

# Chambers Applications

*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](http://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](http://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](http://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](http://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.

# Chambers Applications

**T**his guidebook contains an overview of the procedure for chambers applications. There are several Rules which affect chambers applications and you need to familiarize yourself with all of them (see Rules 44, 51, 51A, 52 and 53). They can be found at any courthouse library or at the websites set out at the beginning of this guidebook. This guidebook does not cover every aspect of those Rules. You will need to do more research on the law and the Rules that apply to your specific case if you want to make a chambers application to the court.

## What are chambers applications?

A chambers application is the process of asking the court to make an order to resolve issues that come up in your case before the trial or settlement. However, depending on the type of application you make, a chambers application can also result in a final decision in your case. For example, in proceedings that are commenced with a petition, the matters raised in the petition are heard and finally determined in chambers.

The term “chambers” is used to describe a type of hearing that is different from a full trial where evidence is given through witnesses. Chambers applications differ from trials because:

- evidence is generally presented in the form of affidavits;
- lawyers and the judge do not wear robes; and
- they can be scheduled for any day on which the court sits in chambers; trial dates have to be reserved with the registry.

In proceedings that start with a writ of summons and statement of claim, chambers applications usually deal with procedural issues that come up as your case progresses through the system. For example, you may believe another party has documents he or she hasn't produced or you may be having trouble getting another party to show up at an examination for discovery. In this case, you can apply to the court for an order that the party produce documents or show up at an examination for discovery. These are practical problems that can come up in moving your case forward and they are often the subject of chambers applications.

All interlocutory applications are heard in chambers. Interlocutory applications are applications where the court is asked to make an order which, in most cases, is not a final one. An order is interlocutory if it does not make a final decision about the rights of the parties regarding the claim or defence set out in the pleadings. An interlocutory order usually directs one or more of the parties to carry out a step in the proceeding before the trial is heard (for example, to produce a particular document).

Some applications heard in chambers are for final orders, such as a summary trial under Rule 18A. For more information about summary trials, see the guidebook called *Summary Judgment and Summary Trial*.

If your action is under Rule 68 - Expedited Litigation Project Rule, you are not allowed to make an interlocutory application unless a case management conference or a trial management conference has been held. However, interlocutory applications are allowed under Rule 68 if:

- Both parties consent;
- The application is for Rule 68 to no longer apply;

- The application is made under Rule 18 (Summary Judgment) or Rule 19(24) (Scandalous, Frivolous or Vexatious Matters);
- The application is to add, remove or substitute a party in the action; or
- The application is for the judge or master to relieve the party from the limitation because the limitation is impractical or unfair, or the application is urgent.

For more information about expedited litigation see the guidebook called *Expedited Litigation in Supreme Court – Rule 68*.

## What do I need to think about before making a chambers application?

If you think you have a problem in your case that could be resolved by a court order and you have been unable agree with the other party how to resolve it, you may want to consider consulting a lawyer to get some help preparing for a chambers application. Because you will have to appear before the

court, chambers applications are somewhat similar to trials and you will want to make sure that:

- you know that the problem you're trying to solve is one that can be resolved by a chambers application;
- you understand the law and the Rules governing your application;
- you have followed all the Rules and met all the deadlines governing chambers applications;
- you have all the correct documents; and
- you are prepared to argue your application before a judge or a master.

A lawyer can help you determine whether you need to go to chambers, find the law that applies to your problem, and complete the proper forms.

Remember that preparing for and attending at a chambers application will cost you time and money. Try to resolve the problem first without resorting to an application.

## Rules

There are several Rules governing chambers applications and you will need to understand how each of them applies to your case.

- Rule 44 sets out what documents need to be prepared and delivered to the other parties and the time limits that apply.
- Rule 51 sets out how affidavits must be prepared and filed with the court.
- Rule 51A sets out how the documents for a chambers application are filed and how

applications are scheduled to be heard by the court.

- Rule 52 sets out what kind of orders the court can make with respect to chambers applications.
- Rule 53 sets out what masters can deal with and how to appeal a master's decision.

Read each of these Rules before preparing your chambers application.

## Who Hears Chambers Applications?

Both judges and masters hear chambers applications; however, in most cases a master will hear your application.

When preparing the documents for your application, you must state whether your application is within the jurisdiction of (in other words, can be heard by) a judge or master. In general, a master cannot hear an application that results in a final order. This

means that you would not appear before a master for a summary trial. Make sure that you know whether your application needs to be heard by a judge. If you appear before a master who cannot hear your application, you will be forced to reschedule your hearing. The registry staff may be able to help you determine whether a judge or a master should hear your application.

## How do I Prepare for a Chambers Application?

You start a chambers application by preparing a document called a notice of motion (Form 55). This document tells the court and the other parties what order you want the court to make. However, if a petition was filed to start the proceeding, this petition is what starts the chambers application and it serves the same function as a notice of motion.

A large part of preparing for a chambers application is preparing the evidence that will be considered by the judge or master in deciding whether to grant the order requested in the application. All the evidence in chambers is presented to the court by affidavit. For this reason, you must document and keep organized everything you do to try to resolve the procedural issues you may have with the other party. Keep copies of all your request letters (including fax confirmations and/or delivery slips) and make notes of telephone calls you've made. These documents may form part of the affidavit you prepare for your application.

