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| APPELLANT’S CROSS APPEAL RESPONSE FACTUM  COVER PAGE INSTRUCTIONS (please remove table when completed)  Last Updated: February 22, 2024 | |
| Step | **Action** |
| 1 | Double click on **REQUIRED** grey text fields, delete text and then enter information or enter text where there are instructions. . |
| 2 | Enter Court of Appeal case number example: CA12345  If **more than one case is being heard together:** enter only the case number applicable to the party, case and court record being filed. |
| 3 | Enter appellant and respondent’s names below in exactly the same order and format as the **Notice of Appeal** or **Notice of Application for Leave to Appeal** unless the Court of Appeal has ordered changes to the style of proceedings. |
| 4 | Enter Sealing Order, Publication Ban or Anonymity Order (if any) referencing legislative provision (or inherent jurisdiction) that authorises the order or ban and the order or ban’s precise terms.  If none exist, remove placeholder on cover page template. |
| 5 | To remove instructions table: Right click mouse on  (top lefthand corner of this table). |
| 6 | Select **Delete Table**. |
| 7 | When filing or submitting by paper: print cover page on **buff** colour paper (back: buff) |

COURT OF APPEAL FILE NO. Enter CA file number: example CA12345

Enter Name of First Appellant vs. Name of First Respondent

Appellant’s Cross Appeal Response Factum

**COURT OF APPEAL**

ON APPEAL FROM the order of Enter the name of the judge of the Enter the court or tribunal where the order being appealed was made, e.g. Supreme Court of B.C. pronounced on the Enter the date on which the order being appealed was made

BETWEEN:

**Enter name(s) of appellant(s) here**

**APPELLANT(S)**

Enter role in the lower court or tribunal e.g. (Plantiff)

AND:

**Enter name(s) of respondent(s) here**

**RESPONDENT(S)**

Enter role in the lower court or tribunal e.g. (Defendant)

**Publication Ban or Anonymity Order (if any) : Enter legislative provision (or inherent jurisdiction) and terms.**

**Sealing Order (if any): Enter legislative provision (or inherent jurisdiction) and terms.**

APPELLANT’S CROSS APPEAL RESPONSE FACTUM

[Enter Name of Filing Party]

|  |  |
| --- | --- |
| Enter Name of Appellant | Enter Name of Respondent |
| Enter Name of Appellant's counsel, if any | Enter Name of Respondent's counsel, if any |
| Enter Address of appellant or, if the appellant is represented, name and address of the appellant's law firm]  Telephone: enter appellant's or lawyer's  E-mail: enter appellant's or lawyer's  Enter parties role e.g. Counsel for Appellant | Enter Address of respondent or, if the respondent is represented, name and address of the respondent's law firm  Telephone: enter respondent's or lawyer's  E-mail: enter respondent's or lawyer's  Enter parties role e.g. Counsel for Respondent |

|  |  |
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| TABLE OF CONTENTS INSTRUCTIONS (please remove table when completed): | |
| Step | **Action** |
| 1 | This table of contents has been formatted as a **Word Table of Contents** and can be updated automatically. **DO NOT** enter text into table. This MUST be updated **BEFORE** printing! |
| 2 | **Optional:** To view table of contents in side navigation pane: Click **View** tab, go to **Show** section and check **Navigation Pane**.  Select heading in navigation pane to navigate throughout factum.  To remove navigation pane: Click **Navigation Pane** check box to remove check mark. |
| 3 | When factum **COMPLETED:** To update the table of contents:  Click within the table of contents. |
| 4 | Select **Update Table**  (found on the left top corner of the table of contents) |
| 5 | Select **Update Entire Table** and click **OK**. (page numbering and any headings you created with the Styles tab will be updated automatically in the table of contents) |
| 6 | To remove instructions table: Right click mouse on  (top lefthand corner of this table) |
| 7 | Select **Delete Table**. |

