



Commencing a Claim in Provincial Court Civil & Getting and Enforcing Your Judgment in Alberta

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Part I

Provincial Court Civil

First, the Basics

To sue means to bring your problem before a Judge for legal decision. Provincial Court Civil is designed for ordinary people to present their legal problems without the need to hire a lawyer. However, it is your option to hire a lawyer or an agent to assist you in court. (An agent will not be provided by the court.) This person can question the other party and any witnesses for you, and can sum up the case on your behalf.

The information presented in this brochure includes a general description of proceedings in court, some specific information on the procedures involved when you want to sue someone or are being sued, and suggestions on how to prepare your case.

It is recommended that you read this entire booklet before commencing the Civil Claims process.

Before You Sue

Alternatives

Before suing, you may make a written demand of the other party for payment by a specific date, in the hope that you do not have to take the matter to court. You may also find that there is an agency that will help you solve your problem. For example, if you are owed money for wages, the Alberta Employment Standards Branch may be able to help you. Also, Alberta Government Services — Registries and Consumers Services can help with some consumer problems. Call the Consumer Information Centre toll-free at 1-877-427-4088 or visit the website www.gov.ab.ca/gs.

The first question you should ask is whether you can sue in Provincial Court Civil.

Jurisdiction

If your claim is for more than the Civil limit, you can drop the extra amount (this is called abandonment) or you can go to the Court of Queen's Bench to sue for the total amount. Contact your local Court office for the current limit. Phone numbers are listed on page 21.

You can start your action in any Provincial Court in Alberta. (See If You Have To Sue Someone on page 4.)

What You Cannot Sue For

You cannot sue for:

- ♦ matters involving ownership of land;
- ♦ matters involving wills, malicious prosecution, false imprisonment or defamation (libel and slander); or
- ♦ matters involving governments.

Time Limits

You should know that, in many cases, you cannot sue after a certain period of time has gone by (the limitation period). The time limit depends on the reason for suing.

For general debt problems, such as contracts, loans, damage deposits and rent you must sue within two years from the time the debt began. An exception to this rule exists: if it has been stated in writing that the person knows the money is still owed, or if the person has paid part of the debt, the two-year limit starts when the debt was last acknowledged.

If you are suing for injuries or damages caused to yourself or your property (for example, assault, car accident, etc.), you must sue within two years of the injury or damages. If you wish to sue your own insurance company for failure to pay you as a result of an accident, you must do so within one year.

This is a complex area of law and you should consult a lawyer if there is any doubt about the limitation period affecting your case.

Is It Worth Suing?

Costs

Suing will cost you time and money. There are filing fees, witness fees, and you cannot sue for wages lost while attending the hearing — usually one morning or afternoon in court. Also, you will spend some time picking up forms and filing your claim.

It will cost you a fee to file your Civil Claim. There may be additional costs to have the defendant served with a Civil Claim or a witness served with a Notice to Attend.

If you win, the above costs will usually be included in the amount the Judge orders the defendant to pay you.

You may be required to pay witness and interpreter fees. For further information pertaining to costs and fees, contact the Court. Phone numbers are listed on page 21.

You should also think about the person you want to sue. Do you know where that person is? If you win, will you be able to collect? (The person may not have money now, but financial situations can change. The Judge's decision on your case is valid for 10 years). See After the Appearance on page 19.

You should consider whether or not you have enough evidence to support your claim. If it is just your word against that of the other person, it may be difficult to prove your case. Any documents (for example, letters, bills, leases) or witnesses may be a benefit in proving your case.

If You Have to Sue Someone

Who to Sue

Sometimes people sue the wrong person and, as a result, they lose their case. As a general rule, you are allowed to sue with one Civil Claim form as many people, companies or firms as are involved in the problem.

1. Individual — When suing an individual or group of individuals, use full first and last names of each person you are suing. Do not use initials, because initials do not sufficiently identify the person being sued.
2. Business — If you are suing a business, remember that there are two types of businesses — incorporated and unincorporated. The differences between the two are very important.

An incorporated business usually has Limited or Ltd. after its name. (The term *company* does not necessarily refer to an incorporated business). An incorporated business can be sued only in the name of the business. Put the full name of the business on the Civil Claim.

To find out the exact name of an incorporated business and who can be served with documents on behalf of the incorporated business, a *companies search* should be requested from an authorized agent for Alberta Registries. (See page 51).

Firms (partnerships of two or more persons) and sole proprietorships are called unincorporated businesses. An unincorporated business must be sued in the name of the owner. Put the owner's full name and the name of the business on the Civil Claim. To find out the owner(s) of an unincorporated business and the address of the owner(s), do a *trade name search* by contacting an authorized agent for Alberta Registries.

Documents

The first step is get the proper forms from the Court office. Fill out the Civil Claim form and give it to the Court office with the fee. (All documents are available on the Alberta Courts website www.albertacourts.ab.ca)

Civil Claim

When filling out the Civil Claim, include:

- ♦ your full name, address, and daytime telephone number;
- ♦ the defendant's full name, address, and telephone number;
- ♦ the amount of money you are asking for;
- ♦ when and where the problem occurred; and
- ♦ the reasons why you are suing. Although these reasons should explain the problem in detail, they do not have to be long and complex.

Note: You must file the Civil Claim with the Court office before serving the defendant with a copy of the Civil Claim and form of Dispute Note.

Examples of these claims are shown on the following pages:

- ♦ Return of Security/Damage Deposit;
- ♦ Motor Vehicle Accident;
- ♦ Damages; and
- ♦ General Claims.

The Court office will issue the Civil Claim and a receipt for payment of the required fee. You then have to serve the Civil Claim and a blank form of Dispute Note on the person you are suing.

Change of Address

Be sure to notify the Court office if you change your address or documents will be sent to the address on your claim.



Provincial Court of Alberta (Civil)

Action No.

Plaintiff(s)

YOUR NAME IN FULL

and

Defendant(s)

THE OTHER PARTY'S NAME(S) IN FULL

Civil Claim

The Plaintiff Claims from the Defendant \$ Current limit

and costs of this action.

The Claim arose at Town / City, Alberta on or about Date date

The reasons for the Claim are:

On commencement date of lease, the Plaintiff rented premises at Address and gave the Defendant a Security/Damage Deposit in the amount of \$000.00. The Plaintiff vacated the said premises and the Defendant has not returned the balance/total amount of the said Security/Damage deposit.

The Plaintiff claims \$000.00 amount of deposit plus interest of \$000.00.

Plus prejudgment interest pursuant to the Judgment Interest Act from Date to the date of judgment. date vacated premises

I will be calling witnesses.

I abandon that part of my Claim that exceeds the financial jurisdiction of this Court. I understand and agree that I cannot recover in this Court or any other Court the part of my Claim that is abandoned.

The Plaintiff's Address for service is:

City Province Postal Code Res. Phone Bus. Phone 00000-00 Street Edmonton Alberta T5J 9L9 000-0000 000-0000

The Defendant's Address for service is:

City Province Postal Code Res. Phone Bus. Phone 00000-00 Street Edmonton Alberta T9M 5R3 000-0000 000-0000

The Defendant's Address for service is:

City Province Postal Code Res. Phone Bus. Phone

Dated Date

at Edmonton, Alberta.

Signature of Plaintiff / Agent / Solicitor

Print Name

The Court's Address is: Provincial Court of Alberta (Civil) Main Floor, Law Courts 1A Sir Winston Churchill Square 97 Street & 102 A Avenue Edmonton, Alberta T5J 0R2 Telephone: (780) 422 2508 Fax: (780) 427 4348 Website address: www.albertacourts.ab.ca

Issued by the Provincial Court of Alberta

on

Clerk of the Provincial Court

Motor Vehicle Accident

Provincial Court of Alberta (Civil)

Action No.

Plaintiff(s)

YOUR NAME IN FULL

and

Defendant(s)

THE OTHER PARTY'S NAME(S) IN FULL

Civil Claim

The Plaintiff Claims from the Defendant \$ Current limit

and costs of this action.

The Claim arose at Town / City, Alberta on or about Date date

The reasons for the Claim are:

On date, the Plaintiff's vehicle described as Make, Model, Year, Serial Number was parked, stopped, proceeding at full address when the Defendant's vehicle negligently struck the Plaintiff's vehicle, damaging the location of damage. The estimated cost of repair is amount.