One of the most useful things you can do to prepare yourself to appear before the court on a chambers application is to spend some time watching chambers hearings so you understand how applications are presented in court. In larger centres, chambers are held

every day or on set days throughout the week. You can contact the registry to find out when chambers court is scheduled in your location. Courtrooms, while in session, are open to the public and you are welcome to attend to observe the proceedings.

### (a) What documents do I need to prepare?

There are several documents you need to be familiar with when you begin to prepare your chambers application. Copies of these documents are attached to this guidebook and can be found at the websites set out at the beginning of the guidebook. They are:

#### Notice of motion (Form 55)

You begin a chambers application by preparing and delivering a notice of motion to the other parties. If you prepare and deliver the notice of motion, you are the applicant. If you receive a notice of motion from another party, you are the respondent.

- The first part of the notice of motion sets out whom you are serving with the documents, the address of the court where the application will be heard, and whether the application is before a judge or a master.

- o In almost all cases, your chambers application should be heard in the courthouse where the writ of summons and statement of claim were filed. If you want to have the motion heard somewhere else, see Rule 44(14) for information about changing the place of the hearing.
- The next part of the notice of motion sets out the order you are asking the court to make. This information should be set out in numbered paragraphs. The notice of motion should clearly state the order you want because you will use this to draft your order. Remember that you can ask for more than one thing in your notice of motion. For example, you may want to get further documents and an order requiring a party to attend an examination for discovery. However, each thing you are asking for should be set out in a separate paragraph.
- After you have set out the order you want the court to make, you must set out the Rule or enactment (i.e., legislation or statute) that gives the court the power to make the order you are seeking. If you see a lawyer before preparing your notice of motion, this is something you should ask about. For example, if you are the plaintiff and you want to add someone as a party to the proceeding after the case has already been started, then you would make reference to Rule 15(5) which gives the court the power to add parties. If you do not use the correct Rule, the court may not be able to make the order you are asking for. If there is no Rule that deals with the order you want the court to make, you need to rely on the inherent jurisdiction of the court. The inherent jurisdiction of the court is the power that judges have over and above the Rules to make orders to do justice between the parties. If you are relying on this power, you should say that in this part of the notice of motion.

Remember that masters have limited jurisdiction. If you require the inherent jurisdiction of the court, the matter may have to be heard by a judge.

- The next part of the notice of motion requires you to list the affidavits that you are going to rely on in making your application. You can also rely on other documents such as pleadings, answers to interrogatories, or examination for discovery excerpts. If you are going to rely on other documents you must list those as well.
- Finally, you are required to set out in the notice of motion how long you think your application will take to be heard. In this estimate, you must take into account the time you think it will take the other side to respond to your submissions in court. It is important to be as accurate as possible in giving this time estimate to the court.

#### **Affidavit or affidavits (Form 60)**

Any evidence that you wish the court to consider in the application must be set out in affidavits. Both applicants and respondents will probably prepare and deliver affidavits.

- Before preparing your affidavits, consider:
  - o what facts your affidavit should contain to persuade the court to make the order you seek;
  - o who is the best person to swear the affidavit; that is, who has the most direct knowledge of the facts you are setting out; and
  - o how you want to present the information in the affidavit.
- These affidavits should include only evidence that relates specifically to the chambers application in question. You should attach as exhibits to the affidavit any documents you have relating to the

subject matter of your application, such as letters, courier slips, or fax records. See Rule 51(7) for further information on how to attach exhibits.

- If you are asking the court to make a final order in your application, the person who swears any affidavit supporting your application must have direct knowledge of the facts contained in the affidavit. In other words, the person swearing the affidavit should not give evidence about facts that someone else told him or her. Information heard from someone else is called hearsay and the court does not allow this kind of evidence in applications for final orders (see Rule 51(10)).
- If you are asking the court to make an order that is not final in nature (in other words, an interlocutory order), then the person swearing the affidavit can include statements that someone else has informed them of a fact as long as the source of the information is also given. However, it is generally preferable if you can get an affidavit from a person who has the most direct knowledge of the information.
- If you are the respondent and you want to respond to evidence in an affidavit filed by an applicant, you should prepare an affidavit setting out your response.
- For further information about preparing affidavits, see the guidebook called *Commencing a Civil Action in the Supreme Court*. You can also find useful resources to help you prepare your affidavit at any courthouse library.

### **Response (Form 124)**

The respondent completes this form upon receiving a notice of motion and must deliver it to the applicant. The response tells the court and the other parties how the respondent intends to respond to the notice of motion.

If you are the respondent, when you complete Form 124 you must state one of the following:

- you do not oppose the granting of the relief set out in the notice of motion (or parts of it);
- you do oppose the granting of the relief (or parts of it); or
- you consent to the granting of relief (or parts of it);

If you want the court to consider any affidavits or documents in the application, you must list the affidavits and documents you are relying on in your response. You must also deliver 2 copies of your affidavits together with the response to the applicant. You must also deliver a copy of your response and affidavits to every other party of record.

