Discovery Process

This guidebook provides general information about civil, non-family claims in the Supreme Court of B.C. It does not explain the law. Court staff (and this guidebook) can only give you legal information, not legal advice. They will tell you how to do something, but not whether you should do it or why you might want to do it. Legal advice must come from a lawyer.

Where You Can Get Help With Your Case

Information if You Represent Yourself

The BC Supreme Court Self-Help Information Centre (**www.supremecourtselfhelp.bc.ca**) provides legal information, education, and referral services for family and civil (non-family) cases for unrepresented litigants who are involved in civil actions in the Vancouver location of the Supreme Court of British Columbia.

Legal Advice

You may be eligible for free (pro bono) legal advice. Services are listed under *legal advice* on the website for the BC Supreme Court Self-Help Information Centre.

Rules of Court

The Rules of Court govern the conduct of litigation in the Supreme Court of BC. Not only do they ensure fairness to all parties involved in a lawsuit, they will guide you through every step of your case and set time limits for when certain steps must be done. You can find these Rules at the courthouse library, or on the court's website at **www.courts.gov.bc.ca**. (Once you are on the Supreme Court page, click on the link for Supreme Court Act, Rules and Forms.)

Forms

Official court documents (called court forms) must be used when you bring a dispute to court. You can print out blank forms for use in your lawsuit from the Supreme Court website. Go to **www.courts.gov.bc.ca**. (Once you are on the Supreme Court page, click on the link for Supreme Court Act, Rules and Forms).

For information about family law claims, go to **www.familylaw.lss.bc.ca**.

Before you start your claim, you should consider talking to a lawyer to help you understand the law and the procedures that might apply to your case. You may be eligible to obtain free (pro bono) legal advice.

If you do not have a lawyer, you will have to prepare your case and do the legal research to represent yourself. You will have to do all the things a lawyer would do and it will not be easy. You will need to learn about:

- the court system;
- the law that relates to your case;
- what you and the other side need to prove;
- the possible legal arguments for your case.

You will also need to know about the Rules of Court and the forms that must be used in your lawsuit. If you do not understand these things, you might miss something (i.e. a deadline) and hurt your case. If you sue and lose, you might be ordered to pay the costs of the other party.

Discovery Process

The discovery process is the way you (and the other party) discover what happened in your case. This process is like a roadmap allowing you to see when and where things happened. Discovery is a very important process because it allows you to collect the information necessary to assess the strengths and weaknesses of both your case and the case of the opposing party.

Several aspects of the discovery process are covered in this guidebook; the focus is on Rules 26, 27, 28, 29 and 31. This guidebook provides only a general overview of these Rules and does not cover every part of the discovery process. You will need to do more research on the law and Rules that apply to your specific case if you wish to take any of the steps described in this guidebook.

The discovery process is only available in actions (claims that are started by a writ of summons and statement of claim). This process is not available in originating applications (claims started by a petition).

There are several possible steps in the discovery process, although it may not be necessary for you to take all of these steps in your proceeding:

- **Discovery of documents** – this requires you to disclose to the other parties in the proceeding all of the documents in your possession or control that relate to the case. The other parties will do the same thing. You do this by providing a list of your documents.

- **Examination for discovery** – this is a meeting where one party asks an opposing party a series of questions. The examination takes place in the presence of a court reporter who records each question and its answer and then provides a transcript (a written record) of the examination. The party answering questions must take an oath or give an affirmation that they will tell the truth at the discovery. No judges or court officials are present during the examination for discovery.

- **Interrogatories** – this is a series of written questions provided to the other party for answer in writing. Interrogatories tend to be used for questions that are relatively straightforward to answer. The answers must be provided in the form of an affidavit. An affidavit is a document setting out the evidence of a person who gives an oath or affirmation that the facts in the affidavit are true.

