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Superior Court of Justice

Ce guide est également disponible en français.

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A Guide to Family Procedures in the Superior Court of Justice

Revised July 2004

*This guide does not provide legal advice.
It is recommended that all parties in the
Superior Court of Justice seek legal advice
where possible.*

Part 3: Answers

If an Application is brought against you, you are the “respondent” in the case. The other party is called the “applicant.” The following discussion will assist you in responding to an Application.

To start a case, the applicant will serve you with several documents. These documents include:

- The applicant’s completed Application – Form 8
- A copy of the Table of Contents from the Continuing Record, showing the documents served on you.

If the applicant is requesting support or makes a claim in relation to property, you will also be served with:

- The applicant’s completed Financial Statement – Form 13 or Form 13.1 or Net Family Property Statement – Form 13B, as applicable.

Step 1: Read the documents you receive from the applicant.

The first page of the Application has information that applies to you, the respondent.

If you do not agree with any of the applicant’s claims, you must serve and file an Answer – Form 10 within 30 days of having been served with the Application, or 60 days if you were served outside Canada or the United States.

Step 2: Pick up the forms you need.

If the forms that you need were not included in the information provided by the applicant, you can pick them up at the court office.

If you are responding to an Application you need:

- An Answer – Form 10
- An Affidavit of Service – Form 6B

If you are making or responding to a claim for support, but you are not making or responding to a claim for property or exclusive possession of the matrimonial home and its contents, you need:

- A Financial Statement (Support Claims) – Form 13

If you are making or responding to a claim for property or exclusive possession of the matrimonial home and its contents, whether or not you are also making or responding to a claim for support, you need:

- A Financial Statement (Property and Support Claims) – Form 13.1

Whether or not you serve an Answer, if support or property or exclusive possession of the matrimonial home and its contents has been claimed on the application, you are required to serve and file a Financial Statement.

In either of these cases, you may also need:

- A Direction to Canada Customs and Revenue Agency – Form 13A (if you cannot easily obtain your income tax returns and notice of assessments for the past 3 years)
- A Support Deduction Order Information form (This is not a court form but is available at the court office.)

If you are making a claim in relation to property, or one has been made in the Application, you need:

- A Net Family Property Statement – Form 13B

Refer to the Financial Statements Guide for more information.

Step 3: Fill in the forms.

1. Fill in all forms carefully, follow all instructions on the forms, and include all the information asked for.
2. Update the Table of Contents page from the Continuing Record by adding all of the forms you are completing and will be serving on the Applicant.
3. Make **two** copies of:
 - Your completed Answer – Form 10
 - Your completed Financial Statement (Support Claims) – Form 13 or Financial Statement (Property and Support Claims) – Form 13.1
 - The updated Table of Contents

Keep one copy of the documents for your file. Keep a second copy of all documents to serve on the applicant (*see Step 4*). The originals will be filed at the court office (*see Step 5*).

Need help completing the forms? Go to the end of this guide for samples.

Step 4: Serve the applicant with the documents.

1. Arrange to provide the applicant with a copy of:
 - Your completed Answer
 - Your completed Financial Statement/Net Family Property Statement (if applicable)
 - The updated Table of Contents

In most cases, you can serve the applicant with your documents by mailing them to the applicant's lawyer or if none, to the applicant.

2. After the applicant has been served, the person who served them must complete an Affidavit of Service – Form 6B before a commissioner for taking affidavits.

Refer to the General Information Sheet – “Serving Documents” for more information.

Step 5: File your documents at the court office.

After the applicant has been served and the Affidavit of Service has been completed, you must go back to the court office to file the originals of all the documents you served, together with the Affidavit of Service. Most of the documents served and filed in the case will go into the Continuing Record. The Affidavit of Service is filed in the court file, not in the Continuing Record.

At the same time, you should update the Table of Contents at the front of the Continuing Record.

Refer to the General Information Sheet – “Filing Documents” for more information.

Remember:

If you do not file an Answer and/or Financial Statement within 30 days (60 days if served outside Canada or the United States), the judge may make a decision based on the applicant’s evidence alone. You will have to get the applicant’s consent in writing, or an order from the judge, to file your Answer and/or Financial Statement after the time limit.