Note: At time of filing, bring two estimates of repairs and a diagram of how the accident occurred.

I will be calling witnesses.

I abandon that part of my Claim that exceeds the financial jurisdiction of this Court. I understand and agree that I cannot recover in this Court or any other Court the part of my Claim that is abandoned.

The Plaintiff's Address for service is:

City: Edmonton, Province: Alberta, Postal Code: T5J 9L9, Res. Phone: 000-0000, Bus. Phone: 000-0000

The Defendant's Address for service is:

City: Edmonton, Province: Alberta, Postal Code: T9M 5R3, Res. Phone: 000-0000, Bus. Phone: 000-0000

The Defendant's Address for service is:

City: Province: Postal Code: Res. Phone: Bus. Phone:

Dated Date

at Edmonton, Alberta.

Signature of Plaintiff / Agent / Solicitor

Print Name

The Court's Address is: Provincial Court of Alberta (Civil) Main Floor, Law Courts 1A Sir Winston Churchill Square 97 Street & 102 A Avenue Edmonton, Alberta T5J 0R2 Telephone: (780) 422 2508 Fax: (780) 427 4348 Website address: www.albertacourts.ab.ca

Issued by the Provincial Court of Alberta on

Clerk of the Provincial Court

Damages

Provincial Court of Alberta (Civil)

Action No.

Plaintiff(s)

YOUR NAME IN FULL

and

Defendant(s)

THE OTHER PARTY'S NAME(S) IN FULL

Civil Claim

The Plaintiff Claims from the Defendant \$ Current limit

and costs of this action.

The Claim arose at Town / City, Alberta on or about Date date

The reasons for the Claim are:

On the 1st day of June 2006 in the City of Somewhere in the Province of Alberta, the Defendant ABC Cleaners & Dryers and/or one of its employees

- (a) dyed a garment for the Plaintiff and through negligence the garment was ruined; (b) dry cleaned a garment for the Plaintiff and through negligence damaged the garment.

I will be calling witnesses.

I abandon that part of my Claim that exceeds the financial jurisdiction of this Court. I understand and agree that I cannot recover in this Court or any other Court the part of my Claim that is abandoned.

The Plaintiff's Address for service is:

City Province Postal Code Res. Phone Bus. Phone
00000-00 Street Edmonton Alberta T5J 9L9 000-0000 000-0000

The Defendant's Address for service is:

City Province Postal Code Res. Phone Bus. Phone
00000-00 Street Edmonton Alberta T9M 5R3 000-0000 000-0000

The Defendant's Address for service is:

City Province Postal Code Res. Phone Bus. Phone

Dated Date

at Edmonton, Alberta.

Signature of Plaintiff / Agent / Solicitor

Print Name

The Court's Address is: Provincial Court of Alberta (Civil) Main Floor, Law Courts 1A Sir Winston Churchill Square 97 Street & 102 A Avenue Edmonton, Alberta T5J 0R2 Telephone: (780) 422 2508 Fax: (780) 427 4348 Website address: www.albertacourts.ab.ca

Issued by the Provincial Court of Alberta

on

Clerk of the Provincial Court

General Claims

Provincial Court of Alberta (Civil)

Action No.

Plaintiff(s)

YOUR NAME IN FULL

and

Defendant(s)

THE OTHER PARTY'S NAME(S) IN FULL

Civil Claim

The Plaintiff Claims from the Defendant \$ Current limit

and costs of this action.

The Claim arose at Town / City, Alberta on or about Date date

The reasons for the Claim are:

- (a) Being the amount owing for services rendered March 9, 2006.
(b) Being the amount owing for merchandise purchased March 9, 2006.
(c) Being the amount owing on a promissory note dated March 9, 2006.
(d) Being the amount owing on a garage account from March 9, 2006 to September 15, 2006.

Plus contractual interest at the rate of % per annum / \$ per diem from 20, to the date of judgment.

OR

Plus prejudgment interest pursuant to the Judgment Interest Act from 20, to the date of judgment.

I will be calling witnesses.

I abandon that part of my Claim that exceeds the financial jurisdiction of this Court. I understand and agree that I cannot recover in this Court or any other Court the part of my Claim that is abandoned.

The Plaintiff's Address for service is: City Province Postal Code Res. Phone Bus. Phone 00000-00 Street Edmonton Alberta T5J 9L9 000-0000 000-0000

The Defendant's Address for service is: City Province Postal Code Res. Phone Bus. Phone 00000-00 Street Edmonton Alberta T9M 5R3 000-0000 000-0000

The Defendant's Address for service is: City Province Postal Code Res. Phone Bus. Phone

Dated Date

at Edmonton, Alberta.

Signature of Plaintiff / Agent / Solicitor

Print Name

The Court's Address is: Provincial Court of Alberta (Civil) Main Floor, Law Courts 1A Sir Winston Churchill Square 97 Street & 102 A Avenue Edmonton, Alberta T5J 0R2 Telephone: (780) 422 2508 Fax: (780) 427 4348 Website address: www.albertacourts.ab.ca

Issued by the Provincial Court of Alberta

on

Clerk of the Provincial Court

Service of Documents

Once the Court has issued the Civil Claim and returned it to you, the next step is to give it to the defendant. This is called service. You must serve a form of Dispute Note with the Civil Claim on each defendant. The form of Dispute Note can be obtained at the Court office, and it is for the defendant to fill out.

You may serve the Civil Claim and form of Dispute Note on any day of the week. Someone else may serve the Civil Claim and form of Dispute Note for you. If you are unable to serve your documents by one of the authorized methods, contact the Court office for further instructions.

You may serve the Civil Claim and form of Dispute Note on a person by:

- ♦ giving the documents to that person;
- ♦ leaving the documents at that person's most usual residence with a resident who is apparently 16 years of age or older; or
- ♦ mailing the documents by registered mail. The defendant or someone on the defendant's behalf will sign to receive the documents. Keep the original postal receipt. Contact your post office to obtain a *Copy of Signature* or *Certificate of Delivery Confirmation* document.

You may serve the Civil Claim and form of Dispute Note on a corporation by:

- ♦ giving the documents to the president, chairman, head officer or a director of the corporation;
- ♦ giving the documents to a manager, agent or officer of the corporation located where the Civil Claim was issued; or
- ♦ leaving it at or sending it by registered mail to the registered office of the corporation.
- ♦ if service is done by registered mail it is considered to be served 7 days from the date of mailing to an address in Alberta and 14 days if mailed to an address in Canada, outside of Alberta.

Obtain a corporate search at an Alberta Registry office to prove to the Court that you have properly served the registered office of the corporation.

Affidavit of Service

After serving the defendant, the person who served the Civil Claim and form of Dispute Note must

- ♦ fill out the Affidavit of Service provided by the Court office
- ♦ take the Affidavit of Service in person to a Commissioner for Oaths to be sworn or affirmed. This may be done at any Court office
- ♦ give the Commissioner the postal receipt and Acknowledgment of Receipt documents if served on a person. The commissioner will attach and mark the receipts and documents as exhibits.
- ♦ give the Commissioner the postal receipt from the Post Office if served by registered mail on a corporation. The Commissioner will attach and mark the receipt as an exhibit.

If You Are Being Sued

If someone has filed a Civil Claim against you, you are called the defendant. You will receive a Civil Claim which tells why you are being sued, by whom, and for how much.

Ignoring the Civil Claim will not make it go away. When you receive a Civil Claim, you must take action. You must either settle the Civil Claim or file a Dispute Note.

Choices You Have

Negotiate a settlement — If you feel that you do owe some money to the other party (who is called the plaintiff), but not as much as claimed, offer what you feel is reasonable. If you are unable to pay it all at once, try to arrange a repayment plan. Remind the other party that, by compromising, the time and expense of going to court will be avoided. If an agreement is reached, the plaintiff should also immediately inform the Court office in writing that the matter has been settled, or complete and file a Notice of Withdrawal. This form can be obtained at any Court office.

Pay the claim — You can pay the Civil Claim and costs directly to the plaintiff or to the Court. Payment to the Court office must be made by cash, certified cheque, money order, or debit card where available. Obtain a receipt. A court appearance will not be necessary if you choose this option.