- **Pre-trial examination of witnesses** – this process is used if there is a witness to the proceeding who is not a party to the action. The examination is similar to an examination for discovery in that it takes place in the presence of a court reporter and a transcript is provided. Again, the witness must give an oath or affirmation to tell the truth during the examination.

- **Notices to admit** – notices to admit (although not officially part of the discovery process) allow you to take the information and documents you have discovered and place them into a document to send to the other party who will then admit or deny the information and documents you provide. This helps speed up the trial by eliminating the need for you to bring witnesses to the trial to prove the information or documents that have been admitted by the other party.

In every proceeding where there are documents that are relevant to your case, you will need to prepare a list of documents and ask the other parties to do the same. In most cases, you also will need to examine someone

for discovery and be examined for discovery yourself. Interrogatories, pre-trial examination of witnesses, and notices to admit are less frequently used but may also be appropriate in your particular case.

None of these documents need to be filed with the court registry, although each of them will need to be delivered to the other parties to the proceeding.

You may want to consult a lawyer before beginning the discovery process. A lawyer can give you important information and advice about how to find out what you need to know about the other party's case, as well as how much information you must disclose to the other parties in your proceeding.

The discovery process is different for expedited litigation under Rule 68. If your action is subject to Rule 68 you should read the rule carefully and refer to the guidebook called *Expedited Litigation in Supreme Court – Rule 68*.

Use of Documents Obtained in the Discovery Process

All the parties to a lawsuit have a very serious obligation to use the documents that are produced through the discovery process (including copies of records, transcripts of examinations for discovery, and answers to interrogatories) *only* for the proper purposes of the proceeding. There are only two exceptions to this:

- Where a party has obtained permission from the court to use the document for a different purpose; and,
- Where the party to whom the document belongs has given consent that the document can be used for another purpose.

This obligation is to the court, and a party who fails to meet it (for example, by circulating documents to people outside the case or by using documents from a particular proceeding for a different case) can be held in contempt of court, which has serious consequences.

Discovery of Documents

Rule 26 sets out the requirements for discovery and inspection of documents. You can find a copy of this Rule at any courthouse library or on the websites listed at the beginning of this guidebook. Rule 26 allows you to get access to the documents of the other party that are relevant to your case and requires you to allow the other parties to see your relevant documents. The test for whether a document should be disclosed is whether it relates to a "matter in question" in the case. A "matter in question" is an issue raised by a party in the pleadings (that is the statement of claim, the statement of defence and, if applicable, the third party notice.)

Finding and listing documents that relate to a matter in question begins the discovery process and also begins your preparation for trial. You need to search all your files – paper and electronic – and find everything that relates to your case.

Rule 1 sets out the definition of "documents." Documents can be photographs, films, sound recordings, any record of a permanent or

semi-permanent character, or any information recorded or stored by any means. So when you're looking for documents, make sure you think of disks, tapes, and computer files, as well as photographs and films. Think of a document as anything that:

- teaches you something;
- you can learn something from; or
- gives you information.

Some of the documents you find may be privileged and that means that the other party is not entitled to see them. For example, communications between a lawyer and his or her client are privileged. If you consulted with lawyer about your case and received a letter from the lawyer that gave you some advice about the case, the letter would be a privileged document and you would not be required to give a copy of it to the other party. Other privileged documents are those created for the main purpose of helping you prepare to take your case to court. For example, if you met with a mechanical engineer to get some advice about an aspect of your case and took notes of your meeting, you could claim that the notes were privileged.

You may want to talk with a lawyer about the law relating to privileged documents, as it might be difficult for you to determine which documents are privileged. You may harm your case if you disclose privileged documents.

One of the important things to remember about documents is that you must continue to disclose documents right up to the trial, and even during the trial. You may find documents in places or with people you did not think about when you prepared the first list and those documents must also be disclosed. If you find a document after you have provided your list of documents to the other parties, you need to do a supplemental list to disclose that document to the other parties.

