BC Society of Transition Houses

Definitions of Legal Terms for British Columbia

Civil and Family Law Matters

Preserving evidence of technology-facilitated violence may be helpful in proving incidences of violence in civil or family law cases. If you are involved in these types of cases, you may be encountering confusing legal terminology for the first time. Where possible, we encourage you to contact legal advocates in your community to access legal support and legal advice from a licenced lawyer.

In times where you may be representing yourself in court without a lawyer and/or do not have access to legal support, this information sheet aims to provide you with a general understanding of legal terms you may encounter in civil or family law cases.

*** Notes with regards to navigating this document**

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Definitions of Legal Terms

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See statutes.

Action/Litigation

An action is a judicial proceeding in civil courts, such as a lawsuit, started by one party against another party. An action concludes when a judgement is made by the court.

Actions can be dealt with through the BC Provincial Court or BC Supreme Court.

Guide on starting a family law action in BC Provincial Court

Guide on starting a civil law action in BC Provincial Court (Small Claims Court)

Guide on starting a family law action in BC Supreme Court

Guide on starting a civil law action in BC Supreme Court

If someone starts an action against you, you will need to respond.

The term "action" is sometimes used interchangeably with "case", "claim", "lawsuit", "litigation", and "proceeding".

Address for service

An address for service is the place where legal documents can be served on another party, such as a person's personal address or their lawyer's address. It is often listed on their court documents. Each court will have its own set of rules for how to serve documents to an address for service. It may include a fax number or an email address.

Adjourn

To adjourn a trial means to delay or postpone a trial. This could be for a short period of time, such as adjourning for a day or a longer period of time.

Affidavit

An affidavit is a voluntary written statement of facts and evidence written by or about an individual that they swear to be true. If you are preparing an affidavit, after you or your lawyer have written your statement, you must find someone who has the authority to take oaths and swear to that person that your statement is true.

This can include people such as a lawyer, a notary or a commissioner for taking affidavits. For a list of who can swear an affidavit, this guide.

The written statement (i.e., the affidavit) is then submitted to the court as evidence. The party submitting the affidavit must also send a copy of the affidavit to the other parties of the lawsuit or legal proceeding.

This guide or this guide goes over preparing affidavits for family law matters in both the BC Provincial Court and BC Supreme Court.

This guide only goes over preparing affidavits for civil law matters in the BC Supreme Court, but it is also helpful for civil law matters in the BC Provincial Court. Just be aware that the BC Supreme Court and the BC Provincial Court use different forms. You can find most BC court forms here.

Affidavit of Personal Service

An affidavit of personal service is essentially the same as an affidavit of service, which is a document that is used as evidence to show you have served (i.e., given a copy of the documents to) the other party with documents related to the lawsuit or legal proceeding.

The main difference is that an affidavit of personal service is evidence of "personal service" rather than evidence of "ordinary service".

This guide on serving documents in the BC Provincial Court has a section on how you can obtain an affidavit of personal service. If you are using the BC Supreme Court, you should take a look at this guide. Although these guides have a family law focus, they are still helpful for civil law proceedings. Just be aware that you will have to fill out different forms for civil law proceedings. You can find most BC court forms here.

Affidavit of Service/Affidavit of Ordinary Service

An affidavit of service is an affidavit that is used as evidence to prove the delivery, by ordinary service, of a document to the other parties of your lawsuit or legal proceeding.

In other words, an "affidavit of service" is proof that you delivered a copy of a document related to your lawsuit or legal proceeding to the opposing party by mail, email, or fax. You should use the address for service listed on the other party's court documents. The person who delivered the document must be the one who completes the affidavit of service. For example, if you delivered the documents to the opposing party, you have to complete the affidavit of service.

An "affidavit of service" is very similar to an "affidavit of personal service". The main difference is that an affidavit of personal service is evidence of personal service (i.e., delivered in person), while an affidavit of service is evidence of ordinary service (i.e., delivered by mail, fax, or email).

An affidavit of service is important because the rules of court require copies of certain documents to be delivered to the opposing party. If you do not file an affidavit of service, there is no proof that you delivered the documents (i.e., there is no proof that the other party received your documents). This means that those documents do not hold any legal significance and cannot be used by the court.