File a Dispute Note — If you feel that there are some facts in your favour, do not be reluctant to defend yourself. You do this by completing the form called a Dispute Note and delivering it personally, or by mail or by fax where available, to the Court office where the Civil Claim was filed within 20 days of being served the Civil Claim (30 days if served outside Alberta). The Court office must receive the Dispute Note within the 20- or 30-day time limit. On receipt of a valid Dispute Note, the Court office will set an appearance date and notify all parties by mail.

You may include in the Dispute Note any claim you may have against the plaintiff if you feel that the plaintiff owes you money. For example, the plaintiff may claim that you caused the accident which damaged the plaintiff's car. Your car was also damaged in the accident and you think that the plaintiff caused the accident. The Judge will look at both claims at the same time and decide who owes money to whom.

If you do not have a legitimate reason for disputing a claim, filing a Dispute Note may result in increased costs to you.

Do not send books, papers, or other material relating to this matter with your Dispute Note.

Notice of Appearance — If the defendant files the Dispute Note, the Court office will set the time, date and place for the appearance. The Court office will send a Notice of Appearance and a copy of the Dispute Note to all the parties.

Mediation and Pre-Trial Conferences

Mediation and Pre-Trial Conferences are available at some court locations (Calgary and Edmonton) contact the Court office to see if either of these options are available in your area. A notice of the date and time of the appearance is sent to all parties and attendance is mandatory. Bring with you any relevant documents and witnesses are not allowed to attend.

Mediation is an informal private method in which the parties resolve the dispute by reaching an agreement with the assistance of a mediator(s). Both parties are given an equal opportunity to describe and discuss the sources of conflict and are assisted by neutral mediators in reaching a mutually acceptable solution. If the matter cannot be resolved at a mediation session the matter will then be set for a hearing before a Judge and parties will be notified in writing of the date and time.

Pre-Trial Conferencing is an informal hearing between the parties and a Judge, at which time each party will be given an opportunity to set out their position and attempt to reach a resolution. If no resolution can be reached the Judge will direct the matter proceed to trial and may issue such pre-trial orders, as may be necessary. A notice of the date and time of the hearing is sent to all parties.

The appearance will be held at the courthouse nearest to:

- ♦ where the cause of action arose; or
- ♦ the place where the defendant or one of the co-defendants resided or carried on business at the time the Civil Claim was issued.

Adjournments

Adjournments may be ordered by the Judge at the written consent of all parties. At the discretion of the Judge, costs may be awarded against either party depending on the reasons for the adjournment.

Default Judgment

If the defendant does not pay the Civil Claim or file a Dispute Note within 20 days after being served with the document (30 days if served outside Alberta), in certain cases you can obtain Judgment against the defendant without having a hearing.

For example, if you are suing for an amount agreed to in a contract, you can ask the Clerk to enter Judgment against the defendant. On your request and proof of service of the Civil Claim and form of Dispute Note on the defendant, the Clerk will enter a Default Judgment and mail a Certificate of Judgment to all parties. It is your responsibility to submit to the Clerk the form called Requesting Default Judgment.

If you are suing for a sum which is not a result of an agreement with the defendant, such as compensation for injuries which you suffered, you must ask the Court office to set a date for a Judge to determine your Civil Claim.

Preparation for the Hearing

Prepare Your Evidence

The following outlines the kind of evidence which may be needed to prove your case:

Contract — If you are suing on a contract you have made, you must prove:

- ♦ that there was a contract;
- ♦ what the details of the contract are;
- ♦ how the contract was broken by the defendant; and
- ♦ the exact amount of money you are suing for and how you arrived at that amount.

The most important evidence would be a written contract. A person who was present when the contract was made would be helpful as a witness.

To show why you are suing for a specific amount, you can use evidence such as cancelled cheques, receipts, or bills.

Car Accident — If you are suing because of a car accident, you must prove:

- ♦ that the accident happened,
- ♦ the identity of the driver and/or owner of the car;
- ♦ how the accident happened and who caused it; and
- ♦ the reason for the amount you are suing.

Your testimony and that of a witness can help prove that the accident happened and how it occurred.

You should determine who owns the car. Ask your insurance agent to assist you. This should be done in case the driver was not the owner. If this is the case, you can sue both the driver and the owner, so that if you win the case, you can collect from either one.

Finally, to prove why you are claiming an amount of money, you should have more than one estimate of the cost of repair if you have not yet had the car repaired. If the car has already been repaired, you must have the bill for the work done.

If you are claiming for any other amounts such as towing charges or medical costs, you must have these bills as well.

Debt — If you are suing for a debt, such as an unpaid loan or a bad cheque, you will need to prove:

- ♦ the debt exists;
- ♦ the amount of the debt; and
- ♦ the debt is unpaid or only partially paid.

Anything you have in writing, such as an IOU, the bad cheque, or a letter will help to prove your case. Also, a person who was present when the transaction was made or who heard the defendant say that money was owed to you would be a benefit as a witness.

Damage/Security Deposit — If you are suing for the return of a damage deposit, you must prove:

- ♦ a deposit was made;
- ♦ the deposit was not returned or only partially repaid; and
- ♦ the condition of the premises when you moved in and when you moved out.

A cancelled cheque or receipt will help prove that you paid a deposit. In and Out Inspection reports (damage lists) and witnesses will help to prove what damage was or was not caused by you.

You must be sure that you are suing the registered owner of the apartment or house. While you think the landlord is John Doe, it may actually be Doe Co. Ltd. Check with the city or town tax department, or an authorized agent for Alberta Registries.

Witnesses

If you intend to have witnesses, give each of them a Notice to Attend. A Notice to Attend is an order issued by the Court office stating that the witness must appear in court on your appearance date.

The Notice to Attend must be served by personally delivering a copy to the witness. At the time of service, a Witness Fee must be paid to the witness.

After serving the witness, the person who delivered the Notice must complete an Affidavit of Service before a Commissioner for Oaths. This may be done at any Court office. The sworn/affirmed Affidavit of Service must be delivered in person or by mail to the Court office.

Documents

The documents you use in court should be originals. If you only have a copy, be prepared to explain to the Judge why you do not have the original.

Photographs

If you plan to use photographic evidence, the photographs must be verified by the photographer, who must also testify as to when the photographs were taken. Any photographs should be taken as soon as possible after the event took place.

Hearsay Rule

Hearsay evidence is second-hand evidence given about something which another person has seen or heard. The Court requires that only people with a personal knowledge of events be brought as witnesses. Written statements of anyone not present in Court are unlikely to be accepted because the parties who made them cannot be questioned further.

Courtroom Etiquette

At the beginning of the morning or afternoon, the list of hearings will be read to see who is present. When your name is read, stand and identify yourself.

When the Judge enters or leaves the courtroom, everyone must rise to show respect. People must also stand when speaking to the Judge.

Speaking in Court

When talking, always remain standing and try to speak clearly and slowly. Shouting, arguing, and interrupting is not allowed. The Judge is addressed as Your Honour. If something occurs in the courtroom that you do not understand, it is permissible to ask the Judge to explain what is happening.

The Appearance

When the Judge calls your name, go to the front of the courtroom. The Judge should be informed of all witnesses present.

The Judge will ask the witnesses to leave the courtroom until required to give testimony.

Each party will be given the opportunity to present their case and to cross-examine the witnesses for the other party.

Questioning witnesses happens this way:

Examination — You ask your witness questions to bring out what they know about the matter. Questions for your witness should be prepared before the hearing and should be as short and simple as possible. Remember that you must ask questions, not just make statements.

Cross-examination — The other party asks your witness questions. The purpose of cross-examination is to bring out inconsistencies or missed facts in the witness' evidence. When a witness is being examined, making notes will help you to cross-examine. You do not have to cross-examine.

Re-examination — You have the opportunity to ask your witness to elaborate on statements made during the cross-examination. Only questions related to what the witness said during cross-examination are allowed. No new facts may be brought in.

Summation — Both the plaintiff and the defendant briefly outline their cases.

Decision of the Court

The Judge will make a decision at the appearance or at a later date on the weight of the evidence presented in Court and on an assessment of the credibility of the witnesses.