Rule 26 does not apply to expedited litigation under Rule 68. If your case is subject to Rule 68, make sure you read that rule carefully. You may refer to the guidebook called *Expedited Litigation in Supreme Court – Rule 68* for more information on disclosure of documents under Rule 68.

Demand for discovery of documents

You begin the discovery of documents process by issuing a Demand for Discovery of Documents (Form 92). The demand asks for all documents that are or have been in a party's possession or control, which relate to every matter in question in the action. The documents must be disclosed within 21 days of receipt of the demand.

A copy of the Demand for Discovery of Documents is attached to this guidebook.

Issue your Demand for Discovery of Documents as early as possible. Remember to:

- send a demand to every party in the proceeding. If you are the plaintiff and there is more than one defendant, then send the demand to every defendant. (Similarly, it you are the defendant and there is more than one plaintiff, send the demand to every plaintiff); and,
- send a demand to third parties (if there are any);

How do I prepare a list of documents?

You need to list the documents once you have decided which documents relate to the issues in your case and need to be disclosed. The easiest and most practical way to do this is to compile the documents into a chronological list (in date order) and then number them, starting at 1. A list of documents has three parts:

Part I: Documents that you do not object to producing. These are all the documents in your possession or control that relate to the issues in your case and the other parties are entitled to see. These documents should be listed in this part in some convenient manner (for example, "contract of employment, dated September 2004").

Part II: Documents related to the issues in your case that are in your power and control but are not in your possession. These are documents that you know exist but you no longer have. These may also be documents that you know someone else has but you can obtain and might include, for example, documents that are with your bank, your accountant, or your doctor.

Part III: These are privileged documents. If there are documents in your possession that you claim are privileged, you must set out the basis for making that claim (see Rule 26(2)) in your list of documents. You also must describe the nature of the document over which you are claiming privilege (for example, a letter from a lawyer, John Brown, dated March 1, 2005). However, you are not required to reveal any privileged information to describe the document (see Rule 26(2.1)).

The law relating to the disclosure of documents can be complicated. For that reason, you may wish to consult a lawyer to make sure that you are disclosing all the documents you should disclose and you are not disclosing documents you should not.

The list of documents must also set out a location where your documents can be examined.

Put all the documents (except any privileged documents) in a convenient file or three- ring binder and keep them available. The other parties are entitled to come and look at the documents and can ask you to have copies of all or certain documents made for them. You are entitled to do the same. When you go to review the other party's documents, make a list of any documents you think are important to your case and get copies made of those documents for your files.

Examinations for Discovery

Examinations for discovery are another tool you can use along with document discovery to learn about the facts of your case. These two processes – examinations for discovery and document discovery – are very important to preparing your case. They go hand in hand. Once you have documents, you can review them and determine what questions still need to be answered by the other party. Once you have finished an examination for discovery, you might want to request further documents.

Rule 27 covers examinations for discovery and sets out what you can and cannot do at an examination for discovery.

Examinations for discovery are conducted under oath – the same oath that witnesses take before giving evidence at a trial. As noted above, examinations for discovery take place in front of a court reporter so that a transcript can be prepared of all the evidence given. The transcript of the examination for discovery, or portions of it, may be used at trial.

If your action is subject to Rule 68 – Expedited Litigation Project Rule, examinations for discovery will only be allowed if both parties consent or the court orders. Any examinations for discovery are limited to 2 hours unless the parties agree or the court orders.

How do I arrange for the examinations for discovery?

You book an examination for discovery using an Appointment to Examine for Discovery (Form 20). A copy of this form is attached to this guidebook.

There are several things to consider when booking an examination for discovery:

- Who do you want to examine? If there is a single plaintiff or defendant, that is who you will want to examine. If the defendant or plaintiff is a company, you want to examine the person who knows most about the matters in question.