It is important to deliver a response if you want to receive notice of when the court will hear the application. If you do not, then the applicant can proceed to schedule the application for a hearing without providing you any further notice of the hearing date.

### **Outline (Form 125)**

This form must be completed if the application will take longer than 30 minutes to be heard. Both the applicant and the respondent must complete an outline. An outline sets out the argument you are going to make before the court. You may find it helpful to speak to a lawyer about what you should include in your outline (in particular, what case law or legislation you need to include). Even if your application will take less than 30 minutes, it is still a good idea to prepare an outline of your argument. This will help you to organize the points you want to make to the court.

The outline comes in three parts. If you are the applicant, you will complete Part I and Part II. If you are the respondent, you will complete Part III.

<b>APPLICANT</b>	<b>RESPONDENT</b>
<p>In <b>Part I</b> you set out the order you want the court to make in the same way as it appears in your notice of motion.</p> <p>In <b>Part II</b> you summarize in numbered paragraphs the evidence (the facts) you intend to rely on at the hearing. You should also cite the case law that is relevant to your application. You may want to use subheadings such as “Facts” and “Law”. This section does not take the place of your argument but is a brief summary of your evidence and the applicable law.</p>	<p>In <b>Part III</b> you set out briefly, in numbered paragraphs, the factual and legal basis for opposing the relief sought by the applicant. Set out the evidence (the facts) you intend to rely on at the hearing. Also cite the case law which you say provides the basis for opposing the application. You may want to use subheadings such as “Facts” and “Law”. This section does not take the place of your argument but is a brief summary of your evidence and the applicable law.</p>

**Chambers record**

When an application will take more than 30 minutes to be heard, the applicant is required to prepare a chambers record for the court. A chambers record is generally a copy of all the documents that will be referred to during the application. There is no form to use for a chambers record, but Rule 51A(12) sets out what documents must be included in the chambers record. Chambers records are required for applications over 30 minutes because those applications tend to be more complicated or are opposed by the other party. For that reason, it is necessary to have all the information laid out in a way that is easy to follow.

Even though the chambers record is prepared by the applicant, it must include a copy of all the documents that will be referred to during the application, including those prepared by the respondent. The chambers record must be bound (for example, in a three ring binder). It must have an index (i.e. table of contents) of all the documents and a face page that sets out the style of proceeding, the title “Chambers Record” and the names and addresses of all the parties and/or their lawyers.

- The information in the index to the chambers record should go in the following order (see Rule 51A(12)):
  - o applicant’s outline;
  - o respondent’s outline (if there is more than one respondent, list each outline separately);
  - o notice of motion (or the petition if the application is to have the petition heard by the court);
  - o response of respondent (if there is more than one respondent, list each response separately);
  - o affidavits (list each affidavit separately with the name of the person swearing the affidavit and the date it was sworn); and
  - o any other documents referred to that are not attached as exhibits to affidavits. These documents might include pleadings (statement of claim or defence) or lengthy agreements.

- The chambers record should not contain any affidavits of service, copies of cases or statutes, or any other documents unless all other parties agree that they should be included.
- The chambers record does not need to include filed documents, as the applicant will file the record at the same time as they file their documents.
- When you prepare a chambers record for the court, you will find that this is the most convenient way to organize the documents you will need in court, so prepare two copies. Make sure, however, that the copy that gets filed with the court is an unmarked copy.

#### **Notice of hearing (Form 126)**

The notice of hearing is prepared by the applicant and gives notice to the court and to all other parties of the date of the chambers application. It also sets out the time and location where the application will be heard.

Before preparing the notice of hearing, discuss the date of the hearing with the other parties to find a date when you are all available. In the notice of hearing, the applicant is required to set out whether the parties have been able to agree to a date and whether they have agreed on a time estimate for the hearing. It is best to try to agree on a date. If you are unable to agree to a date, the applicant can choose a date to put in the notice of hearing.

#### **(b) When do I deliver and file my documents?**

Rule 44 and 51A together set out the time limits for when the above documents must be delivered to the other parties and filed in order to have your application scheduled to be heard by the court. See Rule 11 for information on how to deliver a document.

Generally speaking, the time lines for delivering and filing your documents are determined by whether your application will take less than 30 minutes or more than 30 minutes to be heard. Applications that are unopposed or by consent follow the same time limits as those that take less than 30 minutes regardless of how long they might take. (see the comments about the Response (Form 124) above.)

The applicant first sets out the time estimate for the application in the notice of motion but the respondents are also entitled to give a time estimate. When determining the total time estimate, you should consider:

- the time the applicant needs to present his or her case;
- the time the respondents need to present their case;
- the time the applicant needs to reply to the respondent, if necessary; and
- any time the judge or master might require to ask questions.

Use the total of all the times estimated above to determine what time lines you need to follow.