After the Appearance

Certificate of Judgment

All parties will be sent a Certificate of Judgment. The person may pay you after receiving a copy of the Judgment. If not, there are a number of steps you may consider to enforce the judgment and receive payment. While we have described the steps to enforce the judgment in a straightforward matter in the second part of this pamphlet, this process can be complex and you may wish to discuss it with a lawyer.

Enforcement of Judgment

The procedures for enforcing your Judgment through seizure or garnishment are described in Part II of this brochure. Also, if your Judgment was for a car accident, you may contact Alberta Registries, Motor Vehicles to have the person's driver's licence suspended.

If You Are Ordered to Pay

You have two alternatives: pay whatever amount is ordered by the Judgment or appeal the Judge's decision. You may pay the amount of the Judgment directly to the successful party by cash, certified cheque, or money order. Make sure that you get a receipt.

Appeals

You may appeal the Judge's decision. The appeal will be heard by the Court of Queen's Bench.

Notice of Appeal

To appeal the Judgment of Provincial Court Civil follow these steps:

Within 30 days after Judgment is given in Provincial Court Civil

1. Fill out the Notice of Appeal form and file it at the Provincial Court office where judgment was entered.
2. Order a transcript of evidence from the Transcript Management Services Office. You must pay for the transcript in advance. You will receive a receipt for payment of the transcript.
3. Serve the Notice of Appeal on all the Respondents. The Notice must be served personally, by registered mail, or as directed by the Court of Queen's Bench.

Within 37 days after Judgment is given in Provincial Court,

4. At the Court of Queen's Bench Civil Document filing area, file a copy of the Notice of Appeal, a copy of the transcript order / invoice showing receipt of payment and the Affidavit of Service proving that the Notice of Appeal has been served on all Respondents.

Within 3 months of the date that the Notice of Appeal is filed in the Court of Queen's Bench,

5. File the transcript of evidence at the Court of Queen's Bench.

Once the transcript has been filed, the Clerk's office of the Court of Queen's Bench will send out notice of the hearing date which will be set on the next available date.

Remember to keep the Queen’s Bench Clerk’s office informed of any change of address for you or the Respondent because missing information may delay the hearing.

If the Appellant does not file the transcript within 3 months, the Appeal will be dismissed.

Stay of Proceedings

When the appeal is filed in the Court of Queen’s Bench, it operates as a stay of proceedings. This means that the Civil Judgment cannot be enforced until the outcome of the appeal is decided.

Lawyer Referral Service

At the time of publication of this brochure, Lawyer Referral Service (1-800-661-1095), sponsored by the Law Society of Alberta, allows you to consult a lawyer for 30 minutes at no charge.

Civil Offices Telephone Numbers

For information pertaining to Civil matters, call your local Court office.

Calgary	(403) 297-7217
	fax (403) 297-7374
Camrose	(780) 679-1240
	fax (780) 679-1253
Drumheller	(403) 820-1700
	fax (403) 823-0073
Edmonton	(780) 427-1289
	fax (780) 427-4348
Fort McMurray	(780) 743-7195
	fax (780) 743-7395
Fort Saskatchewan	(780) 998-1200
	fax (780) 998-7222
Grande Prairie	(780) 538-5360
	fax (780) 538-5454

High Level	(780) 926-3715
	fax (780) 926-4068
High Prairie	(780) 523-6600
	fax (780) 523-6643
Hinton	(780) 865-8280
	fax (780) 865-8253
Leduc	(780) 986-6911
	fax (780) 986-0345
Lethbridge	(403) 381-5223
	fax (403) 381-5763
Medicine Hat	(403) 529-8644
	fax (403) 529-8606
Peace River	(780) 624-6256
	fax (780) 624-7101
Red Deer	(403) 340-7128
	fax (403) 340-7985
St. Albert	(780) 458-7300
	fax (780) 460-2963
St. Paul	(780) 645-6324
	fax (780) 645-6273
Sherwood Park	(780) 464-0114
	fax (780) 449-1490
Stony Plain	(780) 963-6205
	fax (780) 963-6402
Vermilion	(780) 853-8130
	fax (780) 853-8200
Wetaskiwin	(780) 361-1204
	fax (780) 361-1338

Part II

Enforcing Your Judgment in Alberta

Introduction

You have been successful in obtaining a Judgment of Provincial Court Civil or the Court of Queen's Bench and you would like to collect on it from the defendant/enforcement debtor. This can be a difficult process and you may consider seeing a lawyer. If you decide to act on your own behalf, this brochure outlines the procedures and forms required by the Court of Queen's Bench Clerk's office. It is for information only, and is not to be interpreted as the law. Forms are available on the Alberta Courts web site at www.albertacourts.ab.ca or can be purchased from the Queen's Printer.

Glossary

Before reading further, you may wish to review the glossary in order to familiarize yourself with legal terminology in the text that follows.

Attached — Term used when personal property is taken and in some way legally bound.

Defendant — A person against whom a law suit is commenced. This includes companies, corporations or individuals.

Enforce — To use the legal process to collect monies owing under a Judgment.

Encumbrance — A lien or charge on property.

Enforcement Creditor - A person who is owed money under a Judgment.

Enforcement Debtor — A person who owes money under a Judgment.

Fiat — An Order of a Judge or Master endorsed on a document usually supported by an Affidavit, a written statement confirmed by oath.

Garnishee Process — A process where the enforcement creditor obtains authority pursuant to the Civil Enforcement Act to have a third party (e.g. an employer or bank) pay monies into court to pay off the debt of an enforcement debtor.

Indemnity — Security or guaranteed compensation for damage or loss.

Instructing Creditor - The enforcement creditor on whose instructions enforcement is commenced or continued.

Judgment — A decision of the court, usually awarding money.

Lien — The right to hold the property of another as security for performance of an obligation.

Plaintiff — A person who begins a lawsuit.

Pro Rata Distribution — Proportionate distribution of monies paid into court in accordance with the Civil Enforcement Act and the amount of the debt owed to each enforcement creditor.

Related Writ — A Writ of Enforcement against the same enforcement debtor that is active at Personal Property Registry.

Service — To provide a document to a debtor/defendant/garnishee, either by personal delivery or other means set out in a statute or regulation.

Substitutional Service — To convey a document by a means other than personal delivery or a means set out in a statute or regulation as authorized by the Court. The Court may also dispense with service.

Writ of Enforcement — A document issued by the Clerk of the Court of Queen's Bench and registered with the Personal Property Registry by which a Judgment or Order is enforced.

Court Judgment

A Court Judgment is valid for 10 years from the date of Judgment and may be renewed for an additional 10 years on application to and by Order of the Court of Queen's Bench or by the Provincial Court, depending on where the order originated. This application must be made prior to the expiry of the Judgment. As Enforcement Creditor, it is your responsibility to collect the debt. You should try to obtain payment directly from the Enforcement Debtor. If you are not successful in this, enforcement processes are available to you, including:

- ♦ Garnishment and/or
- ♦ Seizure

The first step in all of these processes is to file your Judgment at the Court of Queen's Bench in the Judicial District where the Judgment was obtained. If you have obtained your Judgment in Provincial Court Civil, a certified copy will be mailed to you and to the debtor. You must file the Certificate of Judgment with the Court of Queen's Bench if you wish to use either of these enforcement processes. You then prepare a Writ of Enforcement.

If you have obtained your Judgment at a Provincial Court office that is not located in a Queen's Bench Judicial Centre, or if you have obtained your Judgment in a different Judicial District from the one in which you reside, at your request, the Clerk's office will allow you to fax file your Judgment and Writ of Enforcement to the Queen's Bench Clerk's office. There is a required fax filing fee that must be paid prior to the Clerk providing this service. This procedure will save you the time and expense of travelling or mailing your documents to the Clerk's office.

Writ of Enforcement

A Writ of Enforcement (Writ) is a document filed with the Clerk of the Court of Queen's Bench and then registered with the Personal Property Registry (PPR) which entitles you to enforce your Judgment. It also entitles you to share in money paid to the Clerk of the Court as a result of garnishment proceedings, or a Civil Enforcement Agency as a result of seizure proceedings commenced by other Enforcement Creditors.

