



THE LAW COURTS
800 SMITHE STREET
VANCOUVER, B.C.
V6Z 2E1

COVID-19: EXPANSION OF CIVIL AND FAMILY MATTERS – APPLICATIONS BY WRITTEN SUBMISSION

COVID-19 Notice #14

Date: April 27, 2020

Revised: July 20, 2020

On March 19, 2020 the Supreme Court of British Columbia suspended regular operations to protect the health and safety of court users and to help contain the spread of COVID-19. All civil and family matters scheduled for hearing between March 19, 2020 and May 29, 2020 (the “Suspension Period”) **were** adjourned, unless the Court otherwise directed. The Court established processes to hear urgent or essential matters, to hold telephone conference hearings for certain matters, and continued to process some desk order applications.

Effective April 22, 2020, the Minister of Public Safety and Solicitor General authorized the Chief Justice and the Associate Chief Justice of the Supreme Court of British Columbia to dispense with some procedural steps under the *Supreme Court Civil Rules* and the *Supreme Court Family Rules* related to applications, where the procedural steps cannot reasonably be taken because of the COVID-19 pandemic or would be inconsistent with public health advisories. See [Ministerial Order No. M121](#).

To facilitate the just, speedy and inexpensive determination of proceedings during the Suspension Period, Chief Justice Hinkson has directed that parties may bring the applications described in **Part I** of this notice by written submissions following the process set out in **Part II** of this notice.

Accordingly, effective April 27, 2020, until the conclusion of the state of emergency ordered by the Minister of Public Safety and Solicitor General, the Chief Justice **ordered** that the following requirements **do** not apply to applications that meet the criteria set out in **Part I** of this notice:

- The requirement in Rule 8-6 of the *Supreme Court Civil Rules* that an order must be made at a case planning conference before parties can make an application by written submissions. **and**

- ~~• The requirement in Rule 7-1(2) of the *Supreme Court Family Rules* that a judicial case conference must be held before a party can serve another party a notice of application or affidavit in support.~~

Effective July 13, 2020, the Chief Justice further ordered that the requirement in Rule 7-1(2) of the *Supreme Court Family Rules* that a judicial case conference must be held before a party can serve another party a notice of application or affidavit in support is no longer waived. Exceptions to this rule and the process by which a party can apply to be relieved of this requirement are set out under Rules 7-1(3) to 7-1(6) of the *Supreme Court Family Rules*. A copy of the order of the Chief Justice is available [here](#).

I. APPLICATIONS THAT CAN BE MADE BY WRITTEN SUBMISSIONS

A party may bring an application by way of written submissions in lieu of a hearing if:

- The matter is limited to one disputed issue; and
- The issue can be addressed on the basis of one affidavit filed per party, no more than 10 pages in length, inclusive of exhibits.

If the matter involves more than one disputed issue, a party may bring an application by way of written submissions in lieu of a hearing if:

- The parties have reached consent on all but one issue, or the party bringing the application has identified all of the disputed issues and chosen one issue to proceed by written submissions; and
- The issue can be addressed on the basis of one affidavit filed per party, no more than 10 pages in length, inclusive of exhibits.

If the application relates to a family law issue that requires filing a financial statement in Form 8 pursuant to Rule 5-1 of the *Supreme Court Family Rules*, each party may also rely on either a previously filed financial statement (if it contains current, accurate and complete information) or a new financial statement filed as part of the application, but not both.

The Court retains its discretion to decide if the issue is appropriate for determination on the basis of written submissions.

A party may only bring one application by written submissions per file at a time.

II. PROCESS FOR MAKING AN APPLICATION BY WRITTEN SUBMISSIONS

The Court has established the following procedures to allow a party to bring an application by written submissions.

- Before making an application by written submissions, parties are encouraged to discuss ways of narrowing the issue so that it is suitable for determination by written submissions.
- If no judge or master is seized of or assigned to the matter, the Applicant must book a date for a judge or master to consider the application by written submissions (a “Hearing Date”) using the CV Application for Written Submissions online form available [here](#). **Parties are reminded to book only one Hearing Date at a time.**
- If a judge or master is seized of or assigned to the matter, the Applicant must submit a Request to Appear Before a Specific Judge/Master located [here](#) to request that the application for written submissions is considered by that specific president. The Applicant should note “Application by Written Submissions” in the field marked “Type of Hearing”.

A. Filing and Service of Materials

- The Applicant must file a **notice of application in Form 32 for a civil matter** or in **Form F31 for a family matter**, not exceeding 10 pages, with the modifications below:
 - Rather than setting out the place of the hearing and providing a time estimate, the Applicant must set out the Hearing Date (as booked online) and note that the application is being made by written submissions in lieu of an oral or telephone hearing;
 - If the matter was previously set down for a hearing, the Applicant must note the date on which the matter was originally scheduled to be heard and provide a brief description of the matter (i.e., trial, conference, chambers application, other hearing);
 - The Applicant must note whether a judge or master has been assigned to or is seized of the proceedings;
 - In Part 1 (Order(s) Sought), using numbered paragraphs, the Applicant must list any other issue(s) still in dispute, and indicate if any issue will be proceeding by consent; and
 - In Part 4 (Material to be Relied on), using numbered paragraphs, the Applicant must list the single affidavit served with the notice of application,

the financial statement if applicable for a family law matter, and any other pleadings already in the court file on which the Applicant will rely. **Parties may not rely on previously filed affidavits** (except, if applicable, in a family law matter where the party wants to rely on a previously filed financial statement).