If you receive documents from Canada Customs and Revenue Agency, make sure you serve them on the applicant and file them as soon as you receive them.

Step 6: Pay any applicable fees.

There may be a fee for filing your Answer. You may pay this fee with cash, cheque or money order payable to the “Minister of Finance.” You can find out more about the fees at the court office.

Next Steps

Reply

The applicant will have an opportunity to review your Answer and may file a Reply – Form 10A within the time set out in the court rules.

Case Conference

Your next step may be a case conference. Pick up a copy of the *Case Conference Guide* to familiarize yourself with the process and the forms that will be needed.

Emergency Motions

If you are in a situation of **hardship or urgency**, for example:

- You need a restraining order because of an immediate danger to the health or safety of you or your child; or
- Your child is in danger of being removed from Ontario; or
- You are in dire and immediate need of support for yourself or your child;

you may request a temporary order from the court by bringing a motion with your application.

Refer to the Motions Guide for more information.

Sample Forms

This section contains sample forms that you will need to fill out when filing an Answer.

You may wish to visit the Family Law Information Centre to obtain information about completing court forms.

Some tips on completing all forms:

1. **Be neat.** These are court documents and the court will not take them if they are not neat or the court cannot read them. **All court forms must be typed or printed.**
2. Fill in the name and address of the court where the application was filed at the top of all court documents.
3. Make sure the **court file number** is on the upper right-hand corner of every page of **all** of your documents.
4. Make enough **copies** of your completed forms. In most cases you will need to make two copies: one to serve on the other party and one for your files. The original forms will be filed with the court in the Continuing Record.
5. When completing the forms, you are asked to fill in the address where documents can be served on you. If being served at your home address would put your physical safety at risk, speak to court or Family Law Information Centre staff about using an alternative address.

Form 10: Answer

This form should be completed by the party responding to the case.

The Answer form allows you to make your own claim if some issues are not dealt with in the Application. Your claim might be against the applicant or against any other person.

ONTARIO

Court File Number

(Name of court)

Family Law Rules, O. Reg. 114/99
Form 10: Answer

at _____
Court office address

Applicant(s)

<small>Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).</small>	<small>Lawyer's name & address — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).</small>

Respondent(s)

<small>Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).</small>	<small>Lawyer's name & address — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).</small>

Name & address of Children's Lawyer's agent for service (street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any)) and name of person represented.

INSTRUCTIONS: Financial Statement

COMPLETE A FINANCIAL STATEMENT (Form 13) IF:

- you are making or responding to a claim for spousal support; or
- you are responding to a claim for child support; or
- you are making a claim for child support in an amount different from the table amount specified under the Child Support Guidelines.

You must complete all parts of the form **UNLESS** you are **ONLY** responding to a claim for child support in the table amount specified under the Child Support Guidelines **AND** you agree with the claim. In that case, only complete Parts 1, 2 and 3.

COMPLETE A FINANCIAL STATEMENT (Form 13.1) IF:

- you are making or responding to a claim for property or exclusive possession of the matrimonial home and its contents; or
- you are making or responding to a claim for property or exclusive possession of the matrimonial home and its contents together with other claims for relief.

TO THE APPLICANT(S):
If you are making a claim against someone who is not an applicant, insert the person's name and address here.

AND TO: (full legal name) _____ an added respondent,
of (address of added party) _____

My name is (full legal name) _____

1. I agree with the following claim(s) made by the applicant: (Refer to the numbers alongside the boxes on page 3 of the application form.)

Continued on next sheet →
(Français au verso)

FLR 10 (Rev. 04/03)

Court File Number: This number is assigned to the case once the court file has been opened. All documents must have the proper court file number on them.

Applicant: This is the person who started the case.

Respondent: Fill in your full legal name, complete address, telephone number, fax number and e-mail address, if you have one. **If your address changes you must immediately serve notice of the change on the other parties and file it with the court.**

You can agree with the parts of the applicant's claim and description of family history that you accept. On the next page, you can list the parts of the claim that you do not accept. There is also space for you to fill in the facts on which you rely and that you would like the judge to know.

You must sign the form at the end and date it.