The Writ and Addendum must be completed accurately because, once it has been issued by the Clerk of the Court, most corrections cannot be made except by an Order of the Court of Queen's Bench.

You will require four copies of the Writ.

Things to watch for: (See form on page 29)

1. Court location — Write the court location where Judgment was entered.
2. Court file number — Write the file number given to your Judgment at the time of filing with the Court of Queen's Bench.
3. Full name of debtor — Write the full name of the debtor listed in the Judgment against whom you wish to initiate enforcement proceedings, the debtor's address, and whether the debtor is an individual. When the debtor is an individual, you must identify the sex, and, if known, the occupation and date of birth. Each debtor must be listed separately.
4. Full name of creditor — Write the full name of the creditor listed in the Judgment, the creditor's address, PPR party code (the creditor will not have a PPR party code unless they have previously registered something at PPR), and whether the creditor is an individual.

Note: Use an Addendum page and attach it to the Writ of Enforcement where more than one creditor and/or debtor is involved. (See form on page 30.)

5. Date of Judgment — Write the date of Judgment as shown on the Certificate of Judgment.
6. Total amount of Judgment — Write the total amount of the Judgment, including interest awarded at the time of Judgment as shown on the Certificate of Judgment.

-
7. Post-judgment interest — Write any post-judgment interest which may have accrued since the date of Judgment.
 8. Taxed costs — Write any taxed costs (these are specifically ordered by the court) as shown on the Certificate of Judgment.
 9. Current amount owing — Write the current amount owing as of the date of filing the Writ. This amount is obtained by adding the amounts from items 6, 7 and 8 and subtracting any payments or funds received.
 10. Date the Writ will be issued — Write the date the Writ will be issued by the Clerk of the Court of Queen's Bench.
 11. Registering party — Write the name, PPR party code, address, telephone and fax number of the solicitor, agent, or creditor filing the Writ.

After you have completed the Writ, all copies are filed with the Clerk of the Court of Queen's Bench. As noted earlier, you require a minimum of four copies. The Clerk will retain the original and return three copies to you. It is then your responsibility to register one copy of the Writ with PPR through an Alberta Registries Agent on payment of the prescribed fee.

Status Report

A Status Report allows changes to be made on the Writ information registered at PPR, without a Court Order. They include the addition of aliases for the debtor, changes to the creditor/debtor particulars, and changes to the current amount owing, costs or post-judgment interest. Registration of a Status Report can be done at an Alberta Registries Agent on payment of the prescribed fees.

It is also your responsibility to register a Status Report at PPR every two years, **prior** to the Writ of Enforcement expiring, in order to keep it active. A creditor is required to register a Status Report whenever the creditor receives payment from the debtor other than from a distribution under the Civil Enforcement Act. A second copy of the Writ can be registered against the debtor's land at the Land Titles office in Calgary or Edmonton on paying the prescribed fee. The addresses and telephone numbers are as follows:

Land Titles Offices

Edmonton

Mezzanine & 3rd Floor, John E. Brownlee Building

10365 - 97 Street

Edmonton AB T5J 3W7

Telephone: (780) 427-2742

Calgary

Alberta Government Services Building, 2nd floor

710 4 Avenue S.W.

Calgary AB T2P 0K3

Telephone: (403) 297-6511

Writ of Enforcement

Civil Enforcement Act

FILED

COURT LOCATION _____ (1) _____

COURT FILE NUMBER _____ (2) _____

TYPE OF JUDGMENT CROWN EMPLOYMENT STANDARDS OTHER

This Writ authorizes enforcement proceedings in accordance with the Civil Enforcement Act. The particulars of the Writ are as follows:

DEBTOR INDIVIDUAL Male OTHER OCCUPATION _____

Female DATE OF BIRTH _____

(3) Business Name or Last Name First Name Middle Name

Address City Province Postal Code

CREDITOR INDIVIDUAL OTHER P.P.R. PARTY CODE _____

(4) Business Name or Last Name First Name Middle Name

Address City Province Postal Code

Additional Debtors and Creditors and/or other information listed on attached addendum.

If claiming priority based on an Attachment Order or partial Assignment, indicate previous P.P.R. Registration Number.

Date of Judgment (or date Judgment effective, if different) _____ (5) day of _____

Original Judgment	\$ (6)	This Writ is issued for the amount of the judgment plus costs and interest. ISSUED this _____ day of _____ (10)
Post Judgment Interest	\$ (7)	
Costs	\$ (8)	
Current Amount Owning	\$ (9)	

CLERK OF THE COURT

SOLICITOR / AGENT P.P.R. PARTY CODE _____

(11) Name in Full

Address City Province Postal Code

Area Code & Telephone Number Fax Number Call Box Your Reference Number

TO REGISTER AGAINST SERIAL # GOODS AT PERSONAL PROPERTY REGISTRY, COMPLETE THE FOLLOWING:

SERIAL NUMBER (Only Applicable to serial number goods, e.g. motor vehicles.)	YEAR	MAKE AND MODEL	CATEGORY

Authorized Signature Print Name Control Number Page 1 Of

Financing Statement

Writ of Enforcement Addendum

(If adding an alias indicate Debtor's Block No. _____)

DEBTOR INDIVIDUAL — Male OTHER COURT FILE NUMBER _____
 OCCUPATION _____
 DATE OF BIRTH _____

Business Name or Last Name First Name Middle Name

Address City Province Postal Code

(If adding an alias indicate Debtor's Block No. _____)

DEBTOR INDIVIDUAL — Male OTHER OCCUPATION _____
 DATE OF BIRTH _____

Business Name or Last Name First Name Middle Name

Address City Province Postal Code

CREDITOR INDIVIDUAL OTHER P.P.R. PARTY CODE _____

Business Name or Last Name First Name Middle Name

Address City Province Postal Code

CREDITOR INDIVIDUAL OTHER P.P.R. PARTY CODE _____

Business Name or Last Name First Name Middle Name

Address City Province Postal Code

ADDITIONAL INFORMATION

Enforcement Process

Before proceeding with any enforcement, it is advisable to search PPR through an Alberta Registries Agent to determine whether or not any related Writs or Liens are filed against the debtor, by requesting a Distribution Seizure Search. When initiating enforcement proceedings, you must remember that you are taking this action on behalf of all creditors.

Any monies recovered as a result of your enforcement will be paid out as follows:

- ♦ 1st As Instructing creditor, your costs involved in producing the fund, as proven by a taxed Subsequent Bill of Costs.

- ♦ 2nd The first \$2000 will go directly to you, unless there are creditors with statutory claims such as the Workers' Compensation Board, Maintenance Enforcement, etc. which will take priority over your claim, or secured creditors who may or may not take priority over your claim.

- ♦ 3rd The remaining funds will be divided on a *pro-rata basis* among all Enforcement Creditors with related writs, including you.

If the Clerk of the Court or a Civil Enforcement Agency is already holding money as a result of enforcement done on behalf of another creditor, you may be entitled to share in the proceeds.

The Clerk of the Court or Civil Enforcement Agency will mail out a Distribution Statement to all parties. There is a procedure to object to the proposed distribution.

Garnishment

Garnishment is a process whereby money which is owed to the debtor is diverted to his creditors. The person or business owing money to the debtor is called a Garnishee. For example, you can serve a Garnishee Summons on a bank where the debtor has an account. The account can be in the name of the debtor only or can be a joint account: the bank must pay the money in the account up to the amount of all the related Writs into Court. In the case of a joint account, the bank will pay in that portion which is considered to be the debtor's (e.g. two people named on the account, one of whom is the debtor — one-half of the funds would normally be attachable by the Garnishee Summons). You can also garnishee the employer of the debtor. You must accurately complete the documents listed below and file them at the office of the Clerk of the Court of Queen's Bench. Forms are available on the Alberta Courts web site at www.albertacourts.ab.ca or can be purchased from the Queen's Printer.

Garnishee Summons

The Garnishee Summons is addressed to the Garnishee (person or business owing money to the debtor) and directs that the money be paid into court rather than to the debtor.

