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### Ontario Court of Justice

*Ce guide est également disponible en français*

**ISBN 0-7794-6407-9**

Published by the  
Ministry of the Attorney General

FLR0-A-SG-2-En (REV 07/04)

# A Guide to Family Procedures in the Ontario Court of Justice

Revised July 2004

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

# Part 2: Applications

A family case is started by bringing an Application. The Application sets out the issues that the court is being asked to resolve.

If you are bringing an Application, you are called the “applicant.” The other party is called the “respondent.” The steps in bringing an Application are described below.

Before you begin your Application, you should check to make sure that you are bringing the Application in the right court.

## **Court staff must refuse your Application if you are in the wrong court.**

Generally, you should start your case:

- In the municipality where you live; or
- In a custody and/or access case, in the municipality where the children live.

In emergency situations, it is possible to start part of a case in a different municipality. Emergency situations are ones where there is an immediate danger to your child(ren) or your health and safety or there is an immediate danger that a child may be removed from Ontario. Once these initial urgent issues are resolved, your case will probably be transferred to the court in the correct municipality.

## **Step 1: Pick up the forms you need.**

All of the forms that you will need can be picked up at the court office. If you are making an Application you need:

### **For most cases:**

- An Application – Form 8
- An Affidavit of Service – Form 6B
- A Table of Contents page for the Continuing Record (This is not a court form, but is available at the court office.)

### **If you are claiming support, you need:**

- A Financial Statement (Support Claims) – Form 13
- 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 (SDOIF) (This is not a court form but is available at the court office.)

*Refer to the Financial Statements Guide for more information.*

### **If you have had previous family court files, you need:**

- A Summary of Court Cases – Form 8E

## Step 2: Fill in the forms.

Fill in all forms carefully, follow all of the instructions on the forms and include all the information asked for. Note that if you are claiming support, court staff cannot accept your application without a completed Financial Statement.

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

## Step 3: Get a court file number and first court date.

1. Take your forms to the court office.
2. At the court office, staff will:
  - Give your case a court file number.
  - Give you a first court date.
  - Put a court seal on the Application.
  - Put the Support Deduction Order Information Form in the file (if applicable).
3. Put the court file number in the upper right-hand corner on every page of all of your forms.
4. Put the court date provided by the court office in the space on the front page of your Application.
5. Fill in the name, date of the document and date of filing of all the forms you have completed and will be serving on the other party in the Table of Contents page.
6. Make **two** copies of:
  - Your completed Application – Form 8
  - Your completed Financial Statement (Support Claims) – Form 13 (if applicable)
  - The completed Table of Contents page

One copy of these documents is for your files. The other copy will be served on the respondent (*see Step 4*). The originals will be filed in the Continuing Record (*see Step 5*).

## Step 4: Serve the respondent with the documents.

Arrange to provide the respondent with a copy of:

- Your completed Application;
- Your completed Financial Statement (if applicable);
- The Table of Contents page.

You should also serve a blank Answer – Form 10, and if applicable, a blank Financial Statement (Support Claims) – Form 13 for the respondent to complete.

These documents cannot be faxed or sent to the respondent through regular mail. They must be served by “special service”, i.e. either handed personally to the respondent, or the respondent’s lawyer, or mailed with an Acknowledgment of Service Card – Form 6.

Ordinarily, you should not hand the documents to the respondent yourself. You may be able to get a friend or relative to serve the documents for you or you can hire someone to serve the respondent for you; names of these people can be found in the Yellow Pages under “Process Servers.” If you do not have a lawyer or cannot find someone to serve the documents for you, and you fear for your safety, talk to court staff and they will arrange to serve the respondent.

After the respondent has been served with your documents, 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 respondent has been served and the Affidavit of Service has been completed, you must go back to the court office to:

1. Prepare the Continuing Record for your case. Most of the documents served and filed in the case will go into the Continuing Record. The court office may have a sample Continuing Record to help you. The court office will provide the materials needed to prepare the Continuing Record to parties who are not represented by a lawyer.
2. File all the original documents in the Continuing Record. File the Affidavit of Service in the court file, not in the Continuing Record.
3. Insert the Table of Contents page at the front of the Continuing Record.

*Refer to the General Information Sheet – "Filing Documents" for more information.*

## **Next Steps**

### **Answer**

The respondent will have an opportunity to review your Application and must file an Answer within the time set out in the court rules if he or she wishes to participate further.

### **Reply**

You can respond to the Answer within the time set out in the court rules by way of a Reply – Form 10A. You may wish to file a Reply if the Answer raises new issues that were not addressed in the Application.

### **First Court Date/Case Conference**

The next step may be a first court date or case conference. Pick up a copy of the *First Court Date and 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 parties will need to fill out when filing an Application.

You may wish to visit the Family Law Information Centre or speak to court staff to obtain information about completing 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 you are filing the application at the top of all court documents.
3. Once court staff have provided a **court file number**, make sure it 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 8: Application (General)

This form should be completed by the person starting the case.