This guide on serving documents in the BC Provincial Court has a section on how you can obtain an affidavit of service. If you are using the BC Supreme Court, you should take a look at this guide. Although these guides have a family law focus, they are still helpful for civil law proceedings. Just be aware that you will have to fill out different forms for civil law proceedings. You can find most BC court forms here.

Affirmation

Before a witness provides their testimony, they will be asked to swear an oath or make an affirmation where they promise to tell the truth. Some people will simply promise to tell the truth, others will swear on a religious book or item, such as the Bible or the Qur'an. Depending on the religious book or item, you may have to provide the court with notice.

If a witness is providing written evidence, they will also be asked to make an affirmation promising their affidavit is true.

Agreement

A written document that outlines how you and the other party will deal with issues related to your family law matter.

Appeal

An appeal is a request for a higher level of court to review a decision made by a lower level of court. Courts will not always grant an appeal, there must be a good reason for an appeal to be allowed, such as if the judge made a mistake about the law or the facts of the case. In British Columbia, cases from the BC Provincial Court are usually appealed to the BC Supreme Court. Cases from the BC Supreme Court are appealed to the BC Court of Appeal.

This guideline can help you determine if you can appeal a decision made by the Provincial Court to the BC Supreme Court on a family law issue. This guideline can help you determine if you can appeal a small claims decision made by the Provincial Court to the BC Supreme Court. This guideline helps you determine if you can appeal your case from the BC Supreme Court to the BC Court of Appeal.

There are strict time limits for when you can file an appeal. You will need to ensure you have made your application to appeal on time.

The possibility of an appeal means that if you believe the decision made at trial was incorrect, there is a chance that the decision could be reversed or changed. However, this also applies if you believe the decision was correct: the other party may request an appeal if they believe the decision was incorrect. Additionally, just because a court decides to review a decision, it does not guarantee that the decision will be reversed or even changed.

Application

A request that the court makes a certain order. If you submit an application, you will have to go to court and explain to the court why you should receive the order you are asking for. The court will then decide if they will grant the order or not.

Applications are used to begin family lawsuits in the BC Provincial Court. Here is a guide for submitting an application to begin a family lawsuit in the BC Provincial Court, as well as a guide for responding to family law applications in the BC Provincial Court.

However, applications are not solely used to begin a lawsuit. Interim applications can be made after a lawsuit has started to deal with intermediate issues. They often deal with procedural issues that arise before you go to trial.

If you are the party making the application, you are called the applicant. The other party is called the respondent.

Applicant

An applicant is the individual who is making an application.

Respondent

The respondent is the individual who an application is brought against.

Application Record

An application of record is a binder of all the documents that will be referred to when you go to court for an application or an interim application. See page 5 of this guide to interim applications in the Supreme Court for more details on what an application record must contain.

Interim Application/Interlocutory Application/Chambers Application

An interim application is an application, made after a lawsuit has been started, requesting that court make an interim order with regards to an intermediate issue before the end of your case. If you submit an interim application, you will have to go to court and explain to the court why you should receive the interim order you are asking for. The court will then decide if they will grant you an

interim order. This decision usually does not result in the final decision of a lawsuit. However, certain interim applications can result in a final decision.

In the BC Supreme Court, applications are sometimes called "chambers applications" because these applications are heard in chambers.

Guide to interim applications in BC Supreme Court

Guide to interim applications in BC Provincial Court and BC Supreme Court (this guide has a family law focus, but is still helpful for civil law matters).

Without Notice Application/Ex Parte Application

A without notice application is an application that is submitted to the court without the opposing party's knowledge. This means that you do not need to send the opposing party a notice of application to let them know you are submitting an application. Without notice applications are used in urgent situations where giving notice to the other party would be dangerous or harmful (for example, if giving notice would result in the other party destroying evidence).

If you submit a without notice application, you will have to go to court and explain to the court why you should receive the order you are asking for. The opposing party will not be present in court to represent themselves on a without notice application.It is important that you fully disclose all relevant information, even information that might be detrimental to your application. If you are not honest when presenting a without notice application, any orders made in your favour may be set aside.

Arbitration

If you have a lawsuit or legal issue that you want to pursue, arbitration is an alternative option to going to court. Arbitration is a process where you and the other party submit arguments and evidence to a person called an "arbitrator" who will then decide how the lawsuit should be resolved. Even though an arbitration is not the same as going to court, the decision that an arbitrator makes is usually final and legally binding.

