

TO BRING A NOTICE OF MOTION

Rule 12(1)

Step 1

COMPLETE the NOTICE OF MOTION. You may use a typewriter or print clearly and firmly. You may wish to submit written evidence in support of your notice of motion. To do so, complete an AFFIDAVIT. Obtain a date and time for your hearing from the registry.



Step 2

FILE the NOTICE OF MOTION by taking or mailing it and any supporting affidavit(s) to the registry where your file is. If you are asking the court to change or cancel an order made in your absence, be sure to attach a copy of the order.

The staff will apply the registry stamp. Then they will return the copies you need for your records and for serving on the other party.



Step 3

SERVE the other party, and any one else who must be served, with a copy of the notice of motion and any supporting affidavit(s). Normally only the other party must be served, but if you are asking a person who is not a party to produce information or documents, you must serve that person as well.

This must be done at least 7 days before the date of the court hearing.

To serve a party with a notice of motion, you may deliver it:

- by mail to the party's most recent address for service filed with the registry;
- by fax, if the fax number is included in the address for service provided by that party. You must use the special fax cover page, which the registry can give you;
- by leaving the notice of motion with the other party's lawyer; or
- by having another person, at least 19 years of age, leave the notice of motion with the party. These last 2 methods are called personal service.

To serve a person other than a party, you may either:

- mail a copy of the notice of motion by registered mail to the person's postal address; or
- leave a copy of the notice of motion directly with the person (this is called personal service).



The purpose of service is to be sure the person(s) affected know what you are asking for and the court date.

However, in special or urgent circumstances, a judge may make an order without notice having been given to the other party. If you are going to ask a judge to do this, tell the registry staff when you file your notice of motion. You must be prepared to give the judge evidence that the circumstances require it.



At the hearing, if the other party or anyone else who must be served does not appear, be ready to prove that you served him or her, or that you were unable to do so. To prove service:

If you or another person personally served the notice of motion, **COMPLETE** the AFFIDAVIT OF PERSONAL SERVICE on the back of the 'proof of service' copy of the notice of motion.

If you served the notice of motion by mail or fax, **COMPLETE** the AFFIDAVIT OF SERVICE on the back of the 'proof of service' copy of the notice of motion.

If you mailed the notice of motion by registered mail, attach to the affidavit of service either:

- original copy of signature obtained at time of delivery; or
- unopened envelope containing the notice of motion, returned by Canada Post Corporation with a reason for non-delivery (e.g. "address unknown", "unclaimed", "refused").

Court File Number:

Copy the court file number and the court location from the original application.



Case Name:

Copy the names of the parties exactly as they appear on the application.



Filed by:

You must be sure that the address you give is correct because this is where the registry will send any further notices or information to you. If your address changes at any time, you must file a NOTICE OF CHANGE OF ADDRESS form with the registry, and serve a copy of it on the other party.



Notice to:

Provide the name, address and telephone number of the other party, and of any other person who must be served with this notice. Normally this is only the other party.

Examples of other persons are:

- If you are asking for a document to be produced by a person who is not the other party, that person must be served.
- If the creditor is enrolled with the Family Maintenance Enforcement Program, the Director of Maintenance Enforcement must be served (by mail at the Director's post office box).



Where and When?

Ask the registry for a date and time when the court will hear the notice of motion.



What are You Asking for?

Check the appropriate box(es). Where the line you have checked indicates that details of the order are "as set out below" provide the details following "Details of order(s) requested".

Examples of order details are:

- an order that (*your name*) be given interim custody of the child(ren), (*name of child*), born (*date*), (*further names and birthdates as required*).
- an order that (*respondent's name*) pay to (*your name*) interim maintenance for the child(ren), (*name of child*), born (*date*), (*further names and birthdates as required*).
- an order for service on (*name of party*) by publication in (*number*) issues of the (*name of publication*).
- an order for production of (*name of the document*) by (*name of person who has the document*).