A Garnishee Summons is in effect for one year from the date of issuance in all instances except where a bank account is garnisheed. In the case of a joint bank account, the Garnishee Summons expires the first time money is paid into court. In the case of all other bank accounts, the Garnishee Summons expires 60 days from the date it is issued. It is effective against money owed at the time the Garnishee Summons is served, as well as future obligations which may arise during the currency of the document.

A Garnishee Summons that is issued for a term of one year can be renewed for a further one year period by filing a Garnishee Summons Renewal Statement within 60 days before the expiry date of the Garnishee Summons. There is no limit to the number of times a Garnishee Summons may be renewed.

You will require five copies of the Garnishee Summons.

Things to Watch for: (See forms on pages 37-42)

Page One:

1. Date of Garnishee Summons — Write the date the Garnishee Summons will be issued by the Clerk of the Court.
2. Money owed by the debtor — Write the total amount of money owed by the debtor to you and all related Writ holders. This amount must match the amount shown under Total in the To the Clerk section on page four of the Garnishee Summons form.
3. Type of obligation — Mark the appropriate boxes to identify the type of obligation being garnisheed.
4. Affidavit in Support of Garnishee Summons — In the Affidavit in Support of Garnishee Summons you are stating that a Judgment has been obtained against the debtor and the Writ has been registered at PPR; giving a brief description of the anticipated obligation and stating that the garnishee is within Alberta. The person swearing/affirming the Affidavit in Support should cross out and initial the non-applicable parts of paragraph one.

Complete the blank areas on the Affidavit that are underlined as shown on page 37. This is a sworn/affirmed document; you must be sure that all of the facts stated in it are true to the best of your knowledge.

Once you have completed the Affidavit, it must be sworn/affirmed before a Commissioner for Oaths. Commissioners for Oaths are normally available at any Court office.

Pages Two and Three:

1. Instructions — The next two pages are instructions to the Garnishee.

-
2. Clerk of the Court office address — Complete the Clerk of the Court office address in the middle of page two of the Garnishee Summons.

 3. Employment Earnings Exemptions — A portion of employment earnings are exempted from being garnisheed. Details are provided on page three of the Garnishee Summons. For example, if you garnishee a person who receives a net monthly salary of \$2,000, \$590 of this amount would be paid into Court. This is calculated as follows:

Monthly net salary	\$2,000
Minus: Minimum exemption	800
	<i>\$1,200</i>
Minus: Further exemptions	600
	<i>\$ 600</i>
Minus: \$10 garnishee fee	10
<i>Amount paid into Court</i>	<i>\$590</i>

Page Four:

1. To the Clerk
 - a) Registration number — Write the PPR Writ of Enforcement Registration Number.

 - b) Current amount owing — Write the current amount owing from your Writ of Enforcement.

 - c) Money still owing — Write the amount of money still owing to you as of this date.

 - d) Total of any related writs — Write the total of any related writs as indicated on the Distribution Seizure Search from PPR. Do not include your Judgment amount in this total.
 Note: See comments concerning the need to obtain a Distribution Seizure Search under Enforcement Process on page 31.

-
- e) Probable costs — Write any other costs (e.g. service costs, search costs, etc.) to which you may be entitled. Note: Claims for probable costs must later be proven by a taxed and filed Subsequent Bill of Costs.
 - f) Sum total — The sum total of amounts c, d, and e noted above.

2. The *Certificate of Service on the Debtor* will remain blank. This portion of the document should be completed by the Garnishee after service of the Garnishee Summons on the debtor.
3. Complete the upper right hand corner of the backer by inserting the Queen's Bench action number, Judicial District, and party names, addresses and telephone and fax numbers where known.
4. Check the After Judgment box under the document title.
5. Complete your name, address, and telephone number on the bottom of the right hand corner of the page.

You must file all copies of the Garnishee Summons with the Court of Queen's Bench office.

You will require an original plus four copies of the Garnishee Summons, to be used as follows:

- ♦ Original will be kept by the Clerk's office;
- ♦ Copies one, two and three to be served on the Garnishee (e.g. employer); and
- ♦ Copy four is your file reference copy.

Service of Garnishee Summons

You must first serve three copies of the Garnishee Summons on the Garnishee and provide the Garnishee with an administration fee. The most commonly used methods of service of the Garnishee Summons as set out in Rule 353 of the Alberta Rules of Court are as follows:

When the Garnishee is an individual, by:

- ♦ personal service; or
- ♦ sending by registered mail addressed to the individual at the individual's residence, or to the name and address of any business of the individual.

When the Garnishee is a corporation, by:

- ♦ personal service on an officer or director of the corporation or person in charge of any office or place of business of the corporation; or
- ♦ serving the registered office personally or by registered mail addressed to the registered or head office of the corporation.

The Garnishee is then required to serve the debtor with a copy of the Garnishee Summons and complete the Certificate of Service on the debtor. If the Garnishee is unable to serve the debtor, they must state why in their response to the Clerk. The Garnishee will then forward the money and Certificate of Service to the Clerk of the Court. The Clerk of the Court will advise you by letter if any funds are paid into Court on your Garnishee Summons.

If the Garnishee does not serve the debtor and complete the Certificate of Service, you will also be advised by the Clerk's office. You will then be required to serve a copy of the Garnishee Summons on the debtor either personally or by registered mail. Service of the Garnishee Summons by the creditor on the debtor by ordinary mail will not meet service requirements under the Alberta Rules of Court, Rule 353.

If you are unable to serve the debtor as noted above, you will be required to apply for a Court Order allowing you to:

- ♦ serve the debtor in a different way; or
- ♦ dispense with service and have the money paid out of Court.

Only the Clerk may distribute garnishee monies.

Garnishee Summons
Court of Queen s Bench of Alberta

Form L

Judicial District of _____

Creditor _____

Debtor _____

Garnishee _____

This Garnishee Summons is issued on _____ for \$ _____

(The Creditor may adjust the amount by serving a Notice on the Garnishee.)
date total amount

The Creditor intends to garnish the Debtor s employment earnings
 deposit accounts
 money owing from other sources

Clerk of the Court

The judgment is for alimony or maintenance.

When employment earnings are garnished for alimony or maintenance, *Maintenance Enforcement Act* employment exemptions apply. Refer to *Maintenance Enforcement Regulation* for more information.

This summons expires

1. in the case of a deposit account, 60 days from the date it was issued, unless it is a joint account, in which case this is only a one-time obligation.
2. in all other cases, one year from the date it was issued, unless it has been renewed.

Supporting Affidavit

1. I am the creditor or an agent/lawyer for the creditor.
2. According to the judgment or Attachment Order, a Writ of Enforcement or Attachment Order has/has not been registered at the Personal Property Registry.
3. I believe that the proposed Garnishee owes the debtor money now or will owe the debtor money in the future.
4. The proposed Garnishee is in Alberta, or does business in Alberta notwithstanding that its payroll office is outside Alberta.

Creditor or Agent/Lawyer

Occupation

Sworn in _____, Alberta on _____
Town or city Date

Commissioner for Oaths in Alberta

Commissioner s name and commission s expiry date (please print)

Instructions for Garnishee

These instructions will help you to comply with the Garnishee Summons. They are taken from the following pieces of legislation:

Civil Enforcement Act, RSA 2000, c.C-15
Civil Enforcement Regulation, (AR 276/95) sections 39 and 40
Alberta Rules of Court, Rule 470 to 481.1

Make cheques payable to the Minister of Finance and send, along with the required documents, to:

Future payments to the clerk under this Garnishee Summons should be accompanied by a copy of the back page of this Garnishee Summons and an accounting.

Garnishee Summons (which does not attach employment earnings)

Within 15 days from being served with the Garnishee Summons in triplicate with a \$25 compensation fee, you must do the following:

1. **Serve** a copy of the Garnishee Summons on the debtor (personally or by ordinary mail).
2. **Deliver** to the Clerk of the Court a Garnishee s Response. See below for what this must contain.
3. **Pay** to the Clerk the lesser of
 - (a) the amount indicated on the first page of the Garnishee Summons,
or
 - (b) the amount payable by you to the Debtor according to your obligation to the Debtor

minus \$10 as a Garnishee compensation.

Where the Garnishee Summons seeks to affect a **joint entitlement**, you must pay to the Clerk, unless a court orders otherwise, an amount equal to the total amount of the fund divided equally amongst all the people with the joint entitlement. A Garnishee Summons which seeks to attach a joint deposit account only attaches a current obligation as defined in the *Civil Enforcement Act*.