There are certain advantages to using arbitration instead of going to court. It is usually a faster and cheaper process. Arbitration may be easier for you to navigate because there is a lot of flexibility in the rules. In comparison, courts have much stricter rules which must be followed.

This guide, which talks about the alternative options to court, has a section on arbitration. This guide to arbitration is tailored to family law issues, but it is still helpful if you have a civil law issue.

Balance of Probabilities

Both civil and family lawsuits must be proved on a "balance of probabilities" in order to be successful. This means that when you bring a lawsuit to court, you must prove to the court that your claim is more likely true than not. To put it in numbers, you will have to prove that there is more than a 50% chance that what you claim is true.

Binding

A decision or agreement that is legally enforceable. It creates a legal obligation.

Book of authorities

A book of authorities is a binder that contains all of the relevant case law, statutes, regulations, bylaws, and excerpts from legal texts that you will use in your case.

Burden of Proof

The burden of proof is the obligation on someone to prove their case in court. If the "burden of proof" is on you, this means that you must prove to the court that you are right about the particular issue. The other party does not have an obligation to prove this part of the case.

If the burden of proof is on the opposing party, they must prove that they are right. You do not have an obligation to prove anything. However, even when the burden of proof is on the other party you will still want to argue that the other party is wrong. This will make it harder for the other party to prove that they are right.

The burden of proof is usually on the individual who begins the lawsuit. The standard of proof (i.e., the amount of proof required) in both civil and family lawsuits is a balance of probabilities.

Bylaw

A bylaw is a rule made by a company, society, or public authority, such as a municipality, which governs their members, affairs, or areas.

Case

A case is a legal matter that is dealt with in court. "Case" will sometimes be used interchangeably with "action", "claim", "lawsuit", "litigation", and "proceeding".

Case Conference

A case conference is a meeting, overseen by a judge, between the parties of a lawsuit. There are many types of case conferences which have different purposes.

Case Planning Conference (BC Supreme Court)

A case planning conference is a case conference where the parties, along with a judge, decide on how a civil lawsuit in the BC Supreme Court will proceed. This includes determining a timeline (for example, the date by which documents will be exchanged between the parties), as well as determining the issues in dispute. A case planning conference is not required but can be requested by the court or the parties of a lawsuit. This guide to case planning conferences has more information on the topic.

Family Case Conference (BC Provincial Court)

A family case conference is a case conference where the parties, along with a judge, try to settle a family law proceeding in the BC Provincial Court. Family case conferences are not mandatory, but either party may request one. This guide to family case conferences has more information on the topic.

Judicial Case Conference (BC Supreme Court)

A judicial case conference is a case conference where the parties, along with a judge, decide on how a family law matter in the BC Supreme Court will proceed. This includes determining a timeline (for example, the date by which documents will be exchanged), as well as determining the issues in dispute. Some judges will see if there is an opportunity to settle some issues prior to trial during the case conference. A judicial case conference is mandatory in all family law proceedings. This guide to judicial case conferences has more information on the topic.

Settlement Conference (BC Provincial Court—Small Claims Court)

A settlement conference is a case conference where the parties, along with a judge, try to settle a civil lawsuit in the BC Provincial Court (Small Claims Court). If a settlement is not possible, the parties will decide on how the lawsuit should proceed. The judge may also resolve the lawsuit in certain circumstances (for example, a judge may dismiss a lawsuit that was started after the limitation period has expired). It is mandatory for parties to attend a settlement conference in Small Claims Court. This guide to Small Claims Court settlement conferences has more information on the topic.

Settlement Conference (BC Supreme Court)

A settlement conference is a case conference where the parties, along with a judge, try to settle a civil or family lawsuit in the BC Supreme Court. Settlement conferences are not mandatory but either party can request that one be held. This guide to BC Supreme Court settlement conferences has a family law focus but is mostly applicable to civil lawsuits as well. One difference is that you do not have to exchange financial information or statements before a settlement conference for civil lawsuits.

Trial Conference (BC Provincial Court – Small Claims Court)

A trial conference is a case conference where the parties, along with a judge, decide on how a civil law trial in the BC Provincial Court (Small Claims Court) will proceed. A trial conference is required if your trial is longer than one half day (or one full day at some court locations). This guide to trial conferences has more information on the topic.