- When do you want to examine this person? You need to make sure that you are available, that the person you want to examine is available (and their lawyer, if they have one), and that you have booked a court reporter to prepare the transcript. If you are a plaintiff, you have to wait until after the time the defendant has to file a statement of defence has expired. If you are a defendant, you have to wait until after you have filed your statement of defence to examine the plaintiff. You cannot conduct an examination for discovery during the 14 days immediately before a trial unless you get an order from the court allowing you to do so (see Rule 27(1)).

- What do you want to ask? You might want to get advice from a lawyer to make sure you are asking questions of the other party that are both appropriate and admissible.

- What documents do you want to use in your discovery? You can bring listed documents (either yours or theirs) to the discovery and ask questions about these documents.

- What court reporter will you use? There are many court reporters and most of them will provide a boardroom that you can use for your discovery. Make sure you book the court reporter as early as possible as they are busy and their boardrooms are often booked up.

Do I have to pay anyone?

When you examine a person for discovery, you are required to pay them a witness fee. Schedule 3 of Appendix C to the Rules of Court sets out the fees payable to witnesses.

Make sure that you know how much it will cost you to examine the witness before you go ahead with the discovery. If the witness lives out of town, you will have to pay for their travel expenses, a per diem (per day) rate for meals, and a hotel if they have to stay overnight. Ask a lawyer for advice about this if you are concerned about the cost of your witness.

What questions can be asked?

Questions on examinations for discovery can be quite broad and can be asked about anything that is relevant to your case.

In some cases, the person being examined cannot answer a question right away and you might need to ask him or her to go away to find out the answer after the examination. These types of questions are called undertakings.

You can ask the person being examined the names and addresses of other people who might have information relevant to the proceeding.

The party being examined may refuse to answer a question. These are called objections. If the party asking the question

does not believe that an objection is appropriate, he or she may schedule a chambers application after the examination to ask the court to direct the person to answer the question.

How do I prepare for an examination for discovery?

It is a good idea to prepare a script of the questions you wish to ask so you do not forget to ask any important questions. Typically, all discoveries begin with asking the person being examined to state their name, address, and occupation.

You normally have only one opportunity to conduct an examination for discovery so you need to make it count. This may be a good time to consult a lawyer. A lawyer can help you with the types of questions you can ask or the types of questions you might be asked. A lawyer will also be able to give you information about what questions you should ask, or what to do if you don't know the answer or you think the answer is privileged.

How to I get a transcript of the examination for discovery?

When you have examined another party and have paid the required fees, the court reporter will provide you with an original transcript and as many copies (both electronic and paper) as you have ordered. If you decide to use all or any part of this transcript at trial, you will need to provide the court with the original, so you will want to put this away in a safe place and use a copy.

Transcripts are set out in a question and answer format, with each question and answer being numbered in chronological order.

The transcripts also set out any questions that have been left outstanding (the undertakings). These questions are those where the person had to find out information or needed to look at documents to find out the answer. You will want to keep track of these questions and make sure they are answered later. This is true whether you are the person being examined or the person doing the discovery.

Interrogatories

The requirements for interrogatories are set out in Rule 29. Interrogatories must be prepared by using Form 22, a copy of which is attached to this guidebook. You cannot use interrogatories in fast track litigation (Rule 66) cases or expedited litigation (Rule 68) cases.

You can deliver interrogatories to any party in the action and they must be replied to within 21 days of delivery. Answers to interrogatories are delivered in the form of an affidavit, so the party answering the questions swears to the truth of the answers. If there are more than two parties in your case but you wish only to send interrogatories to one party, you are required to send a copy of the interrogatories to all other parties for their information.

Interrogatories:

- must be relevant to a matter in issue in the proceeding;
- should not include a request for documents;
- should not be used to obtain the names of witnesses.

Interrogatories are generally used to obtain admissions of facts, or at least information, to establish your case, and provide a basis for questions at examination for discovery. If your interrogatory questions are well planned, they can shorten trials or examinations for discovery and reduce the cost of your litigation.