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# CHRONOLOGY

|  |  |
| --- | --- |
| CHRONOLOGY INSTRUCTIONS (please remove table when completed): | |
| Step | **Action** |
| 1 | Enter brief, point form list or table of only critical events and dates (relevant to an issue on appeal). |
| 2 | To **add** another row or **delete a row** to the chronology table: |
| 3 | Right click mouse inside chronology table. |
| 4 | Click **Insert** and select **Insert Rows Below or Above** or click **Delete Cells** and select **Delete Entire Row**. |
| 5 | To remove instructions table: Right click mouse on  (top lefthand corner of this table) |
| 6 | Select **Delete Table**. |

|  |  |
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| **Date** | **Event** |
| January 1, 2014 | The Appellant was travelling northbound at 50 km/h along No. 3 Road in Richmond, British Columbia, when he was involved in a car accident. |
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# OPENING STATEMENT

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| OPENING STATEMENT INSTRUCTIONS (please remove table when completed): | |
| Step | **Action** |
| 1 | Enter concise statement of the nature of the appeal. |
| 2 | **1 page maximum** |
| 3 | Spacing: Lines spaced 1.5 lines apart with a single space between paragraphs |
| 4 | To remove instructions table:  Right click mouse on  (top lefthand corner of this table) |
| 5 | Select **Delete Table**. |

**[Enter text here]**

# PART 1 - STATEMENT OF FACTS

|  |  |
| --- | --- |
| STATEMENT OF FACTS INSTRUCTIONS (please remove table when completed): | |
| Step | **Action** |
| 1 | **Page maximum:** starting from Part 1 - Statement of Facts to end of Part 4 – Nature of Order Sought – **15 pages** |
| 2 | **Respondent’s factum by cross appeal:** must consist of a concise statement of the history of the proceedings and the facts of the case. |
| 3 | **Sources relied on for a statement of fact** (e.g. testimony, an exhibit or the reasons for judgment): must be identified by referring to the volume and page number where it is found in the Appeal Record or Appeal Books, or to the volume or page number and line number where it is found in the Transcript. |
| 4 | **Consecutive paragraph numbering** begins in Part 1 - Statement of Facts. |
| 5 | To add to paragraph numbering: Enter text and press enter after each paragraph to maintain auto-numbering. (1.5 line spacing and single space between paragraphs required – pre-set in template) |
| 6 | To delete numbering use backspace key. |
| 7 | To remove instructions table:  Right click mouse on  (top lefthand corner of this table) |
| 8 | Select **Delete Table**. |

1. **Example:** The appellant met the respondent in 2022 and commenced a relationship that lasted for several years.

Transcript, Vol. 1, page 222-223; Appellant’s Appeal Book, Vol. 1, pg. 22.

1. The parties were then married on June 1, 2016 and they separated on August 2, 2019.

Affidavit #1 of Jane Doe, para. 2

Affidavit #2 of Jane Doe, para. 4

# PART 2 - ISSUES ON APPEAL

|  |  |
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| ISSUES ON APPEAL INSTRUCTIONS (please remove table when completed): | |
| Step | **Action** |
| 1 | Enter a concise statement of the respondent’s position in regard to the points put in issue by the appellant’s factum and of any other points that the respondent may properly put in issue. |
| 2 | Continue consecutive paragraph numbering from Part 1. |
| 3 | To add to paragraph numbering: Enter text and press enter after each paragraph to maintain auto-numbering. (1.5 line spacing and single space between paragraphs required – pre-set in template) |
| 4 | To delete numbering use backspace key. |
| 5 | To remove instructions table:  Right click mouse on  (top lefthand corner of this table) |
| 6 | Select **Delete Table**. |

1. **Example:** The chambers judge did not err by varying the initial order and first variation order.
2. The court had jurisdiction to vary the existing orders; and
3. The chambers judge did not err by varying the status quo established by a prior interim order.

# PART 3 - ARGUMENT

|  |  |
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| ARGUMENT INSTRUCTIONS (please remove table when completed): | |
| Step | **Action** |
| 1 | Enter a concise outline of argument setting out the points of law to be discussed, with a reference to the volume and page numbers of the Appeal Record or Appeal Book or the volume, page and line numbers of the Transcript, and the authorities (acts, cases etc.) in support of each point. |
| 2 | **Enactments** (i.e., acts or regulations) cited or relied upon may be briefly reproduced in Part 3 or reproduced entirely as an appendix with this factum or as a separate appendix from this factum. |
| 3 | Continue consecutive paragraph numbering from Part 2. |
| 4 | To add to paragraph numbering: Enter text and press enter after each paragraph to maintain auto-numbering. (1.5 line spacing and single space between paragraphs required – pre-set in template) |
| 5 | To delete numbering use backspace key. |
| 6 | To remove instructions table:  Right click mouse on  (top lefthand corner of this table) |
| 7 | Select **Delete Table**. |

1. **Example:** In *Housen v. Nikolaisen,* the Supreme Court of Canada provided that they standard of review from findings of fact is palpable and overriding error.

