:

Provide the name, address and telephone number of the other party, and of any other person who must be served with this notice. Normally this is only the other party.

Examples of other persons are:

- If you are asking for a document to be produced by a person who is not the other party, that person must be served.
- If the creditor is enrolled with the Family Maintenance Enforcement Program, the Director of Maintenance Enforcement must be served (by mail at the Director's post office box).



Where and When?

Ask the registry for a date and time when the court will hear the notice of motion.



What are You Asking for?

Check the appropriate box(es). Where the line you have checked indicates that details of the order are "as set out below" provide the details following "Details of order(s) requested".

Examples of order details are:

- an order that (*your name*) be given interim custody of the child(ren), (*name of child*), born (*date*), (*further names and birthdates as required*).
- an order that (*respondent's name*) pay to (*your name*) interim maintenance for the child(ren), (*name of child*), born (*date*), (*further names and birthdates as required*).
- an order for service on (*name of party*) by publication in (*number*) issues of the (*name of publication*).
- an order for production of (*name of the document*) by (*name of person who has the document*).



Note:

Use of affidavit is optional.



Sign your name, and state today's date.
State name of lawyer, if any.



NOTICE OF MOTION

In the Provincial Court of British Columbia

Court File Number:
FMEP Number:
Court Location:

Case name
as it appears on the application.

In the case between:

NAME _____

And:

NAME _____

Your current address for service.

Filed by:

NAME _____

ADDRESS FOR SERVICE _____ CITY _____

PROVINCE _____ POSTAL CODE _____ PHONE _____ FAX _____

Address for service of other party or of anyone else who must be served.

Notice to:

NAME _____

ADDRESS FOR SERVICE _____ CITY _____

PROVINCE _____ POSTAL CODE _____ PHONE _____ FAX _____

Where and When is this hearing? Obtain a date and time from the registry.

NAME OF PERSON MAKING APPLICATION _____ will apply to this court at

COURT LOCATION _____

on DATE _____ at TIME _____ for:

- Permission to file in the court registry at: _____
- An order transferring this file to the court registry at: _____
- An interim order under Section 9 of the *Family Relations Act* as set out below.
- A trial preparation conference.
- An order cancelling a subpoena.
- An order for the person named to produce records, as set out below.
- An order for blood or tissue samples for paternity tests to be taken from the person named below.
- Permission to use another service method, as set out below.
- An order for service of NAME OF DOCUMENT _____ by a peace officer.
- An order shortening or extending a "time limit", as set out below.
- Directions on a procedural matter, as set out below.
- An order for access to information under section 40 or 100 of the *Family Relations Act*.
- An order settling the terms of an order.
- An order changing as set out below, or cancelling, the attached order made in my absence.
- Other order, as set out below.

Details of order(s) requested

For examples of these details see instruction sheet.

Note:
Use of affidavit is optional.

Any affidavits in support of this notice of motion are attached.

Sign your name, and state today's date.

Dated DATE _____

Signature _____

State name of lawyer, if any

Name of lawyer of party bringing this motion _____

NOTICE OF MOTION

NOTICE OF MOTION

In the Provincial Court of British Columbia

Court File Number:
FMEP Number:
Court Location:

Case name

In the case between:

NAME _____

And:

NAME _____

Filed by:

NAME _____

ADDRESS FOR SERVICE _____

CITY _____

PROVINCE _____

POSTAL CODE _____

PHONE _____

FAX _____

Notice to:

NAME _____

ADDRESS FOR SERVICE _____

CITY _____

PROVINCE _____

POSTAL CODE _____

PHONE _____

FAX _____

Who is bringing this notice of motion to the court? Note this person's address for service.

Where and

When is this hearing? If you wish to respond to this motion you must appear at this date, time and place and tell the judge your position regarding this motion.

What order is being asked for?

Important: if you do not appear the judge may hear the motion in your absence and may make any order requested in the Notice of Motion if the judge thinks it is fair to do so in your absence.

NAME OF PERSON MAKING APPLICATION _____ will apply to this court at

COURT LOCATION _____

on DATE _____ at TIME _____ for:

- Permission to file in the court registry at: _____
- An order transferring this file to the court registry at: _____
- An interim order under Section 9 of the *Family Relations Act* as set out below.
- A trial preparation conference.
- An order cancelling a subpoena.
- An order for the person named to produce records, as set out below.
- An order for blood or tissue samples for paternity tests to be taken from the person named below.
- Permission to use another service method, as set out below.
- An order for service of NAME OF DOCUMENT _____ by a peace officer.
- An order shortening or extending a "time limit", as set out below.
- Directions on a procedural matter, as set out below.
- An order for access to information under section 40 or 100 of the *Family Relations Act*.
- An order settling the terms of an order.
- An order changing as set out below, or cancelling, the attached order made in my absence.
- Other order, as set out below.

Details of order(s) requested

Any affidavits in support of this notice of motion are attached.

Dated DATE _____

Signature

Name of lawyer of party bringing this motion

NOTICE OF MOTION

NOTICE OF MOTION

In the Provincial Court of British Columbia

Court File Number:
FMEP Number:
Court Location:

Case name

In the case between:

NAME _____

And:

NAME _____

Filed by:

NAME _____

ADDRESS FOR SERVICE _____

CITY _____

PROVINCE _____

POSTAL CODE _____

PHONE _____

FAX _____

Notice to:

NAME _____

ADDRESS FOR SERVICE _____

CITY _____

PROVINCE _____

POSTAL CODE _____

PHONE _____

FAX _____

Who is bringing this notice of motion to the court? Note this person's address for service.

Where and

When is this hearing? If you wish to respond to this motion you must appear at this date, time and place and tell the judge your position regarding this motion.