## Applications by consent, unopposed, or 30 minutes or less

### *Delivering the documents*

The applicant delivers the notice of motion (or petition) and all supporting affidavits to all parties. The applicant may file the notice of motion with the court at this stage but it is not required. If the respondent wishes to receive notice of the time and date of the hearing, he or she must prepare and deliver a response on or before the **8<sup>th</sup> day after receiving the notice of motion**. If the application is for a summary trial under Rule 18A, this time limit is extended to **11 days**. The respondent must deliver to the applicant 2 copies of the response and 2 copies of each affidavit they will rely on at the hearing of the application. The respondent must also deliver one copy of their response and each affidavit to every other party of record.

After the response has been delivered and if it is clear that the application will take less than 30 minutes, discuss the date of the hearing with the other parties to find a date when you are all available. Once you have agreed on a date, or it is clear that you cannot agree, the applicant must prepare and deliver the notice of hearing to the other parties. This must be done **at least 2 clear days** prior to the date of the hearing. When counting the days, you do not count the day you delivered the document or the date of the hearing. Therefore, if the hearing is on a Thursday, you must deliver the document on Monday in order to have two clear days prior to the hearing.

Remember that if the application is 30 minutes or less you do not have to prepare an outline or a chambers record, but it is still a good idea to prepare these documents to help you organize your thoughts and prepare for the hearing.

### *Filing the documents*

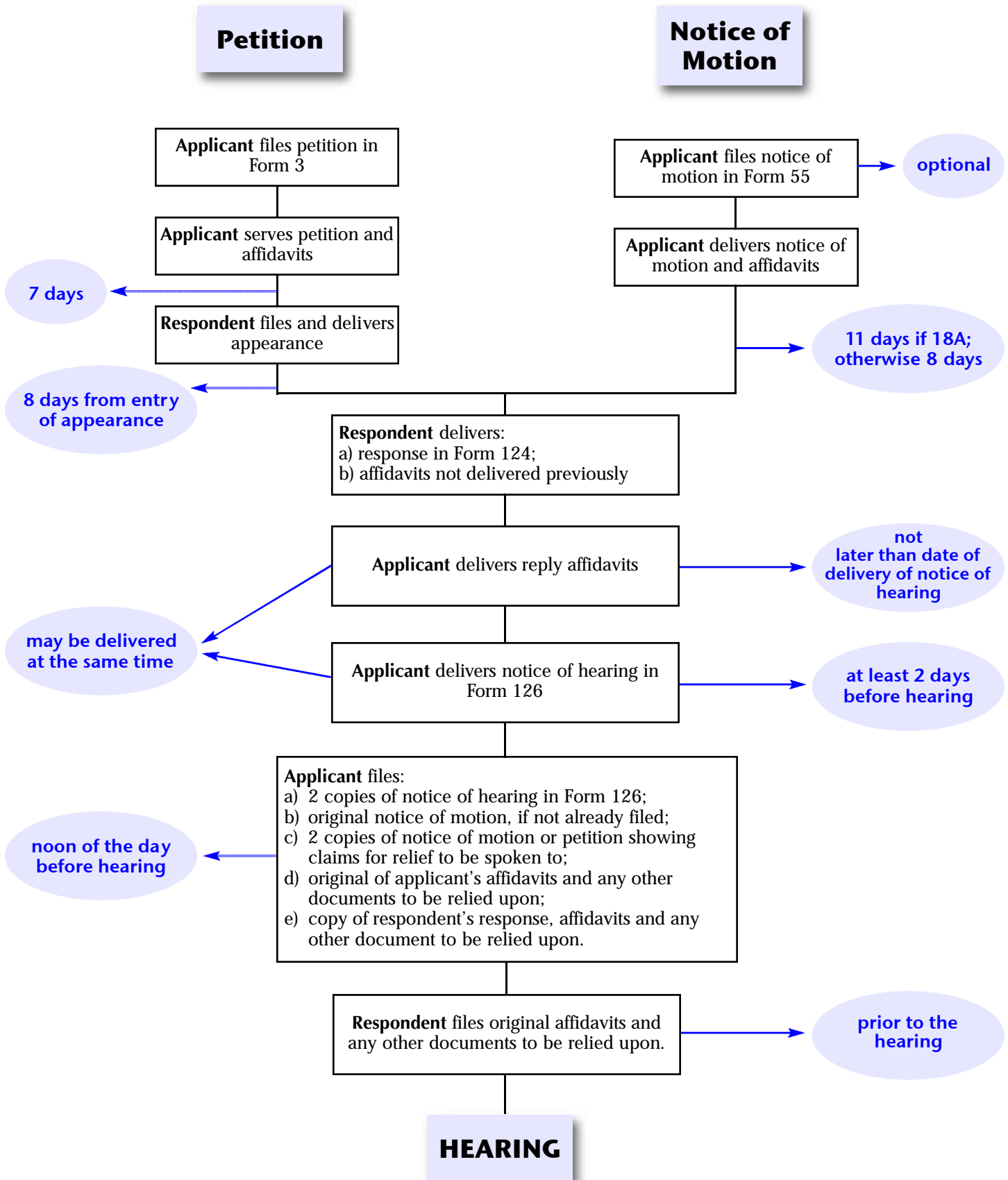
The applicant must schedule the application for a hearing with the court. If you are the applicant, you must do this by filing 2 copies of the notice of the hearing at the court registry together with:

- the original notice of motion (if you have not already filed it);
- a copy of the notice of motion which is marked up to highlight the order the applicant is asking the court to make;
- the originals of each affidavit that the applicant has prepared;
- a copy of any response received from the respondent; and
- a copy of any affidavits from the respondent.