**Garnishee
Summons
(which does
not attach
employment
earnings)**
continued

The Garnishee s Response must contain as much of the following as is applicable:

1. (a) A Certificate of Service on the Debtor (found on the back of this document) stating that you have delivered a copy of the Garnishee Summons to the Debtor,
or
(b) A statement setting out why you could not serve the Garnishee Summons on the Debtor.
Note: Send the Original Certificate of Service to the Clerk.
2. The amount that you owe under your obligation to the Debtor.
3. The amount that you are paying to the Clerk.
4. If you don t think that you have an obligation to pay the Debtor that can be affected by the Garnishee Summons, please explain why.
5. If you believe that the obligation that the Garnishee Summons is trying to affect is (or may be) owed to someone other than the Debtor, give the reasons for your belief and the name and address of that other person.
6. If you have already received another Garnishee Summons regarding the same obligation and that Garnishee Summons is still in effect, let the Clerk s office know in writing and give the QB Action Number of the other Garnishee Summons. The QB Action Number is on the upper right of the back of the Garnishee Summons.
7. Where the Garnishee Summons seeks to affect a joint entitlement, the Garnishee s Response must contain the name of each person who has the joint obligation with the Debtor and either
(a) the address of each person who has the joint obligation with the Debtor,
or
(b) a completed Certificate of Service (found on the back of this document) stating that you have served a copy of this Garnishee Summons on each person who has the joint obligation with the Debtor.
Note: If it is a joint account, it is a one-time obligation.
8. Where the Garnishee Summons has attached a future obligation, that is, there is an amount that you must pay the Debtor in the future, the Garnishee s Response must contain the following, if known:
(a) the date or dates on which the future obligation, or any part of it, is expected to become payable,
(b) the amount expected to be payable on each date set out above, and
(c) any conditions that must be met before the future obligation will become payable.

When the future obligation becomes payable, the Garnishee s Response must set out

- (a) the amount that is now payable,
and
- (b) the amount that you are paying to the Clerk.

Garnishee Summons (which attaches employment earnings)

Within 15 days from being served with the Garnishee Summons in triplicate with a \$25 compensation fee, you must do the following:

1. **Serve** a copy of the Garnishee Summons on the Debtor (personally or by ordinary mail).
2. **Deliver** to the Clerk of the Court a Garnishee s Response. See below for what this must contain.
3. Within 5 days after the end of the Debtor s last pay period for months affected by the Garnishee Summons, pay to the Clerk the Debtor s net pay less
 - (a) the Debtor s employment earnings exemption (see Employment Earnings Exemptions listed below), and
 - (b) \$10 as a Garnishee compensation.

Net pay means the Debtor s total earnings minus any amounts you are required to deduct for income tax, Canada Pension contributions, and employment insurance premiums. Any other deductions are taken from the debtor s exemption.

The Garnishee s Response must contain as much of the following as applicable:

1. Whether or not you employ the Debtor.
2. How often you pay the Debtor.
3. Either
 - (a) A Certificate of Service on the Debtor (found on the back of this document) stating that you have delivered a copy of the Garnishee Summons to the Debtor, or
 - (b) A statement setting out why you could not serve the Garnishee Summons on the Debtor.

Note: Send the original Certificate of Service to the Clerk.

4. If you have already received another Garnishee Summons against the Debtor s employment earnings and that Garnishee Summons is still in effect, let the Clerk s Office know in writing and give the QB Action Number of the other Garnishee Summons. The QB Action Number is on the upper right of the back of the Garnishee Summons.

At the end of the Debtor s last pay period for each month during which the Garnishee Summons is in effect, you must deliver to the clerk a written statement setting out:

1. the Debtor s total employment earnings for the pay periods that ended during the month,
2. the amounts deducted from total earnings to calculate the Debtor s net pay for the month,
and
3. the number of the Debtor s dependants.

Employment Earnings Exemptions

Calculate the Debtor's monthly employment earnings exemption by adding together:

1. the Debtor's minimum exemption,
and
2. half the amount by which the Debtor's net pay exceeds this minimum exemption.

For a Debtor with no dependants, the minimum employment earnings exemption is \$800 and the maximum is \$2400. The minimum and maximum employment earnings exemption increases by \$200 for each dependant.

A dependant is:

1. a person identified as a dependant by Court Order,
2. the spouse or adult interdependent partner of the Debtor,
3. any child of the Debtor under 18 who lives with the Debtor,
or
4. any relative of the Debtor (or of the Debtor's spouse/adult interdependent partner) who lives with the Debtor and, because of mental or physical infirmity, depends financially on the Debtor.

You are entitled to rely on, and act in accordance with, the Debtor's written statement of the number of dependants he or she has.

You can get a worksheet from the Clerk's Office to help you calculate the Debtor's employment earnings exemption.

When employment earnings are garnished for alimony or maintenance, *Maintenance Enforcement Act* employment exemptions apply. Refer to *Maintenance Enforcement Regulation* for more information.

If you pay the Debtor's salary/wage more often than monthly, you can pay the Clerk of the Court at the end of each pay period instead of at the end of each month.

In this case, calculate the minimum and maximum employment exemption for each pay period as follows:

1. multiply the monthly exemption by the number of days in the pay period,
and
2. divide this number by 30.

To the Clerk:

The Creditor has a Judgment/Attachment Order against the Debtor, and a Writ of Enforcement/Attachment Order has been registered at Personal Property Registry

as _____
(II - digit PPR Registration Number)

The amount specified in the Writ of Enforcement/Attachment Order is \$ _____
of which the present balance owing is \$ _____
plus related writs (according to attached search results) \$ _____
plus probable costs \$ _____
Total \$ _____
total amount

Certificate of Service on the Debtor/Joint Oblige

I, _____
Print name of person who served the Garnishee Summons

am the Garnishee/Agent for the Garnishee.
 Creditor/Agent for the Creditor.

I certify that on _____
Date of Service of Garnishee Summons

I served _____
Name of Debtor/Joint Oblige
 personally
 by ordinary mail with a true copy of the Garnishee Summons according to the *Alberta Rules of Court* and the *Civil Enforcement Act*.

Note: Only the Garnishee may serve a Garnishee Summons on a Debtor/Joint Oblige by ordinary mail unless otherwise ordered by the Court.

Dated _____
Signature of Person who served the Summons

(If there is more than one Debtor/Joint Oblige, please complete an additional Certificate of Service for each Debtor/Joint Oblige.)

QB Action No. _____

Court of
Queen s Bench
of Alberta

Judicial District of

Between:
Creditor _____

Address _____

Phone _____ Postal Code _____

Fax _____

Debtor _____

Address _____

Phone _____ Postal Code _____

Fax _____

Garnishee _____

Address _____

Phone _____ Postal Code _____

Fax _____

Garnishee _____

Address _____

Phone _____ Postal Code _____

Fax _____

Garnishee Summons
before judgment
after judgment

Filed by _____

Address _____

Phone _____ Postal Code _____

Fax _____

File No. _____

Seizure

In this process, after you have registered your Writ of Enforcement at PPR, you may instruct a Civil Enforcement Agency to seize the property of the debtor, and unless the debtor pays the debt in the meantime, to sell the seized property and divide the proceeds amongst the creditors. A list of Civil Enforcement Agencies can be found under the Sheriff - Civil Enforcement page of the Alberta Courts web site at www.albertacourts.ab.ca, or in your local telephone directory's yellow pages, or by contacting the Office of the Sheriff - Civil Enforcement at (780) 422-2481.

Other Creditors

It is possible that another creditor may have a priority claim against the property you wish to seize. To avoid needless expense, you should conduct a Distribution Seizure Search (for a fee) at PPR through the office of an Alberta Registries Agent before instructing the Civil Enforcement Agency to make the seizure.