*Housen v. Nikolaisen,* 2002 SCC 33 at para. 10

1. **Example Footnote:** The s. 4(1)(a) requirements are met if, assuming the pleadings to be true, it is not clear and obvious that the claims have no chance of success.[[1]](#footnote-1)

# PART 4 - NATURE OF ORDER SOUGHT

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| ORDER INSTRUCTIONS (please remove table when completed): | |
| Step | **Action** |
| 1 | Enter a concise statement of the nature of the order that is sought by the party preparing the factum. |
| 2 | It must include a special disposition that is desired with respect to costs. |
| 3 | Double click on **REQUIRED grey** text fields to enter and delete information. |
| 4 | Continue paragraph numbering: Enter text and press enter after each paragraph to maintain auto-numbering. (1.5 line spacing and single space between paragraphs required – pre-set in template) |
| 5 | Enter in location, month, day and year of factum. |
| 6 | Enter in name of person submitting factum (lawyer or party). |
| 7 | When factum complete, print and sign Part 4 Nature of Order Sought. |
| 8 | To remove instructions table: Right click mouse on  (top lefthand corner of this table) |
| 9 | Select **Delete Table**. |

1. The appellant seeks an Order:

**[Enter text here]**

1. All of which is respectfully submitted.

Dated at the City of Enter location, Province of British Columbia, this Enter month Enter day of Enter year.

Name of lawyer or party authorizing filing of this Factum

**Respondent by Cross Appeal**

# APPENDICES: LIST OF AUTHORITIES

|  |  |
| --- | --- |
| AUTHORITIES INSTRUCTIONS (please remove table when completed): | |
| Step | **Action** |
| 1 | Authorities (case law, legal textbooks etc.) referred to in the factum must be listed in alphabetical order. |
| 2 | Authorities must be cited. Please follow [**Citation of Authorities (Civil & Criminal Practice Directive, 30 May 2013**](http://www.courts.gov.bc.ca/Court_of_Appeal/practice_and_procedure/civil_and_criminal_practice_directives/PDF/(CandC)Citation_of_Authorities.pdf). |
| 3 | Add the page or paragraph number of the authority where it is located in the factum. |
| 4 | Please use the factum COMPLETION INSTRUCTIONS to ensure the factum (paper and electronic) is filed or submitted in the correct format. |
| 5 | To remove instructions table: Right click mouse on ­ (top lefthand corner of this table) |
| 6 | Select **Delete Table**. |

|  |  |  |
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| **Authorities** | **Page # in factum** | **Para # in factum** |
| *Alexander v. Bertram and Ford Credit Canada Ltd. (2000), 72 B.C.L.R. 3(d) 66 (S.C.)* | 2 | 3 |
| *D.R. Fraser & Co. v. M.N.R.,* [1949] A.C. 24 | 10 | 13 |
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# APPENDICES: ENACTMENTS

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| ENACTMENTS INSTRUCTIONS (please remove table when completed): | |
| Step | **Action** |
| 1 | The appendix is used for **enactments** (i.e., acts or regulations) **only.** No other documents may be added. |
| 2 | Copy and paste any portions of enactments which you rely on in “Part 3 - Argument” of the factum or; |
| 3 | **Optional:** Create a **separate electronic file and paper volume** for the enactments with the same cover (including colour) and same formatting as the factum. File with paper factum and electronic factum at the same time at the Registry. |
| 4 | To remove instructions table: Right click mouse on ­ (top lefthand corner of this table) |
| 5 | Select **Delete Table**. |

**Example:**

**MOTOR VEHICLE ACT**

**[RSBC 1996] CHAPTER 318**

**Construction and maintenance vehicles**

121 Despite section 120 (b), the driver of a vehicle referred to in that section must drive with due regard for safety, having regard to all the circumstances, including the nature, condition and use of the highway and the amount of traffic that is, or might reasonably be expected to be, on it.

1. *Hollick v. Toronto (City)*, 2001 SCC 68 at para. 25. [↑](#footnote-ref-1)