You will not want to use interrogatories in every case, but they are useful in cases where, for example, the following matters are involved:

- numbers;
- data;
- bank accounts;
- inventory;
- contents of a house; or
- customers of a particular company.

These are examples, but interrogatories are often useful when you need specific, precise, factual information. Asking for this information by interrogatory means you don't need to spend the time asking these questions at an examination for discovery where the person you ask will likely have to go away and find the answers.

Again, deciding whether or not to use interrogatories may be something you can discuss with a lawyer. A lawyer can help you decide whether you should ask particular questions in person or by interrogatory.

When you receive the answers to your interrogatories, make sure that they gave you the answers you require, or provided you with a reasonable explanation as to why they did not answer your questions. Rule 29 sets out some reasons why interrogatory questions do not need to be answered. These are called objections and must also be included in the affidavit that is required in response to the interrogatories within 21 days after delivery.

If interrogatories are delivered to you, make sure that you respond to them within 21 days. Because you have to answer interrogatories by affidavit, you need to see a lawyer or a notary to swear your affidavit.

Pre-trial Examination of Witnesses

Pre-trial examination of witnesses is dealt with in Rule 28. You can use this process when you need information from someone who is not a party to the proceeding and you cannot get this information any other way. This would apply when the witness will not respond to your letters or telephone calls, so you need to compel him or her to answer your questions. You cannot conduct pre-trial examinations of witnesses in expedited litigation (Rule 68) cases.

You must conduct an examination for discovery, not a pre-trial examination of a witness, if a person is:

- a party to the proceeding;
- an officer or director of a party to the proceeding; or
- a partner of a party to the action.

In order to examine a witness under Rule 28 you must first get an order from the court. So if a person refuses to answer your questions, you must apply in chambers (see the guidebook called *Chambers Applications* for information on how to do this) to get the court to order the person to attend at an examination. You will have to serve notice of the application on the witness you are seeking to examine at least seven days before the application is heard in court. For information on how to serve a document, see Rule 11 and the guidebook called *Starting a Civil Proceeding in Supreme Court*.

If you get an order from the court to examine the witness, you will need to prepare and serve a subpoena in Form 21. If you need this document, you can find it at any courthouse library or at the websites set out at the beginning of this guidebook.

This procedure is rarely used and if you think it is going to be necessary in your case, you will want to consult a lawyer to make sure that there is no other way to get the information you require and that the cost and time required to make a chambers application is going to be worth it.

Notice to Admit

Notices to admit can help to expedite your case, shorten your trial, and cut down on the expense of the litigation because they allow both parties to admit to certain facts and documents. The admitted facts and documents are no longer in issue in the proceeding.

The practical part of a notice to admit is straightforward. You set out facts and attach documents and ask the other party to admit the truth of the facts and the authenticity of the documents. The person receiving the notice to admit can either admit or deny the facts or documents.

Notices to admit can be delivered to any other party in the proceeding. They are dealt with in Rule 31 and Form 23. A copy of Form 23 is attached to this guidebook. Parties have 14 days to respond to a notice to admit.

Like a list of documents, set out each fact and document in separately numbered paragraphs. This makes it easier to respond to the notice to admit. The other party can answer each question by setting down the number of the question and then stating one of these two answers: admitted or denied. If the answer is admitted, that single word is all that is required. If the answer is denied, you need to set out the reason why it is denied.

There is no official form for a response to a notice to admit, but you can simply take the form of the notice to admit and include the one-word response in that form.

Notices to admit are a very good tool to help you prepare for trial. A well-drafted notice to admit makes preparing for trial much easier, so you may want to consult with a lawyer once you have prepared your notice to admit, to make sure that it is in good form and will get the results you want.

Rule 31(2) imposes a very important time limit. If you do not reply to a notice to admit within 14 days, you are deemed to have admitted the facts contained in the notice to admit. Those facts may be very important and it is difficult to withdraw an admission, even a deemed one, once it is made.