These documents must be filed no later than 12:00 p.m. (noon) on the day before the hearing.

The following is a flowchart that sets out the time limits for delivering all the documents (see the circles) and lists which documents that are required to be delivered and filed at each step (see the boxes).

## Rule 51A Application by Consent, Unopposed or Opposed But Not More Than 30 Minutes



## Opposed applications that will take longer than 30 minutes

### *Delivering the documents*

The applicant delivers the notice of motion (or petition) and supporting affidavits to all parties. If the respondent wishes to receive notice of the time and date of the hearing, he or she must prepare and deliver a response on or before the **8<sup>th</sup> day after receiving the notice of motion**. If the application is for a summary trial under Rule 18A, this time limit is extended to **11 days**. The respondent must deliver to the applicant 2 copies of the response and 2 copies of each affidavit they will rely on at the hearing of the application. The respondent must also deliver a copy of their response and affidavits to every other party of record.

After agreeing on the date of hearing, the applicant prepares and delivers the notice of hearing to the other parties **at least 7 clear days** prior to hearing. When counting the days, you do not count the day you delivered the document or the date of the hearing.

Both the applicant and the respondent must prepare an outline. The applicant must deliver his or her outline to all other parties, **at least 7 clear days** before the hearing date. The respondent must deliver his or her outline to the applicant and each other respondent **at least 2 clear days** before the hearing date.

The applicant must prepare the chambers record.

The applicant must deliver a copy of the chambers record index to all respondents by noon the day before the hearing.

### *Filing the documents*

The applicant must schedule the application for a hearing. If you are the applicant, you must do this by filing 2 copies of the notice of the hearing at the court registry together with:

- the original notice of motion (if you have not already filed it);
- a copy of the notice of motion which is marked up to highlight the order the applicant is asking the court to make;
- the originals of each affidavit you have prepared; and
- the chambers record.

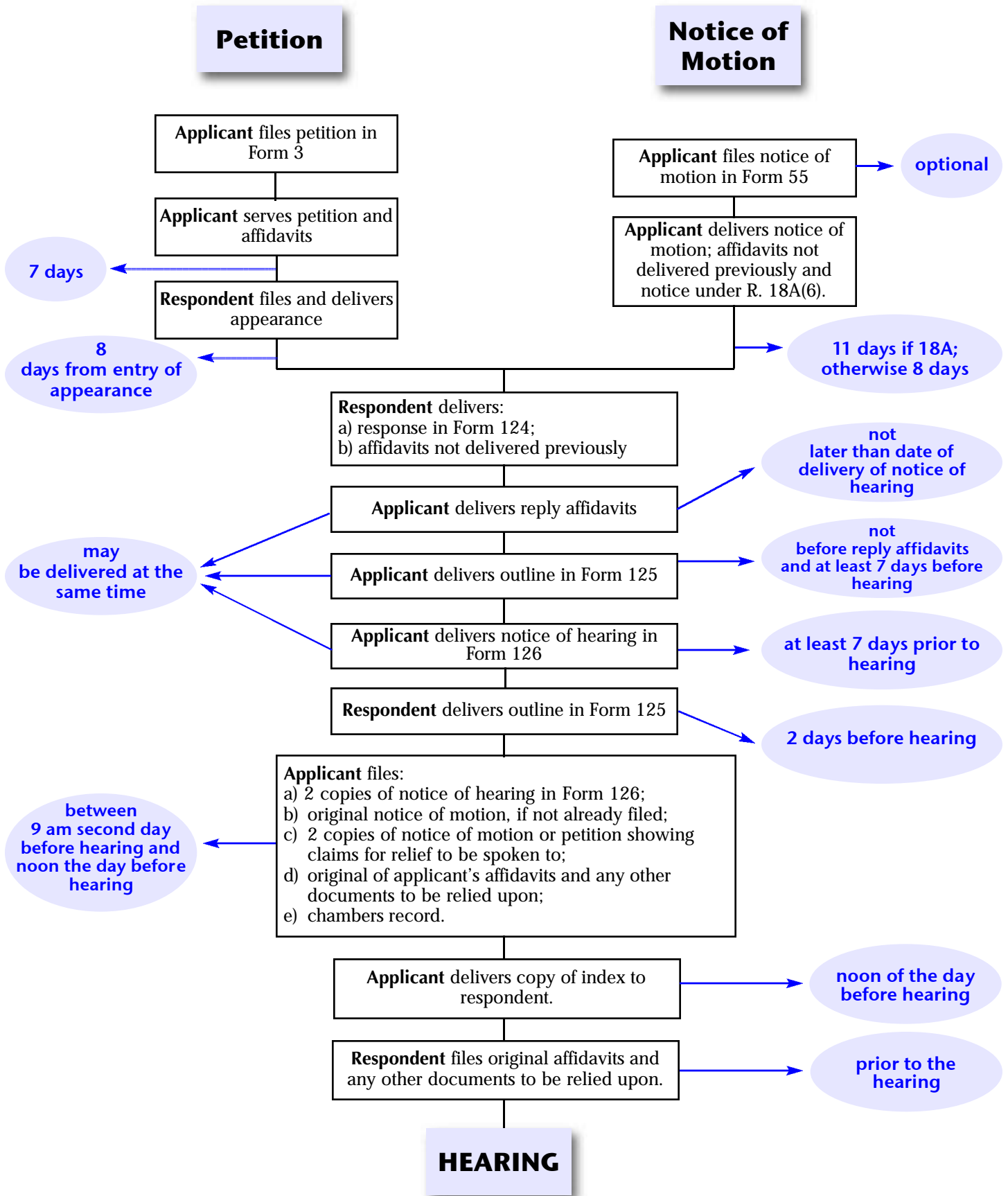
These documents must be filed between 9:00 am on the second court day before the hearing and 12:00 pm the day before the hearing. For example, if the day of the hearing in the notice of hearing is a Thursday, the documents cannot be filed before 9:00 am on Tuesday and must be filed no later than 12:00 pm on Wednesday. However, as this filing window may vary from registry to registry, you should confirm this information with the registry you are filing in.