Trial Management Conference (BC Supreme Court)

A trial management conference is a case conference where the parties, along with a judge or master, decide on how a trial in the BC Supreme Court will proceed. A trial management conference is mandatory for both civil and family law trials.

This guide trial management conferences may be helpful if you are dealing with a family law matter.

If you are dealing with a civil law matter, this guide to civil lawsuits has a section on trial management conferences starting on page 107. Since the publication of this guide, there have been some changes to the timeline of a trial management conference. These changes are summarized here.

Trial Preparation Conference (BC Provincial Court)

A trial preparation conference is a case conference where the parties, along with a judge, decide on how a family law trial in the BC Provincial Court will proceed. A trial preparation conference is not always required, but a judge may request one if they think it is necessary. This guide to trial preparation conferences has more information on the topic.

Case law

Case law consists of legal matters that have been previously decided in court. These previous decisions are also considered part of the "law" and can be used to help your case in court. You can look up case law on databases, such as CanLII.

Chambers

Chambers are a type of court that decides certain legal matters. Chambers only hears legal proceedings leading up to a trial. Most interim applications are heard in chambers.

Civil Action/Civil Litigation

A civil action or civil litigation is an action related to a civil law matter.

Civil Courts

Civil courts are the courts that deal with non-criminal matters, such as contract disputes, insurance claims, suing someone, and family matters.

Civil Law

Civil law is law concerned with the private (i.e., civil) rights of individuals (or corporations). Civil law does not include criminal matters.

Claim

A claim is when a person asserts a legal right to something. If you think you have a claim, you may have to ask a court to grant your claim. Claims are often made against other people (for example, a claim against another person for money you are legally entitled to).

Guide on starting a family law claim in Provincial Court

Guide on starting a civil law claim in Provincial Court (Small Claims Court)

Guide on starting a family law claim in Supreme Court

Guide on starting a civil law claim in Supreme Court

"Claim" is sometimes used interchangeably with "action", "proceeding", and "lawsuit".

Counterclaim

If someone brings a claim or lawsuit against you in civil court, you can file your own claim against that person in a "counterclaim". If you file a counterclaim against someone, you are essentially starting a claim or lawsuit against the person suing you. A counterclaim does not need to be related to the original claim (i.e., you can bring up new issues) although it often is.

Counterclaims are important in situations where you want the court to grant you something. For example, a situation where person "X" is suing you for a car accident and wants you to give him money. If you believe that "X" was actually the one who caused the car accident and should be paying you, you must file a counterclaim. If you do not file a counterclaim, you will not receive any money even if the court decides that "X" caused the car accident. If you want the court to grant you something, you must always ask for it.

A family law example involving a counterclaim would be a situation where you and your spouse want orders against each other. Say your spouse asks the court to grant him/her an order prohibiting you from going to their workplace. If you simply disagree then you would not need to file a counterclaim. However, if you disagree and think that the court should actually grant you an order prohibiting your spouse from going to *your* workplace, then you would need to file a counterclaim. If you don't ask the court for an order, they will not grant it.

This guide on responding to a civil law claim in the BC Supreme Court provides more information on counterclaims (see page 3). If you are involved in a family law matter, this guide on responding to a family law claim in the BC Supreme Court also has more information on counterclaims.

The information that you include in a counterclaim is the same as the information that is required in a regular claim. It may be helpful to take a look at how to fill out a regular claim.

Third Party Claim

If someone brings a claim or lawsuit against you, you can file your own claim against a third-party (i.e., against someone unrelated to the lawsuit) in a "third-party claim". If you file a third-party claim against someone, you are essentially starting a claim or lawsuit against that person. A third-party claim does not need to be related to the original claim. However, courts will often be hesitant to allow third-party claims that are not related to the original claim.

A third-party claim is often filed if there is another party who might be partly to blame for the damage done. For example, if someone hit your car while driving, they might bring a third party claim against a driver who was in a car behind them that hit them, causing them to hit you.

This guide on responding to a civil law claim in the BC Supreme Court gives more information on third-party claims (see page 4). The information that you must include in a third-party claim is the same as the information that is required in a regular claim, so it may be helpful to take a look at how to fill out a regular claim.

Claimant

A claimant is the person who starts a family law action in the Supreme Court.