Form 13 and Form 13.1: Financial Statements

There are two Financial Statement forms – Form 13: Financial Statement (Support Claims) and Form 13.1: Financial Statement (Property and Support Claims).

ONTARIO

Court File Number

(Name of Court)

at Court office address

Family Law Rules, O. Reg. 114/99
Form 13: Financial Statement (Support Claims) sworn/affirmed

Applicant(s)
Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).
Lawyer's name & address — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

ONTARIO

Court File Number

(Name of court)

at Court office address

Family Law Rules, O. Reg. 114/99
Form 13.1: Financial Statement (Property and Support Claims) sworn/affirmed

Applicant(s)
Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).
Lawyer's name & address — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

Respondent(s)
Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).
Lawyer's name & address — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

INSTRUCTIONS

1. USE THIS FORM IF:

- you are making or responding to a claim for property or exclusive possession of the matrimonial home and its contents; or
- you are making or responding to a claim for property or exclusive possession of the matrimonial home and its contents together with other claims for relief.

2. DO NOT USE THIS FORM AND INSTEAD USE FORM 13 IF:

- you are making or responding to a claim for support but NOT making or responding to a claim for property or exclusive possession of the matrimonial home and its contents.

1. My name is (full legal name) _____
I live in (municipality & province) _____
and I swear/affirm that the following is true:
My financial statement set out on the following (specify number) _____ pages is accurate to the best of my knowledge and belief and sets out the financial situation as of (give date for which information is accurate) _____ for

Check one or more boxes, as circumstances require.

me

the following person(s): (Give name(s) and relationship to you.) _____

FLR 13.1 (Rev. 04/03)

Continued on next sheet →
(Français au verso)

Use **Form 13** if you are making or responding to a claim for support, but are not making or responding to a claim for property or exclusive possession of the matrimonial home and its contents.

Use **Form 13.1** if you are making or responding to a claim for property or exclusive possession of the matrimonial home and its contents, whether a claim for support is also included or not.

Instructions about which form to use are provided on the first page of each form.

Sign at the end of the Financial Statement. The person signing is swearing or affirming that the Financial Statement is true. **It must be signed in front of a commissioner for taking affidavits.** This can be done at a lawyer's office, at a legal aid clinic, or at the court office. There may be a small fee for this service.

You must attach to the Financial Statement copies of your income tax returns and notices of assessment for the past **three** years and documents to prove how much income you get. If you don't have this information, you need to complete **Form 13A**.

You must file the Financial Statement in the Continuing Record with the past three years notices of assessment or Form 13A. You are not required to file the past three years income tax returns in the Continuing Record unless the court orders otherwise.

Both the applicant and the respondent are required to **update** their Financial Statements at each new stage in the case. If the previous Financial Statement filed is more than 30 days old, a party must serve the other party and file with the court:

- A new **Financial Statement (Support Claims) – Form 13** or **Financial Statement (Property and Support Claims) – Form 13.1** (if applicable)

OR

- An **Affidavit – Form 14A** indicating either that there is no change from the last financial statement filed or that the changes are minor (include details of any changes).

Updated financial information must be served and filed according to the chart below:

Step in case	Who serves and files financial statement first?	When?	When does responding party serve and file?
Case/settlement conference requested by a party	Requesting party	At least 7 days before the date of the conference	At least 4 days before the date of the conference
Case/settlement conference not requested by a party	Applicant	At least 7 days before the date of the conference	At least 4 days before the date of the conference
Motion	Party making the motion	At least 7 days before the date of the motion	At least 4 days before the date of the motion
Trial	Applicant	At least 7 days before the date of the trial	At least 4 days before the date of the trial

Form 13A: Direction to Canada Customs and Revenue Agency

If you are completing a Financial Statement, you must provide copies of your income tax returns and notices of assessment for the past **three** years.

The Direction to Canada Customs and Revenue Agency (CCRA) – Form 13A should be filled out if you cannot easily obtain copies of your income tax returns and notices of assessment. This form will allow CCRA to send copies of your income and deduction printouts to the other party. Once the other party receives the information from CCRA, he or she should serve you with a copy.

