

Document Preparation for Applications Under the *Family Law Act*

Prepared For: Legal Education Society of Alberta

Family Law for Legal Support Staff

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For Presentation In:

Edmonton – January 14, 2010

Calgary – January 21, 2010

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A. General Information

Proceedings under the *Family Law Act* consist of:

1. A Claim;
2. A Statement;
3. Duty of a Lawyer;
4. An Affidavit of Service.

When the documents are served on the Respondent you must also include the documents the Respondent will need to do their reply:

1. A Response;
2. A Reply Statement;
3. Duty of a Lawyer;
4. An Affidavit of Service.

In proceedings under the *Family Law Act*, the person making the application is called the Applicant. The person responding is called the Respondent.

Unlike proceedings under the *Divorce Act*, each claim made under the *Family Law Act* is considered completed once heard. For example: if the Applicant already had a child support claim heard under the *Family Law Act*, you can not use the same Family Law Claim two years later to vary the original Order. You must file a new claim to vary the first Order.

The rules for filing an application under the *Family Law Act* regarding children or child support are the same as under the *Divorce Act*. You will not be able to file a claim regarding: guardianship, parenting, or contact with a child, unless the Applicant has completed the Parenting After Separation course and the certificate has been filed.

You will not be able to file a claim for child support or to vary child support unless both parties are represented or, where one of the parties is unrepresented, the parties have attended a child support resolution meeting prior to the filing of the claim.

With the exception of claims for exclusive possession of a home, parentage, and irreconcilability, all claims can be filed either with the Provincial Court, or the Court of Queen's Bench. Each venue is different. It is important to receive instructions as to the venue counsel prefers.

The *Family Law Act* forms are available in electronic form at www.albertacourts.ab.ca. If you fill out the forms from that source you will be able to save the forms. The website also includes information regarding claims under the *Family Law Act* and a *Family Law Act* procedure flow chart that will show you step by step what is needed to successfully file and complete the necessary forms.

The *Family Law Act* forms are available in paper kits from the Family Law Information Centre. You can find out where the nearest Family Law Information Centre is by visiting the www.albertacourts.ab.ca website.

B. Claims

A Claim is the document that tells the opposing side and the Judge/Justice what it is the Applicant wants. The Applicant can request more than one form of relief per claim. The kind of relief requested will determine what statements the Applicant will have to file with the claim.

The claim provides the general information needed to start the process. The name, address, and contact information for both the Applicant and Respondent is required.

If the claim involves a child or children you will need to include the full name and birth date of each child.

The claim does not have to be signed by the Applicant, it can be signed by the lawyer.

The claim also needs to state: whether the matter will be heard in Provincial Court, or the Court of Queen's Bench; in which judicial district; on what date; and, at what time.

C. Response

The Response is the Respondent's opportunity to tell counsel, the Applicant, and the Court what aspects of the Claim the Respondent agrees to, and which portion the Respondent does not agree to.

A Response also gives the Respondent the opportunity to ask for relief not requested by the Applicant without the necessity of having the Respondent file his or her own claim. Where the Respondent asks for relief not requested by the Applicant, the relief requested by both parties will be dealt with at the same time and under the same Family Law action number.