Before the hearing begins, the respondent must file the following documents:

- the original of each affidavit he or she has prepared;
- the original response; and
- any other documents that will be referred to in the hearing.

What follows is a flowchart that sets out the time limits (in the circles) for delivery of all the documents and lists the documents that are required to be delivered and filed at each step (see the boxes).

## Rule 51A Application Opposed and More Than 30 Minutes



## Applications of 2 hours or more

Although it is unlikely, if you do need more than 2 hours for a chambers application, you need to get dates for this application from the court registry. Contact Trial Division at the registry and they will tell you how to get a

date for a lengthy application. In some smaller registries, any application over an hour needs to be scheduled through trial division. Contact the registry to confirm this information.

Once you have your date, the same delivery and filing requirements apply as for any application that is over 30 minutes long.

## What Happens After the Hearing?

Once the hearing is completed and the court has made an order, the order needs to be prepared. The order is the document that is filed with the court that sets out the decision of the judge or master. Rule 41 deals with orders. Read Rule 41 for more detail on how orders should be prepared.

Generally speaking, the parties, not the court, are responsible for preparing the order. Any party can prepare the order, but usually the successful party does so. This means that if you prepare the notice of motion and the court grants you the order, you will prepare the order and send it to the other parties to have it signed. If, on the other hand, you prepared the notice of motion but the court did not grant you your order, the respondent should prepare the order and send it to you to be signed.

Listen carefully to the judge or master when he or she makes the order and take notes of the terms as accurately as possible. If the judge or master says something you do not understand, ask them to clarify it right away. If there is something in your notice of motion that hasn't been covered, bring it to the attention of the judge or master.

The court clerk also takes notes of the order made and you can request a copy of these notes from the registry if you are uncertain about what was ordered by the judge or master.

Prepare the order using Form 43. A copy of Form 43 is attached to this guidebook and is also available from the website set out at the beginning of this guidebook. When preparing the order, keep in mind that orders are governed by two basic principles: they should accurately reflect the court's decision and they should speak for themselves. That is, they need to be understood without having to refer to any other documents.

The preamble to an order includes:

- the name of the master or judge who heard the application;
- the date the application was heard;
- the place where the application was heard;
- the names of the lawyers or other representatives who appeared on the application;
- the appearances of other parties such as those acting on their own behalf (for example, the defendant in person);
- who was served with the application, or if the matter proceeded without notice or by consent; and
- whether judgment was reserved to a later date.

If you are unsure of how to spell the judge or master's name, you can find a list of their names at the Supreme Court website: [www.courts.gov.bc.ca](http://www.courts.gov.bc.ca) (click on the Supreme Court page and then the link for judges and masters) or you can telephone the registry to ask. See the guidebook called *Overview of the Supreme Court Civil Process* for the correct way to set out the judge or master's name in the order.

The body of an order sets out in detail what the court has ordered. The paragraphs should be numbered. Deal with only one matter in each paragraph. Those matters might be:

- The decision about the relief granted;
- Any directions (such as deadlines or specific items) for carrying out the decision; and
- The disposition (who gets what) of costs.

All parties who appeared at the application need to sign the order. The order should be sent to everyone who appeared on the application. The parties' signatures confirm that they agree that how you have drafted the order accurately expresses what the court said. If you are the unsuccessful party, signing the order does not mean that you agree with what the court has ordered. If, for any reason, you suspect that the other party may refuse or delay his or her signature (thus delaying the

filing of the order), you may ask the judge or master at the hearing to waive the requirement that the other side must approve the form of the order. When all signatures have been obtained, the order can be filed with the registry. The registry staff will then compare the order with the notes taken by the clerk in chambers to make sure that the order accurately states what was ordered. If it does, the order is stamped. This process is called entering an order.

