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Family Court of the **Superior Court of Justice**

Ce guide est également disponible en français.

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A Guide to **Procedures** in Family Court

Revised July 2004

This guide does not provide legal advice. It is recommended that all parties in the Family Court 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

For uncontested divorce cases:

 An Application (Divorce) – Form 8A (Refer to the Uncontested Divorce Guide for more information.)

You will also need:

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

If you are claiming support, but are not claiming property or exclusive possession of the matrimonial home and its contents, you need:

 A Financial Statement (Support Claims) – Form 13 (Refer to the Financial Statements Guide for more information.)

If you are claiming property or exclusive possession of the matrimonial home and its contents, whether or not you are also claiming support, you need:

 A Financial Statement (Property and Support Claims) – Form 13.1 (Refer to the Financial Statements Guide for more information.)

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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 (SDOIF) (This is not a court form, but it is available at the court office.)

If you are making a claim in relation to property you need:

 A Net Family Property Statement – Form 13B

If you have had previous family court cases 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 or property, 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, and pay any applicable fees.

- 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 ("Fast track" cases only: Refer to the First

- Court Date and Case Conferences Guide).
- Put a court seal on the Application.
- Collect any fee for filing your Application. You may pay this fee by cash, cheque or money order payable to the "Minister of Finance." You can find out more about fees from the court office.
- Put the Support Deduction Order Information Form in the file (if applicable).
- Put the court file number in the upper right-hand corner on every page of all of your forms.
- Put the court date provided by the court office in the space on the front page of your Application ("Fast track" cases only).
- 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 or Financial Statement (Property and Support Claims) – Form 13.1 or Net Family Property Statement – Form 13B (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).

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Step 4: Serve the respondent with the documents.

Arrange to provide the respondent with a copy of:

- Your completed Application;
- Your completed Financial Statement and Net Family Property 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 or Financial Statement (Property and Support Claims) – Form 13.1 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 accepted by 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:

- 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.
- File all the original documents in the Continuing Record. File the Affidavit of Service in the court file, not in the Continuing Record.
- Insert the completed Table of Contents page at the front of the Continuing Record.

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

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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 to obtain information about completing court forms.

Some tips on completing all forms:

- 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.
- Fill in the name and address of the court where you are filing the application at the top of all court documents.
- 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.

SEAL (Name of a Court office Applicant(s) Full legal name & address for service – street & number, municipality	Family Law Rules, O. Reg. 114/99 Form 8: Application address (General)
postal code, telephone & fax numbers and e-mail address (if any).	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).	y, 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 ATTACHED PAGES. THE FIRST COURT DATE IS (date) A after that time, at: (address)	DU IN THIS COURT: THE DETAILS ARE SET OUT ON THE
motion, there may be an earlier court date and you er you THIS CASE IS ON THE FAST TRACK OF THE C be assigned by the time this case first comes before THIS CASE IS ON THE STANDARD TRACK OF T set for this case but, if you have been served with should come to court for the motion. A case manage	ASE MANASEMENT SYSTEM. A case management judge will be a judge. THE CASE MANAGEMENT SYSTEM. No court date has been he a notice of motion, it has a court date and you be your lawyer ement judge will not be assigned until one of the parties aske the
case conference has been held. If, after 200 days,	r until a notice of motion under subrule 14(5) is served before a the case has not been scheduled for trial, the clerk of the court ed in 30 days unless the parties file proof that the case has been nce or a settlement conference.
blank copy should be attached), serve a copy on the ap Service (Form 6B). YOU HAVE ONLY 30 DAYS AFTER APPLICATION IS SERVED ON YOU OUTSIDE CAN.	SE, you or your lawyer must prepare an Answer (Form 10 – a oplicant(s) and file a copy in the court office with an Affidavit of ITHIS APPLICATION IS SERVED ON YOU (60 DAYS IF THIS ADA OR THE UNITED STATES) TO SERVE AND FILE AN AD WITHOUT YOU AND THE COURT MAY MAKE AN ORDER
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. 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 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).

(Name of Court) at Court office address	Family Law Rules, O. Reg. 114/99 Form 13: Financial Statement (Support Claims)	are not making or responding to a
Applicant(s)	sworn/affirmed	claim for property or exclusive possession of the matrimonial home and its contents.
Full legal name & address for service — street & number, municipality, Lawyer's name & ad	dress — street & number, municipality, postal code, bers and e-mail address (if any).	and its contents.
ONTARIO	Court File Number	Use Form 13.1 if you are making or responding to a claim for property or exclusive possession of the
atCourt office address	Family Law Rules, O. Reg. 114/39 Form 13.1: Financial Statement (Property and Support Claims) sworn/affirmed	matrimonial home and its contents, whether a claim for support is also included or not.
	& address — street & number, municipality, postal code, 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 telephone & fax	& address — street & number, municipality, postal code, numbers and e-mail address (if any).	
		Instructions about which form to use are provided on the first page of
INSTRUCTIONS		each form.
USE THIS FORM IF: you are making or responding to a claim for property or exclusts contents; or you are making or responding to a claim for property or exclusion.		
its contents together with other claims for relief.		
DO NOT USE THIS FORM AND INSTEAD USE FORM 13 IF: you are making or responding to a claim for support but NOT reculsive possession of the matrimonial home and its contents.	naking or responding to a claim for property or	
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 situa		Sign at the end of the Financial
accurate)	for	Statement. The person signing is
Check one or me me the following person(s): (Give name(s) and relative manual continuing person(s): (Give name(s) and relative manual continuing person(s): (Give name(s) and relative more more person(s): (Give name(s) and relative more pers	ionship to you.)	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
FLR 13.1 (Rev. 04/03)	Continued on next sheet → (Français au verso)	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.