ONTARIO



\_\_\_\_\_ (Name of court)

at \_\_\_\_\_ Court office address

Court File Number

Family Law Rules, O. Reg. 114/99  
**Form 8: Application (General)**

**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).

**TO THE RESPONDENT(S):**  
**A COURT CASE HAS BEEN STARTED AGAINST YOU IN THIS COURT. THE DETAILS ARE SET OUT ON THE ATTACHED PAGES.**

**THE FIRST COURT DATE IS (date) \_\_\_\_\_ AT \_\_\_\_\_**  a.m.  p.m. or as soon as possible after that time, at: (address) \_\_\_\_\_

**NOTE:** If this is a divorce case, no date will be set unless an Answer is filed. If you have also been served with a notice of motion, there may be an earlier court date and you or your lawyer should come to court for the motion.

**THIS CASE IS ON THE FAST TRACK OF THE CASE MANAGEMENT SYSTEM.** A case management judge will be assigned by the time this case first comes before a judge.

**THIS CASE IS ON THE STANDARD TRACK OF THE CASE MANAGEMENT SYSTEM.** No court date has been set for this case but, if you have been served with a notice of motion, it has a court date and you or your lawyer should come to court for the motion. A case management judge will not be assigned until one of the parties asks the clerk of the court to schedule a case conference or until a notice of motion under subrule 14(5) is served before a case conference has been held. If, after 200 days, the case has not been scheduled for trial, the clerk of the court will send out a warning that the case will be dismissed in 30 days unless the parties file proof that the case has been settled or one of the parties asks for a case conference or a settlement conference.

**IF YOU WANT TO OPPOSE ANY CLAIM IN THIS CASE,** you or your lawyer must prepare an Answer (Form 10 – a blank copy should be attached), serve a copy on the applicant(s) and file a copy in the court office with an Affidavit of Service (Form 6B). **YOU HAVE ONLY 30 DAYS AFTER THIS APPLICATION IS SERVED ON YOU (60 DAYS IF THIS APPLICATION IS SERVED ON YOU OUTSIDE CANADA OR THE UNITED STATES) TO SERVE AND FILE AN ANSWER. IF YOU DO NOT, THE CASE WILL GO AHEAD WITHOUT YOU AND THE COURT MAY MAKE AN ORDER AND ENFORCE IT AGAINST YOU.**

FLR 8 (Rev. 04/03) Continued on next sheet →  
(Français au verso)

**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:** That is the person starting the case. 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.**

**Respondent:** That is the person you are taking to court. In most family cases this will be your spouse or partner, but it could be another family member or another person. Fill in the full name, complete address, telephone number, fax number and e-mail if they have one.

**Court staff will fill out information about the first court date and case management system, and sign the form once the documents have been filed.**

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

## Form 13: Financial Statement (Support Claims)

There are two Financial Statement forms – Form 13: Financial Statement (Support Claims) and Form 13.1: Financial Statement (Property and Support Claims). **In the Ontario Court of Justice, you may only use Form 13.**

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)**

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

**Respondent(s)**

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

**INSTRUCTIONS**

- YOU DO NOT NEED TO COMPLETE THIS FORM IF:
  - your only claim for support is for child support in the table amount specified under the Child Support Guidelines and you are not making or responding to a claim described in paragraph 3 below.
- USE THIS FORM 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.
- DO NOT USE THIS FORM AND INSTEAD 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; 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.

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.) \_\_\_\_\_

Continued on next sheet →  
(Français au verso)

FLR 13 (Rev. 04/03)

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.

**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**

- 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:**

<b>Step in case</b>	<b>Who serves and files financial statement first?</b>	<b>When?</b>	<b>When does responding party serve and file?</b>
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> <b>Form 13A: Direction to Canada Customs and Revenue Agency</b>
at _____ <i>Court office address</i>		
<b>Applicant(s)</b>		
<small>Full legal name &amp; address for service — street &amp; number, municipality, postal code, telephone &amp; fax numbers and e-mail address (if any).</small>	<small>Lawyer's name &amp; address — street &amp; number, municipality, postal code, telephone &amp; fax numbers and e-mail address (if any).</small>	
<b>Respondent(s)</b>		
<small>Full legal name &amp; address for service — street &amp; number, municipality, postal code, telephone &amp; fax numbers and e-mail address (if any).</small>	<small>Lawyer's name &amp; address — street &amp; number, municipality, postal code, telephone &amp; fax numbers and e-mail address (if any).</small>	
<b>TO THE CANADA CUSTOMS AND REVENUE AGENCY:</b>		
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; margin-top: 10px;"> <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"> <li>• a claim for support, property or exclusive possession of the matrimonial home and its contents; or</li> <li>• any other purpose ordered by the court.</li> </ul> <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) <span style="float: right;">(Français au verso)</span></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)

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

at .....  
 Court office address

.....

**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).

**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.

FLR 6B (05/02) Continued on next sheet  
(Français au verso)

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.