If the parties cannot agree on the terms of the order, Rule 41(18) sets out a process in which the parties can appear before a registrar of the court to settle the terms of the order so that it can be entered.

**For the next steps, see the guides called:**

*Fast Track Litigation – Rule 66*

*Discovery Process*

*Summary Judgment and Summary Trials*

*Preparing for Trial and Trial*

*Alternatives to Trial*

*Expedited Litigation in Supreme Court  
- Rule 68*

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

*Common Supreme Court Terms*

This guidebook is part of a series, *Guidebooks for Representing Yourself in Supreme Court*, produced by:



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## Appendix 1: NOTICE OF MOTION

FORM 55 (RULE 44 (3) )

**[insert style of proceeding including registry number]**

### NOTICE OF MOTION

To **[insert name of parties or persons affected]**

TAKE NOTICE that an application will be made by **[insert name of party making the motion]** to the presiding judge or master at the courthouse at **[insert address of courthouse]** at a date and time to be set for an order that **[(1)]**:

- 1.
- 2.
- 3.

The applicant will rely on **[set out rule or enactment relied on]**.

At the hearing of the application, the applicant will rely on the following affidavit(s) and other documents **[(2)]**.

The applicant estimates that the application will take **[insert the length of time the application will take (3)]** minutes.

If you wish to receive notice of the time and date of the hearing or to respond to the application, you must, within the proper time for response,

- (a) deliver to the applicant
  - (i) 2 copies of a response in Form 124, and
  - (ii) 2 copies of each of the affidavits and other documents, not already in the court file, on which you intend to rely at the hearing, and
- (b) deliver to every other party of record
  - (i) one copy of a response in Form 124, and
  - (ii) one copy of each affidavit and other document, not already in the court file, on which you intend to rely at the hearing.

#### TIME FOR RESPONSE

If the application is for a final judgment under Rule 18A, the response must be delivered on or before the 11th day after the delivery to you of the notice of motion.

In all other cases, the response must be delivered on or before the 8th day after the later of

- (a) the last date fixed for entry of appearance by you, and
- (b) the date on which the notice of motion was delivered to you.

Dated **[Insert date signed]**

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

**(1) Set out orders sought in numbered paragraphs.**

**(2) Set out any affidavits delivered with the notice of motion and any affidavits sworn and delivered earlier in the proceeding, and other documents already in the court file on which the applicant will rely at the hearing.**

**(3) Try to accurately estimate the time required to hear the application. You will need to contact Trial Division to book longer applications over two hours.**

## Appendix 2: AFFIDAVIT

FORM 60 (RULE 51 (2) AND (6) )

**[insert style of proceeding including registry number]**

### AFFIDAVIT

I, **[insert full name, address and occupation of deponent]**, MAKE OATH **[or SOLEMNLY AFFIRM]** AND SAY THAT :

1. **I am the [insert relationship to the party] to the defendant/plaintiff in this action and as such have knowledge of the matters hereinafter deposed to, save and except where same are stated to be based on information and belief and where so stated I verily believe same to be true. [(1)]**
2. **[(2)]**
3. ...

SWORN **[or AFFIRMED]** BEFORE )  
ME in the **[(3)]** of **[insert location]** )  
in the Province of British Columbia )  
on this **[date]** day of **[month, year]** )

**[(4)]** \_\_\_\_\_

A Commissioner for taking affidavits  
for British Columbia

### ENDORSEMENT OF INTERPRETER **[include only where necessary] [(5)]**

I, **[set out name, address and occupation of interpreter]**, certify that:

1. I have a knowledge of the English and **[set out the language the affidavit has been translated into]** languages and I am competent to interpret from one to the other.
2. I am advised by the deponent and verily believe that the deponent understands the **[set out the language used by the deponent]** language.
3. Before the affidavit on which this endorsement appears was made by the deponent I correctly interpreted it for the deponent from the English language into the **[set out the language used by the deponent]** language and the deponent appeared to fully understand the contents.

Dated \_\_\_\_\_  
**[signature of interpreter]**

**(1) The first paragraph of every affidavit should set out relevant information about the deponent (the person filing out this form). This is a standard form of the first paragraph.**

**(2) Each paragraph of an affidavit should deal with one item and should be set out in some organized way, e.g., chronologically. Use headings and sub-headings if necessary.**

**(3) Insert the type of location: city, town, village, etc.**

**(4) The full name of the deponent goes under the line. Use capital letters.**

**(5) Delete this section if not applicable.**

## Appendix 3: RESPONSE OF

FORM 124 (RULES 10 (5) AND 44 (6) )

**[insert style of proceeding, including registry number]**

**RESPONSE OF [insert name of respondent]**

The respondent does not oppose the granting of the relief set out in the following paragraphs of the notice of motion: **[set out paragraph numbers]**.

The respondent opposes the granting of the relief set out in the following paragraphs of the notice of motion: **[set out paragraph numbers]**.

The respondent consents to the granting of the relief set out in the following paragraphs of the notice of motion: **[set out paragraph numbers and any proposed terms]**.

The respondent will rely on the following affidavits and other documents: **[(1)]**.