ONTARIO		<div style="border: 1px solid black; width: 100px; height: 20px; margin-bottom: 5px;"></div> Court File Number
_____ <i>(Name of court)</i>		<small>Family Law Rules, O. Reg. 114/99</small> Form 13A: Direction to Canada Customs and Revenue Agency
at _____ <i>Court office address</i>		
Applicant(s)		
<small>Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).</small>	<small>Lawyer's name & address — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).</small>	
Respondent(s)		
<small>Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).</small>	<small>Lawyer's name & address — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).</small>	
TO THE CANADA CUSTOMS AND REVENUE AGENCY:		
My name is <i>(full legal name)</i>		
My latest address shown on tax records is:		
.....		
.....		
My social insurance number is:		
I authorize the Canada Customs and Revenue Agency to release to <i>(name and address of other party or other party's lawyer)</i>		
.....		
.....		
.....		
copies of income and deduction printouts showing my income as assessed by the Canada Customs and Revenue Agency for the following years:		
.....		
.....		
<div style="border: 1px solid black; padding: 5px;"> <small>Ontario's Family Law Rules require the release of this information which will be used in this case only for:</small> <ul style="list-style-type: none"> • a claim for support, property or exclusive possession of the matrimonial home and its contents; or • any other purpose ordered by the court. <small>I understand that this information will become part of the court file, which is a public record.</small> </div>		
_____ <i>Date of signature</i>	_____ <i>Signature of taxpayer</i>	
<small>FLR 13A (07/01) (Français au verso)</small>		

The address of the other party goes here.

Form 6B: Affidavit of Service

This form should be completed when **any** documents are served on the other party.

ONTARIO

Court File Number

(Name of court)

at -----
Court office address

Family Law Rules, O.Reg. 114/99
Form 6B: Affidavit of Service
sworn/affirmed

.....

Applicant(s)

<small>Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).</small>	<small>Lawyer's name & address — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).</small>

Respondent(s)

<small>Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).</small>	<small>Lawyer's name & address — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).</small>

My name is (full legal name)

I live in (municipality & province)

and I swear/affirm that the following is true:

1. On (date), I served (name of person to be served)

with the following document(s) in this case:

Name of document	Author (if applicable)	Date when document signed, issued, sworn, etc.

List the documents served

NOTE: You can leave out any part of this form that is not applicable.

2. I served the documents mentioned in paragraph 1 by:

<input type="checkbox"/>	special service. (Go to paragraph 3 below if you used special service.)
<input type="checkbox"/>	mail. (Go to paragraph 4 if you used mailed service.)
<input type="checkbox"/>	courier. (Go to paragraph 5 if you used courier.)
<input type="checkbox"/>	deposit at a document exchange. (Go to paragraph 6 if you used a document exchange.)
<input type="checkbox"/>	fax. (Go to paragraph 7 if you used fax.)
<input type="checkbox"/>	substituted service or advertisement. (Go to paragraph 8 if you used substituted service or advertisement.)

3. I carried out special service of the document(s) on the person named in paragraph 1 at (place or address)

by:

<input type="checkbox"/>	leaving a copy with the person.
<input type="checkbox"/>	leaving a copy with (name)
<input type="checkbox"/>	who is a lawyer who accepted service on the person's behalf.
<input type="checkbox"/>	who is the person's lawyer of record.
<input type="checkbox"/>	who is the (office or position)

of the corporation named in paragraph 1.

Continued on next sheet
(Français au verso)

FLR 6B (05/02)

Complete the court address and the court file number.

Applicant Information & Respondent Information: If either party has moved put in the new address.

In addition to the date served, it is a good idea to indicate the **time**.

Provide additional details about the person who you served, if possible (e.g. Jane Doe, Receptionist at Family Child and Services).

List the document(s) that were served.

Check one of the boxes indicating how the document(s) were served. For more information about the types of service, refer to the *General Information Sheet – “Serving Documents.”*

The person who served the documents must sign at the end of the Affidavit swearing or affirming that the affidavit is true. **The Affidavit must be signed in front of a commissioner for taking affidavits.** This can be done at a lawyer’s office, at a legal aid clinic or at the court office. There may be a small fee for this service.

When completed, **Form 6B** must be filed in the court file, not in the Continuing Record.

