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A Guide to Procedures in Family Court

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This guide does not provide legal advice. It is recommended that all parties seek legal advice where possible.

PART 3: ANSWERS

If you are named as a respondent in a family case and you are served with an application, you will also receive a blank **answer** that will allow you to respond to the claims that have been made in the application. You may also make claims against the applicant or another person (an added respondent) in your answer.

The information that you write on the answer lets the applicant and the judge know what you and the applicant do and do not agree on in the application. You may also add any other issues, not set out in the application, that you would like the judge to decide.

In addition to an answer, you may also need to complete other forms depending on the claims that have been made, such as a financial statement.

Within 30 days of being served with the application, or by the first court date, whichever is earlier, you must:

- Serve your answer and any other forms and documents on every party named in the case, including any parties that you may have added in your answer; and
- File all documents with the court.

If there is a first court date, it will be set out on the first page of the application.

If you do not serve and file an answer within 30 days of being served with the application, or the first court date, the case can go ahead without you. This means that the court could make an order that affects you and your children, if any, without hearing from you. It's very important for you to file an answer before the deadlines if you disagree with the information or the claims in the application or if you want to make your own claims.

The rules for answering the claims set out in an application is found at Rule 10: Answering a Case of the *Family Law Rules*. You can find the *Family Law Rules* on the Ministry of the Attorney General's website at www.attorneygeneral.jus.gov.on.ca. Click on "Family Justice", then scroll down and click on "Family Law Rules".

Steps to Answering an Application in a Family Case

Step 1: Identifying the Forms You Need to Answer the Application

The forms you will need to answer the application will depend on what it is you are asking the court to do.

In all cases, you will need:

- Form 10: Answer;
- Form 6B: Affidavit of Service; and
- A copy of the Cumulative Table of Contents.

You may also need:

- Form 35.1: Affidavit in Support of Claim for Custody or Access, if you are making a claim for custody of or access to a child; and,
- Form 13: Financial Statement (Support Claims), if you are responding to or asking for support for you and/or your children and are not making or responding to any property claims; or
- Form 13.1: Financial Statement (Property and Support Claims) if you are responding to or asking for support for you and/or your children and are making or responding to any property claims.

If you are responding to or asking for support for you and/or your children, you will need a Support Deduction Order Information Form, which the court office will provide you. You will also need your notices of assessment for the past three years, which you will attach to your Financial Statement. If you do not have a copy of your notices of assessment, a copy of the Income and Deductions printout may be obtained from the Canada Revenue Agency by calling 1-800-959-8281.

If your case is started at the Superior Court of Justice or at the Family Court Branch of the Superior Court of Justice and you are asking for a divorce, court staff will provide you with a Registration of Divorce Proceeding form.

Most of the court forms you need are available at the family court office or on line at www.ontariocourtforms.on.ca. Read and follow the instructions on the forms carefully.

Step 2: Completing the Forms

You can obtain and fill in most of the court forms you will need online. The Ministry of the Attorney General has developed the Ontario Court Forms Assistant to help you to complete family court forms on-line. Once you select a

form, you will answer a series of questions. The Assistant will use your answers to create the court form. You can print and save your forms and take them to the courthouse to be filed. Visit www.ontariocourtforms.on.ca a list of the family court forms and instructions on how to use the program.

You may also print the forms from the website and complete them by hand. Forms are also available at the family court office. If you handwrite the information, make sure it is clear so that the other party and the judge can read it. Court staff cannot fill in the forms for you.

You will need to:

- Sign and date your answer; and supporting material (if required); and
- Write the court file number in the top right hand corner of each page of your forms.

If you need help filling in the forms and don't have a lawyer, you can visit a Family Law Information Centre (FLIC) where, at certain times an Advice Lawyer may be available to help you understand the basics of family law. If you meet Legal Aid financial requirements, the Advice Lawyer may also be able to provide you with some specific advice about your case. Before visiting a FLIC, you should contact the court office for information about the availability of an Advice Lawyer. Visit www.attorneygeneral.jus.gov.on.ca to find the location of a FLIC nearest you.

Step 3: Serving the Forms

You will need to serve the applicant and any other party named in your case with a copy of the answer, supporting forms and documents you want the judge to consider before they are filed with the court. The answer and any supporting forms and documents may be served on a party to the case by **regular service or by special service**.

Check the service rule, Rule 6: Service of Documents of the *Family Law Rules* to ensure that all your documents are served properly and within the proper timelines. For example, if you mail a document, the rules consider the other party served on the fifth day after a document is mailed. So, if you have 30 days to serve your answer, you must remember that if you mail your answer, the rules provide that the applicant and other person would not receive your answer until five days after you mail it.

See **A Guide to Family Procedures, Part 6: Serving Documents** for additional information on service.

After the application, supporting forms and documents are served, the person who served the documents will need to complete and file Form 6B: Affidavit of Service with the court for each person they served.

If the application has a first court date, you must file your documents with the court as soon as possible before the first court date.

Step 4: Completing the Affidavit of Service

After serving the answer, supporting forms and documents as described in Step 3, the person who served the documents will need to complete and file Form 6B: Affidavit of Service for each person served.

The **affidavit of service** tells the court when, where and how your documents were provided to the applicant and any other party.

The affidavit of service requires the person who served the documents to **swear or affirm** that the information in the affidavit is true. After completing the affidavit of service, the person must sign it in front of a **commissioner for taking affidavits**. There are commissioners for taking affidavits at the family court office.

Remember, it is a criminal offence for a person to swear or affirm a false or misleading affidavit. It is the responsibility of the person making the affidavit of service to make sure that the information in the affidavit is true.

Refer to **A Guide to Family Procedures, Part 6: Serving Documents** for more information on service.

Step 5: Filing the Forms with the Court

You will need to file your completed answer, any other original forms and the affidavit of service at the family court office where your case was started. You will need to file your answer, other documents and the affidavit(s) of service in the continuing record and update the table of contents contained in the endorsements volume.

See **A Guide to Family Procedures, Part 5: Filing Documents** for more information on the continuing record.

In some cases, such as where you or the other person is asking for a divorce and/or division of property, you will need to pay court fees.