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Ontario Court of Justice

Ce guide est également disponible en français

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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 6: General Information Sheets

Serving Documents

"Serving" documents means providing copies of documents to the other party in a court case. Documents must be served on the other party at each step in the court process. By serving the other party, you are **notifying** him or her of the step you are taking and of the information you will be presenting to the court.

How can documents be served?

There are **two** types of service:

- Special Service
- Regular Service

Special Service

Applications must be provided to the other party by "special service". Most other court documents can be provided by regular service. Any of the following methods can be used to serve documents requiring special service:

- Handing a copy of the documents to the respondent, or the respondent's lawyer.
- Handing a copy of the documents to any person at the respondent's home who appears to be an adult person living at that address **and** within one day, mailing a copy to the respondent at that address.
- Mailing a copy of the documents to the respondent's home address together with an acknowledgement of service in the form of a prepaid return postcard – Form 6. Service will only be valid when the respondent returns the signed postcard to the applicant.

You cannot use regular mail or fax your Application to the other party.

Personal Safety: If you fear for your safety in serving court documents personally on the respondent, talk to the court staff and they will arrange to serve the respondent for you. You can also ask a friend or family member to assist you or you can hire a lawyer or process server to serve the documents.

The names of process servers can be found in the Yellow Pages under "Process Server."

Regular Service

Once the Application has been served, most other documents can be served by "regular service."

Regular service includes special service plus:

- **Mailing or couriering** the documents to the other party or to his or her lawyer.
- **Faxing** the documents to the other party or his or her lawyer, as long as the total number of pages is no more than **16**, including any cover page or back sheet.

When a document is served by fax, a cover page should indicate:

- The sender's name
- Address
- Telephone number

- Fax number
- Name of the person being served
- The date and time of the fax
- The total number of pages
- The name and phone number of the person to contact in case of transmission problems

Answers

Answers are **usually** served on the applicant by regular service. The only exception is if the respondent is making a claim against a third party in his or her Answer. The Answer must be served on the third party by special service.

Problems Serving Documents

On rare occasions, you may be unable to serve the other party using the methods included under regular or special service. For example, you may be unable to locate the other party, or he or she may be evading service. You can bring a motion without notice asking the court for permission to notify the other party in some other way (such as service by advertisement) or for an order that service is not required.

Refer to the Motions Guide for more information.

When is service effective?

It is important to know when service is effective because that is when the clock starts ticking for the other party to respond by serving his or her documents. For example, a respondent who lives in Canada has **30** days after he or she is

served with an Application to respond by serving an Answer.

- If a copy of the documents are handed personally to the respondent or the respondent's lawyer, or to a person living at the respondent's home, service will be effective on the day the documents were served, as long as this was done before 4:00 pm on a day when the court is open. Otherwise, service will be effective on the next day the court is open.
- If the documents were served by fax, service will be effective on the day the documents were faxed if this was done before 4:00 pm on a day when the court is open. Otherwise, service will be effective on the next day the court is open.
- If the documents were served by regular mail, service will be effective on the 5th day after the document(s) were mailed.
- If the documents were served by courier, service will be effective the day after the document(s) were picked up.
- Documents cannot be served on Sunday, except with the court's permission.

Proof that the Documents Were Served

Affidavit of Service – Form 6B

Once a document is served on the other party, the person who served the documents must complete an Affidavit of Service – Form 6B describing how he or she served the documents on the other party.

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.

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.

For more information on filing, see the General Information Sheet – "Filing Documents".