For the next steps, see the guides called:

Fast Track Litigation in Supreme Court – Rule 66

Chambers Applications in Supreme Court

Summary Judgment and Summary Trial in Supreme Court

Preparing for Trial and Trial in Supreme Court

Alternatives to Trial in Supreme Court

Expedited Litigation in Supreme Court - Rule 68

For definitions of common court terms, see the guidebook called:

Common Supreme Court Terms

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Appendix 1: DEMAND FOR DISCOVERY OF DOCUMENTS

Form 92 (Rule 26 (1))

[insert style of proceeding, including the registry number]

DEMAND FOR DISCOVERY OF DOCUMENTS **[(1)]**

(1) Use a separate demand for each party.

TO: **[insert name of plaintiff or defendant]**

TAKE NOTICE that the **[insert the word "defendant" or "plaintiff" and if there is more than one plaintiff or defendant, insert the name of the party]** demands that you make discovery of all documents which are or have been in your possession or control relating to any matter in question in this action within 21 days from the delivery of this demand.

Dated at British Columbia this day of 20
[Insert date signed]

sign_______________________________
[type or print your name]

TO:

AND TO:

THIS DEMAND FOR DISCOVERY OF DOCUMENTS is prepared by **[insert your name, address, telephone and fax number (if you have one)]**.

Appendix 2: LIST OF DOCUMENTS

Form 93 (Rules 26 (1) and 66 (11))

[insert style of proceeding, including registry number]

LIST OF DOCUMENTS OF **[insert your name] [1]**

PART I. DOCUMENTS TO WHICH THERE IS NO OBJECTION TO PRODUCTION:

[(2)]

1.

2.

3.

4.

5.

PART II. DOCUMENTS WHICH HAVE BEEN BUTARE NOT NOW IN POSSESSION OR CONTROL:

[(3)]

1.

2.

PART III. DOCUMENTS FOR WHICH PRIVILEGE FROM PRODUCTION IS CLAIMED[*State grounds of privilege*]:

[(4)]

1.

2.

TAKE NOTICE that the documents listed in Part I may be inspected during normal business hours at **[insert location of documents]**

Dated **[Insert date signed]** ________sign______________

[type or print your name]

TO: **[insert name of the person to whom you're sending the list]**

THIS LIST OF DOCUMENTS is prepared by **[insert your name, address, telephone and fax number (if you have one)].**

(1) You may prepare more than one list of documents as you discover more documents. Number each list consecutively: list of documents, first supplemental list, second supplemental list, etc.

(2) This portion of the list is for documents you wish to produce. They should be listed in date order.

(3) If there are no documents you know of that you do not have, use the single word "nil".

(4) Decisions with respect to privilege are complex ones. If you have questions about which documents may be privileged, you should consult with a lawyer.

Appendix 3: APPOINTMENT TO EXAMINE FOR DISCOVERY

FORM 20 (RULE 27 (16))

[insert style of proceeding, including registry number]

APPOINTMENT TO EXAMINE FOR DISCOVERY

To **[Insert name of party being examined (1)]**
[Insert address (2)]

TAKE NOTICE that you are required to attend for your examination for discovery at the time, date, and place set out below. Unless the court otherwise orders, you are required to bring with you all documents in your possession or control relating to the matters in question in this action. Please note the provisions of the Rules of Court reproduced on the back of this appointment.

Time: **[Insert time, e.g. 9:30 a.m. or 2:00 p.m.]**

Date **[Insert day, month year, e.g. Friday, October 24, 2003]**

Place **[Insert location (3)]**

Dated **[Insert date signed]** __[sign]______________________
[Type or print your name]

THIS APPOINTMENT TO EXAMINE FOR DISCOVERY is prepared by **[insert your name, address, telephone and fax number (if you have one)].**

[Insert: cc: Court Reporters (4)]

Rules 2 (5) and 56 (4) of the Rules of Court state in part:

2 (5) Where a person, contrary to these rules and without lawful excuse,

(a) refuses or neglects to obey a subpoena or to attend at the time and place appointed for his or her examination for discovery,

then

(f) where the person is the plaintiff, petitioner, or a present officer of a corporate plaintiff or petitioner, or a partner in or manager of a partnership plaintiff or petitioner, the court may dismiss the proceeding, and

(g) where the person is the defendant, respondent or a third party or a present officer of a corporate defendant, respondent or third party, or a partner in or manager of a partnership defendant, respondent or third party, the court may order the proceeding to continue as if no appearance had been entered. . . .