- The Applicant must file one sworn affidavit, not exceeding 10 pages, inclusive of exhibits, setting out the key facts of the issue.
- If applicable in a family law matter, the Applicant must file one sworn financial statement in Form F8 (unless relying on a previously filed financial statement that is current, accurate and complete).
- The Applicant must serve copies of the filed notice of application, this Notice, filed affidavit, filed financial statement (if any) and written submissions not exceeding 20 pages on the Respondent.
- If the Respondent wishes to respond to the Applicant's notice of application, notwithstanding the usual timeframes for responding to a notice of application in Rule 8-1(9) of the *Supreme Court Civil Rules* and Rule 10-6(8.1) of the *Supreme Court Family Rules*, the Respondent must do the following within 10 business days after service:
 - File one sworn affidavit (if any), not exceeding 10 pages, inclusive of exhibits, in response to the Applicant's affidavit;
 - If applicable in a family law matter, file one sworn financial statement in Form F8 (unless relying on a previously filed financial statement that is current, accurate and complete);
 - File an **application response in Form 33 for a civil matter and Form F32 for a family matter**. In Part 1, 2 or 3, the Respondent must indicate whether the Respondent consents to the application proceeding on the basis of written submissions. In Part 6 (Material to be Relied on), using numbered paragraphs, the Respondent must list the single affidavit, the financial statement if applicable; and any other pleadings already in the court file on which the Respondent will rely. **Parties may not rely on previously filed affidavits** (except, if applicable, in a family law matter where the party wants to rely on a previously filed financial statement); and
 - Serve copies of the filed application response, filed affidavit, filed financial statement (if any) and written submissions not exceeding 20 pages on the Applicant.

- For methods of filing see [Part I of COVID-19 Notice No. 34](#). ~~Part VII of the Court's April 16, 2020 Notice~~. Parties are strongly encouraged to e-file if possible.
- Within 4 business days after being served with the Respondent's materials, the Applicant may serve written submissions in reply not exceeding 5 pages on the Respondent. The Applicant may not file any responding affidavits.
- The parties may agree to abridge the timelines set out above.
- **In order to provide proof of service to the Court, parties must follow the directions in [COVID-19 Notice No. 24](#) and file their affidavits of service or delivery through [Court Services Online](#).**

B. Written Submissions Brief

- The Applicant must submit the **Written Submissions Brief** to Supreme Court Scheduling at the appropriate email address (as set out in Appendix A of this Notice) not later than 4:00 p.m. on the business day that is one full business day before the Hearing Date. All parties must be copied on this email.
- The Written Submissions Brief must include:
 - A copy of the filed notice of application;
 - A copy of the filed application response;
 - A copy of the Applicant's filed affidavit and written submissions;
 - A copy of the Respondent's filed affidavit and written submissions in response, if any;
 - A copy of the Applicant's financial statement, if applicable in a family law matter;
 - A copy of the Respondent's financial statement, if applicable in a family law matter;
 - The Applicant's written submissions in reply, if any; and
 - Any pleadings relied on by the parties.
- The Written Submissions Brief must not include copies of authorities, including case law, legislation, legal articles or excerpts from text books. Instead, written submissions must refer to authorities by case name, and must include the

citation, pinpoint reference and hyperlinks to an open source, such as CanLII or Lexum. Written submissions should not include lengthy quotations from cases.

C. Judge or Master Considers the Application by Written Submissions

- Supreme Court Scheduling will acknowledge receipt of the Written Submissions Brief via email to all parties, and confirm which judge or master will consider the application.
- A judge or master will review the Written Submissions Brief and make a decision on the merits of the issue. If the issue is not appropriate for determination on the basis of written submissions or if the materials in the Written Submissions Brief are insufficient, the judge or master may provide further direction to the parties (e.g., with respect to filing additional materials or setting a date for the parties to speak to the matter by telephone).

THE FOREGOING IS SUBJECT TO CHANGE. ANY UPDATED DIRECTIONS WILL BE POSTED ON THE COURT'S WEBSITE.

Dated July 20, 2020 at Vancouver, British Columbia

By Direction of Chief Justice Christopher E. Hinkson
Supreme Court of British Columbia

Appendix A

KAMLOOPS - sc.scheduling_ka@BCCourts.ca

- Cranbrook, Golden, Nelson, Revelstoke, Rossland, Salmon Arm

KELOWNA - sc.scheduling_ok@BCCourts.ca

- Penticton, Vernon

NANAIMO - sc.scheduling_na@BCCourts.ca

- Campbell River, Courtenay, Port Alberni, Powell River

NEW WEST - sc.scheduling_nw@BCCourts.ca

- Chilliwack

PRINCE GEORGE - sc.scheduling_pg@BCCourts.ca

- Dawson Creek, Fort St. John, Quesnel, Williams Lake

VANCOUVER - sc.family_va@BCCourts.ca OR sc.civil_va@BCCourts.ca

VICTORIA - sc.scheduling_vi@BCCourts.ca

- Duncan, Prince Rupert, Smithers, Terrace