You will need to prepare and provide the Civil Enforcement Agency with the following documents:

1. Search — This is a Distribution Seizure Search from PPR which can be obtained through an Alberta Registries Agent. The Distribution Seizure Search contains information that verifies that your Writ of Enforcement has been registered with PPR and that it is active.
2. Warrant — This document authorizes the Civil Enforcement Agency to enforce your Judgment by seizing the property of the debtor. The warrant must be completely filled out and signed by the creditor or his agent with the exception of the Related Writs and Seizure Fees and Costs portion at the bottom of the form (see form on page 45 and 46).
3. Notice of Seizure of Personal Property — You will require four copies. This document is used to notify the debtor of the seizure of property to satisfy the debt. You must write the name and address of the creditor, debtor, and agency, and check off the

YES box (see form on page 47). Do not sign this document. The Addendum form shown on page 48 is used by the Bailiff to describe additional property seized from the debtor. You do not complete any part of this form.

4. Bailee's Undertaking — This is used by the Bailiff to have a responsible person agree to keep the seized property and deliver it to the Civil Enforcement Agency when instructed to do so (see form on page 49). You do not complete any part of this form.
5. Notice of Objection to Seizure of Personal Property — You will require one copy for each debtor. This is to be used by the debtor to object to the seizure. You must write the name and address of the Civil Enforcement Agency (see form on page 50).

Note: The documents mentioned in items 2 through 5 may be obtained from a Civil Enforcement Agency or may be purchased from the Queen's Printer.

Fees

Contact the Civil Enforcement Agency to determine their requirement regarding deposit for seizure costs and fee amounts.

Sale

The creditor must instruct the Civil Enforcement Agency to conduct a sale of the seized property. The Civil Enforcement Agency can only do so 15 days after the Notice of Seizure of Personal Property and Notice of Objection to Seizure of Personal Property have been served on the debtor.

If the Enforcement debtor serves a Notice of Objection on the agency, a Court Order must be obtained prior to the seized property being sold. This is a somewhat complex process and involves a court hearing. You may want to consult with a lawyer to assist in the preparation of the documents and the court application.

Warrant (Writ of Enforcement)

TO: _____

Name and Address of Civil Enforcement Agency

A Writ of Enforcement has been registered at Personal Property Registry as Registration Number _____
You are hereby instructed to seize the personal property of

Name and Address of Debtor

in order to realize the sum of \$ _____ owing to _____ and
the total amount of all related writs plus costs.
Amount Owing as Registered at P.P.R. Name of Creditor

Location of personal property if different from the debtor's address

Dated at _____, Alberta, on _____.

Signature of Instructing Creditor or Authorized Agent

Print Name of Instructing Creditor or Authorized Agent

Address of Instructing Creditor or Authorized Agent

City

Province

Postal Code

Telephone Number

Fax Number

RELATED WRITS - SEE REVERSE OR ATTACHED SEARCH RESULTS.

AMOUNT OWING THIS WRIT.....	\$	
PLUS TOTAL OF Related Writs.....	\$	
PLUS Seizure Fees and Costs.....	\$	
TOTAL	\$	

Notice of Seizure of Personal Property

TO: _____

Name and Address of Debtor

Take notice that to satisfy a claim against you for the sum of \$ _____ plus costs and related Writs, if applicable.

Name and Address of Creditor

has caused the following personal property and personal property listed in the addendum to be seized:

Addendum attached listing additional property. Yes No

Notice of Objection applicable to this seizure. Yes No

STRIKE OUT
IF NOT
APPLICABLE

If you object to the seizure, you must deliver the Notice of Objection to the Civil Enforcement Agency listed below within 15 days from the day that the seizure documents were served.

Dated at _____, Alberta, on _____, _____

Bailiff's Signature _____ Print Name _____

Name of Civil Enforcement Agency _____

Address of Civil Enforcement Agency _____ City _____

Province _____ Postal Code _____ Telephone Number _____ Fax Number _____

Notice: If you have concerns about the way that this seizure was conducted, contact the Civil Enforcement Agency listed above. If you are unable to resolve your concerns with the Civil Enforcement Agency, you may contact the Sheriff – Civil Enforcement at (780) 422-2481.

Bailee's Undertaking

In consideration of the seized personal property listed in the attached Notice of Seizure of Personal Property being left in my possession, I agree to act as Bailee for the Civil Enforcement Agency and keep the said personal property in good condition at:

Address or Land Location Where Personal Property Will Be Stored.

and deliver it to the Civil Enforcement Agency whenever and wherever it may be required.

I understand that non-delivery or conversion of the personal property may result in a conviction under the Criminal Code for which a term of imprisonment may be imposed.

Dated at _____, Alberta, on _____

Bailee:

Signature of Bailee _____ Print Name _____

Address of Bailee _____ City _____ Province _____

Postal Code _____ Telephone Number _____ Fax Number _____

Signature of Witness _____ Print Name _____

Address of Witness _____ City _____ Province _____

Postal Code _____ Telephone Number _____ Fax Number _____

Name of Civil Enforcement Agency _____

Address of Civil Enforcement Agency _____ City _____

Province _____ Postal Code _____ Telephone Number _____ Fax Number _____

NOTE: ATTACH TO EACH COPY OF THE NOTICE OF SEIZURE OF PERSONAL PROPERTY.

Notice of Objection to Seizure of Personal Property

TO: _____

Name, Address and Fax Number of Civil Enforcement Agency

**This Notice of Objection to Seizure of Personal Property will not be accepted if
a reason for the objection is not provided.**

I object to the seizure of the personal property mentioned in the Notice of Seizure of Personal Property for the following reason(s):

(IF ADDITIONAL SPACE REQUIRED, PLEASE WRITE ON REVERSE.)

IF YOU OBJECT TO THE SEIZURE OF PERSONAL PROPERTY, THIS NOTICE MUST BE DELIVERED TO THE ABOVE NOTED CIVIL ENFORCEMENT AGENCY WITHIN 15 DAYS OF THE DATE ON WHICH THE SEIZURE DOCUMENTS WERE SERVED.

If there is no valid reason for objecting to the seizure of the personal property, the sending of this notice may result in increased costs to you.

Dated at _____, Alberta, on _____

THE FOLLOWING MUST BE COMPLETED

Signature of Debtor _____ Print Name _____

Mailing Address of Debtor _____ City _____

Province _____ Postal Code _____ Telephone Number _____ Fax Number _____

Exemptions

Under the provisions of the Civil Enforcement Act, certain kinds of property cannot be seized by a Civil Enforcement Bailiff. These are specifically set out in the Civil Enforcement Regulations.

Alberta Registries

Alberta Registries has numerous authorized agents throughout Alberta who deliver registry services to the public. Some of these services include civil enforcement searches, corporate registry searches, land titles searches and personal property (lien) searches. The Alberta Registry Agents are listed in your local telephone directory. Further information for accessing these services can be obtained by calling:

- ♦ (780) 422-7330 (Edmonton);
- ♦ (403) 297-8980 (Calgary); or
- ♦ 1-800-465-5009 (other areas).

Civil Enforcement Act

The Civil Enforcement Act came into force on January 1, 1996. This statute and its regulations contain complete information on the legal procedures for civil enforcement of a Judgment. In order to get a more thorough understanding of your rights as a creditor or debtor, you may wish to obtain and review a copy of this Act and the regulations. Both are available on the Queen's Printer web site at www.qp.gov.ab.ca or can be purchased from the Queen's Printer.

Personal Property Security Act

The Personal Property Security Act came into force on October 1, 1990. This statute contains a number of provisions which affect creditor rights and remedies in Alberta. In order to get a more thorough understanding of your rights as a creditor or debtor, you may wish to obtain and review a copy of this Act which is available on the Queen's Printer web site at www.qp.gov.ab.ca or can be purchased from the Queen's Printer.

Civil Enforcement Agency Fees

Rules 587 to 589 of the Alberta Rules of Court set out the procedures for requesting a review of a Civil Enforcement Agency's account by a court taxing officer.

A Final Word

Legal enforcement of a Judgment is often complex and difficult. Many aspects of creditor law and legal procedure have not been explained in this brochure. Court employees are not allowed to give you legal advice. Please consult a lawyer if you have any questions.

At the time of publication of this brochure, Lawyer Referral Service (1-800-661-1095), sponsored by the Law Society of Alberta, allows you to consult a lawyer for 30 minutes at no charge.

Copies of this booklet are available from all Provincial Court Civil offices (see pages 21 and 22).