56 (4) A person who is guilty of an act or omission described in Rule 2 (5), or Rule 40 (19), in addition to being subject to any consequences prescribed by those rules, is guilty of contempt of court and subject to the court's power to punish contempt of court.

(1) Insert name of person to be examined. If the person is a representative of a party, state: Joe Smith, as representative of Smith Ltd.

(2) Provide the address of the person being examined. If the person is represented by a lawyer, insert the address of the lawyer.

(3) Indicate the precise location of the discovery, including suite number. Include the business name associated with the location, such as a court reporter's office or a lawyer's office.

(4) Send a copy of the appointment to the court reporters for their information. They need the date, time and location of the discovery and the style of proceeding and name of counsel. The appointment provides them all this information in one place.

Appendix 4: INTERROGATORIES

FORM 22 (RULE 29 (1))

[insert style of proceeding, including registry number]

INTERROGATORIES

Interrogatories on behalf of **[insert the name of the party preparing the interrogatories (1)]** for the examination of **[insert the name of the party who is to answer the interrogatories (2)]:**

[*Set out numbered questions to be answered specifying the person to answer, if the questions are directed to more than one person*.]

[set out the questions to be answered (3)].

Dated **[Insert date signed]**

________sign_______________

[Type or print your name]

THESE INTERROGATORIES are prepared by **[insert your name, address, telephone and fax number (if you have one)].**

(1) Make it clear who the party preparing the interrogatories is: e.g., the plaintiff, Joe Smith; the defendant, Smith Ltd.

(2) Make it clear who is required to answer the interrogatories: e.g. , the plaintiff, Joe Smith; the defendant, Smith Ltd. Prepare separate interrogatories for each person.

(3) List the questions in numbered paragraphs, one question to each paragraph. If you know who should answer the question, state that.

Appendix 5: NOTICE TO ADMIT

FORM 23 (RULE 31 (1))

[insert style of proceeding, including the registry number]

NOTICE TO ADMIT

TAKE NOTICE that **[insert name of party (1)]** requests **[insert name of party (2)]** to admit, for the purpose of this proceeding only, the facts set out below and the authenticity of the documents referred to below, copies of which are attached.

AND TAKE NOTICE that, unless the court otherwise orders, if the party to whom this notice is directed does not deliver a written statement, as provided in Rule 31 (2) within 14 days after delivery of a copy of this notice to him or her, then the truth of the facts and the authenticity of the documents shall be deemed to be admitted.

Dated **[Insert date signed]** __________sign______________

[Type or print your name]

THIS NOTICE TO ADMIT is prepared by **[insert your name address, telephone and fax number (if you have one]**.

The facts, the admission of which is requested are
[set out facts to be admitted (3)]

The documents, the authenticity of which admission is requested, are: **[list the documents (4)]**

(1) Make it clear who the party preparing the notice to admit is: e.g. the plaintiff, Joe Smith; the defendant, Smith Ltd.

(2) Make it clear who is to reply to the notice to admit: e.g. the plaintiff, Joe Smith; the defendant, Smith Ltd. Prepare separate notices for each person.

(3) Use a separate numbered paragraph for each fact requested to be admitted.

(4) Use a separate numbered paragraph for each document. Include all description necessary to identify the document, e.g. use the number from a list of documents; use an exhibit number from a discovery. Attach copies of the documents to the notice to admit.