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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

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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.

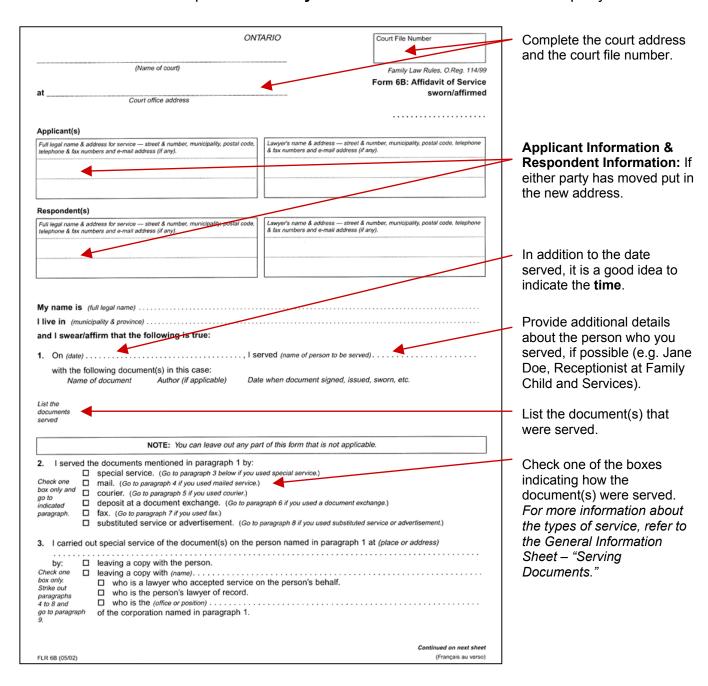
The Direction to Canada Customs and Revenue Agency (CCRA) – Form 13A should be filled out if you cannot easily obtain copies of your income tax returns and notices of assessment. This form will allow CCRA to send copies of your income and deduction printouts to the other party. Once the other party receives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

ONT	ARIO	Court File Number		
(Name of court)		Family Law Rules, O. Reg. 114/99 Form 13A: Direction to		
,		Canada Customs and		
atCourt office addres	ss	Revenue Agency		
Applicant(s) Full legal name & address for service — street & number, municipality, postal	Lawver's name & address	ss — street & number, municipality, postal		
code, telephone & fax numbers and e-mail address (if any).	code, telephone & fax n	umbers 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 & addre code, telephone & fax n	ss — street & number, municipality, postal umbers and e-mail address (if any).		
TO THE CANADA CUSTOMS AND REVENUE AGENCY	: :			
My name is (full legal name)				
My latest address shown on tax records is:				
My social insurance number is:				
I authorize the Canada Customs and Revenue Agency to	release to (name and addr	ess of other party or other party's lawyer)		
				— The address of the
copies of income and deduction printouts showing my i Agency for the following years:	income as assessed by	the Canada Customs and Revenue		other party goes here
Ontario's Family Law Rules require the release of this information v a claim for support, property or exclusive possession of the matr any other purpose ordered by the court.	rimonial home and its conte	se only for: nts; or		
I understand that this information will become part of the court file,	wnich is a public record.		1	
Date of signature		Signature of taxpayer		
out of organiero				
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Form 6B: Affidavit of Service

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



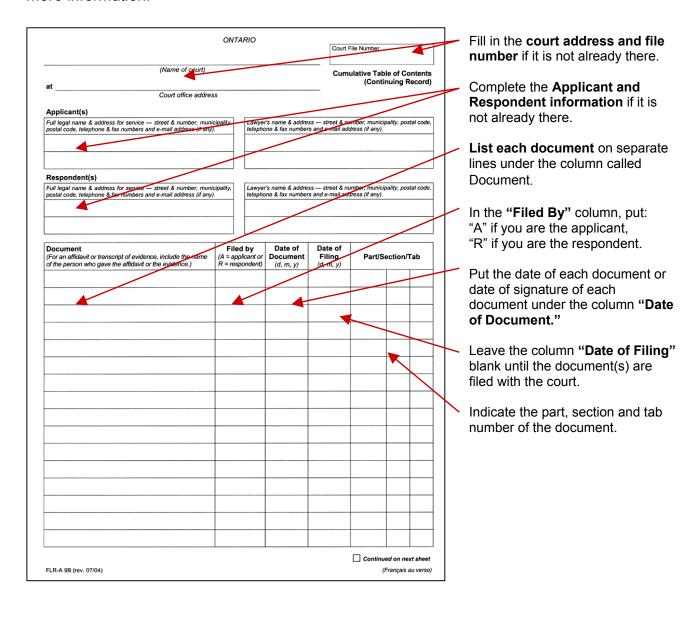
The person who served the documents must sign at the end of the Affidavit swearing or affirming that the affidavit is true. **The Affidavit must be signed in front of a commissioner for taking affidavits.** This can be done at a lawyer's office, at a legal aid clinic or at the court office. There may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

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

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Table of Contents (Continuing Record)

All forms and documents that are being served on the other party must be served with an updated Table of Contents. *Refer to the General Information Sheet – "Filing Documents" for more information.*



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