The respondent estimates that the application will take **[(2)]** minutes.

Dated **[Insert date signed]**

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

**(1) Set out the affidavits delivered with this response and any other affidavit or other documents (pleadings) already in the court file on which the respondent will rely. Also set out any documents not in the court file. These documents must be delivered with the response.**

**(2) When determining the amount of time the application will take, make sure that you are as accurate as possible.**

## Appendix 4: OUTLINE

Form 125 (Rule 51A (12))

**[insert style of proceeding including registry number]**

### OUTLINE

#### PART I **[(1)]**

*[To be completed by applicant]*

The following relief will be sought at the hearing:

**[(2)]**

#### PART II **[(1)]**

*[To be completed by applicant]*

Basis for seeking relief:

**[(3)]**

#### PART III **[(1)]**

*[To be completed by a respondent who opposes an application]*

Basis for opposing relief:

**[(4)]**

Dated **[Insert date signed]**

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

**(1) Parts I and II are completed by the applicant (the party who delivered the notice of motion). Part III is completed by a respondent. You can delete the parts that are not relevant for you (e.g., if you are the applicant preparing an outline, you can delete Part III. If you are the respondent completing an outline, you can delete Parts I and II).**

**(2) Set out the relief to be sought in numbered paragraphs, numbering each paragraph with the same number you used for that paragraph in the notice of motion.**

**(3) Set out briefly the factual and legal basis for relief sought. You can give citations of relevant case law and statutes.**

**(4) Set out briefly the factual and legal basis for opposing the relief sought. You can give citations of relevant case law and statutes.**

## Appendix 5: NOTICE OF HEARING

FORM 126 (RULE 51A (3))

**[insert style of proceeding, including registry number]**

### NOTICE OF HEARING

TO **[insert name(s) of respondent(s) (1)]**

TAKE NOTICE that the application of **[insert name(s) of applicant(s)]** dated **[insert date of notice of motion]** will be heard in chambers at the courthouse at **[insert name of city where courthouse is located]** on **[insert day, date, month and year]** at the hour of **[insert time when application is to begin]**.

**[(2)]** The parties have agreed as to the date of the hearing of this application,

OR

**[(2)]** The parties have been unable to agree as to the date of the hearing but notice of the hearing will be given to respondents in accordance with Rule 51A (8),

OR

**[(2)]** This matter is unopposed, by consent or without notice.

**[(3)]** It has been agreed by the parties that the hearing will take **[insert how long the application will take]** minutes,

OR

**[(3)]** The parties have been unable to agree as to how long the hearing will take and

(a) the time estimate of the applicant is **[insert applicant's estimate of time required]** minutes, and

(b) **[(4)]** the time estimate of the respondent is **[insert respondent's estimate of time required]** minutes.

OR

(b) **[(4)]** the respondent has not given a time estimate.

**[(5)]** This matter is within the jurisdiction of the master.

OR

**[(5)]** This matter is not within the jurisdiction of a master because **[insert the reason why the matter is not within the jurisdiction of a master, e.g., the application is for final resolution of the matter.]**

Dated **[Insert date signed]**

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

This Notice of Hearing was prepared by the applicant.

**(1) Insert the names of all respondents.**

**(2) Include only one of these three paragraphs and delete the others.**

**(3) Include only one of these two paragraphs and delete the other.**

**(4) Include only one version of paragraph (b). If there is more than one respondent, include a separate paragraph for each respondent.**

**(5) Include only one of these two paragraphs and delete the other.**

## Appendix 5: ORDER

Form 43 (Rule 41 (9) )

**[insert style of proceeding, including the registry number]**

**ORDER [(1)]**

BEFORE THE HONOURABLE **[insert the day, month, year (2)]**  
MR./MADAM JUSTICE or  
MASTER

**[insert name of judge or master (3)]**

THIS APPLICATION OF \_\_\_\_\_ **[insert name of applicant]** coming on for hearing at **[insert location of court]**, on the **[insert date]**, and on hearing **[insert name of lawyer]**, counsel for the plaintiff, and **[insert name of lawyer (4)]**, counsel for the defendant:

THIS COURT ORDERS that **[(5)]**

- 1.
- 2.
- 3.

By the Court.

\_\_\_\_\_  
Registrar

APPROVED AS TO FORM:

\_\_\_\_\_

\_\_\_\_\_ **[(6)]**

**(1) You must complete and attach a backing sheet to any order. A backing sheet has the style of the proceeding, the name of the document that it is being attached to (in this case, "Order") and the contact information of the person who is submitting the document to the registry.**

**(2) This date is the date when the judge or master made the order.**

**(3) Spell the judge or master's name correctly. Telephone the registry or look on the court's website to confirm the spelling.**

**(4) Set out the name of each person or lawyer attending at the hearing. If there is more than one defendant or plaintiff, set out the name of the person or his or her lawyer's name for each one, followed by: plaintiff (or counsel for the plaintiff), Joe Smith.**

**(5) Set out the orders in numbered paragraphs.**

**(6) You need to get signatures from each party. Type the name of the party under each signature line.**