What order is being asked for?

Important: if you do not appear the judge may hear the motion in your absence and may make any order requested in the Notice of Motion if the judge thinks it is fair to do so in your absence.

NAME OF PERSON MAKING APPLICATION _____ will apply to this court at

COURT LOCATION _____

on DATE _____ at TIME _____ for:

- Permission to file in the court registry at: _____
- An order transferring this file to the court registry at: _____
- An interim order under Section 9 of the *Family Relations Act* as set out below.
- A trial preparation conference.
- An order cancelling a subpoena.
- An order for the person named to produce records, as set out below.
- An order for blood or tissue samples for paternity tests to be taken from the person named below.
- Permission to use another service method, as set out below.
- An order for service of NAME OF DOCUMENT _____ by a peace officer.
- An order shortening or extending a "time limit", as set out below.
- Directions on a procedural matter, as set out below.
- An order for access to information under section 40 or 100 of the *Family Relations Act*.
- An order settling the terms of an order.
- An order changing as set out below, or cancelling, the attached order made in my absence.
- Other order, as set out below.

Details of order(s) requested

Any affidavits in support of this notice of motion are attached.

Dated DATE _____

Signature _____

Name of lawyer of party bringing this motion _____

NOTICE OF MOTION

NOTICE OF MOTION

In the Provincial Court of British Columbia

Court File Number:
FMEP Number:
Court Location:

Case name
as it appears on the application.

In the case between:

NAME _____

And:

NAME _____

Your current address for service.

Filed by:

NAME _____

ADDRESS FOR SERVICE _____ CITY _____

PROVINCE _____ POSTAL CODE _____ PHONE _____ FAX _____

Address for service of other party or of anyone else who must be served.

Notice to:

NAME _____

ADDRESS FOR SERVICE _____ CITY _____

PROVINCE _____ POSTAL CODE _____ PHONE _____ FAX _____

Where and When is this hearing? Obtain a date and time from the registry.

I, NAME OF PERSON MAKING APPLICATION will apply to this court at

COURT LOCATION

on DATE at TIME for:

- Permission to file in the court registry at: _____
- An order transferring this file to the court registry at: _____
- An interim order under Section 9 of the *Family Relations Act* as set out below.
- A trial preparation conference.
- An order cancelling a subpoena.
- An order for the person named to produce records, as set out below.
- An order for blood or tissue samples for paternity tests to be taken from the person named below.
- Permission to use another service method, as set out below.
- An order for service of NAME OF DOCUMENT by a peace officer.
- An order shortening or extending a "time limit", as set out below.
- Directions on a procedural matter, as set out below.
- An order for access to information under section 40 or 100 of the *Family Relations Act*.
- An order settling the terms of an order.
- An order changing as set out below, or cancelling, the attached order made in my absence.
- Other order, as set out below.

Details of order(s) requested

For examples of these details see instruction sheet.

Note:
Use of affidavits is optional.

Any affidavits in support of this notice of motion are attached.

Sign your name, and state today's date.

Dated DATE _____

Signature _____

State name of lawyer, if any

Name of lawyer of party bringing this motion

NOTICE OF MOTION

Complete this affidavit if personal service was successful.

If you served the notice of motion on the back of this page together with another document(s), you need to complete only one affidavit of personal service, listing all documents served on the person named.

Check box(es) for each document served, and name the document. Make sure you mark each attached document with the correct Exhibit letter.

If you must make a correction, or cross anything out, please initial.

This section must be sworn or affirmed before a Commissioner for Taking Affidavits.

AFFIDAVIT OF PERSONAL SERVICE (FORM 5)

In the Provincial Court of British Columbia

I swear or affirm that I _____ NAME _____ OCCUPATION _____

of _____ ADDRESS _____ personally served _____ NAME OF PERSON SERVED _____

on _____ DATE _____ at _____ ADDRESS _____

with a copy of the following documents:

- the notice of motion on the back of this page
- EXHIBIT "___"
- EXHIBIT "___"
- EXHIBIT "___"
- EXHIBIT "___"

The party was identified to me in this manner:

- I know the person
- He/she admitted to being this person.
- Other (specify) _____

Sworn or affirmed before me

at _____ British Columbia

on _____ DATE _____

Signature

A Commissioner for Taking Affidavits for British Columbia

Complete this notice of motion if you served the notice of motion by mail, by fax or by substituted service.

If you served the notice of motion on the back of this page together with another document(s), you need to complete only one affidavit of service, listing all documents served on the person named.

Check appropriate box(es) for each document served and name the document. Make sure you mark each attached document with the correct Exhibit letter.

If you must make a correction, or cross anything out, please initial.

This section must be sworn or affirmed before a Commissioner for Taking Affidavits.

AFFIDAVIT OF SERVICE (FORM 13)

In the Provincial Court of British Columbia

I swear or affirm that I _____ NAME _____ OCCUPATION _____

of _____ ADDRESS _____ served _____ NAME OF PERSON SERVED _____

on _____ DATE _____ at _____ ADDRESS _____

with a copy of the following documents:

- | <input type="checkbox"/> | Name of document |
|--------------------------|---|
| <input type="checkbox"/> | the notice of motion on the back of this page |
| <input type="checkbox"/> | EXHIBIT "___" |
| <input type="checkbox"/> | EXHIBIT "___" |
| <input type="checkbox"/> | EXHIBIT "___" |
| <input type="checkbox"/> | EXHIBIT "___" |

The party was served in this manner:

- Fax (attach a copy of Form 10)
- Mail
- By substituted service as ordered by the court.

Sworn or affirmed before me

at _____ British Columbia

on _____ DATE _____

Signature

A Commissioner for Taking Affidavits for British Columbia