Contempt of Court

Contempt of court is when you don't do something that the court orders you to do or if you disobey the rules of the court. If that occurs, you can be found in "contempt of court." Additionally, doing things that interfere with the court's ability to function properly can also be considered contempt of court. An example of this would be if you continuously lie or mislead the court. The consequences of being found in contempt of court can include fines or arrest.

Costs

Costs are the amount of money a party receives as compensation for the expenses they incurred during a lawsuit. This can include the fees for filing court documents, your lawyer's fees, and other costs related to the lawsuit. Generally, only the successful party of a lawsuit may receive costs while the unsuccessful party must pay the costs. You cannot be compensated for the full amount of your

expenses. The amount of costs awarded in British Columbia is typically around 25-35% of the amount of money you spent on the lawsuit. If a lawsuit is complex, you may receive more than the typical amount.

There are no costs awarded in the BC Provincial Court – you will have to pay for 100% of your expenses. If you decide to use the BC Supreme Court, you can recover a portion of your expenses if you are granted a successful costs order. However, if you lose your lawsuit, you may have to pay a portion of the other side's expenses if they request costs, which could be very expensive.

Commissioner for taking affidavits

A commissioner for taking affidavits is a person who verifies the integrity of legal documents. They can take affidavits, or administer oaths, affirmations or declarations. Lawyers and notaries public are commissioners for taking affidavits, but some other people may be a commissioner as well. You can find information on who can be a commissioner for taking affidavits here.

Condition

A condition is a term of a protection order that requires someone to do, or refrain from doing, something.

Court Order/Order

A court order or an order is a decision made by a court that requires someone to do something or refrain from doing something. If the court makes an order against someone, they must follow the directions of the order, or else there may be consequences. To obtain an order you must submit an application. If the other party does not follow an order, you can take steps to get the order enforced.

Conduct order

A conduct order is an order made by the court which is meant to help manage people involved in a court process.

Consent Order/Desk order

A consent order or a desk order is an order made by a court when you and the other party agree on the terms of the order. For example, if you and your ex-spouse have agreed to particular terms for your divorce. A consent order may be required even when you and the other party agree because court orders are required for certain legal processes (for example, a divorce).

Final Order

A final order is an order resulting from the final decision of a lawsuit. A final order is not subject to any other pending decisions. As the name suggests, a final order is final. It is normally meant to last indefinitely. To get a final order you must submit an application.

Interim Order/Pre-trial Orders/Interlocutory Order

An interim order is an order that deals with intermediate issues that arise during a lawsuit (i.e., something that needs to be decided before the final lawsuit is over), but usually does not result in the final decision of the lawsuit. Interim orders are often temporary, pending the final result of a lawsuit. To obtain an interim order, you must submit an interim application.

Injunction

An injunction is an order that either requires someone to do something or requires that they stop doing something. Injunctions can be final orders or interim orders.

No contact order

A no contact order is an order made by the court that one person cannot contact another person.

Other Orders

Below is a non-exhaustive list of specific orders that you can apply for:

Divorce Order

A divorce order is an order by the court that legally ends a marriage. This guide will take you through the steps of a divorce.

Desk Order Divorce

A desk order divorce is a divorce where you and your spouse agree about the terms of the divorce, so going to court is not necessary. It is sometimes called an “undefended” or “uncontested divorce”. This guide will take you through the steps of a desk order divorce.

Protection Order

A protection order is an order made by a civil court that protects individuals from being harassed, harmed, threatened, or made to feel fearful by family members. It is similar to a peace bond that might be ordered by the criminal courts. A “family member” can include individuals who live together. You can apply for a protection order that prohibits someone from communicating with you. A protection order can also prohibit someone from going to places

that you personally frequently visit. This guide will take you through the steps of applying for a protection order.

If a protection order is granted and the other person breaches the conditions of that order, it is a criminal offence. The person may face consequences, such as a fine, probation or jail time.

Financial Restraining Order

A financial restraining order is an order that prevents a spouse from selling, giving away, or doing something to property that you may have a legal right to. A restraining order may be useful in situations where you and your spouse have separated since it will protect your property until division of the property has been decided. This guide will take you through the steps of applying for a financial restraining order.

Support Order

A support order is an order requiring someone to pay for a portion of their child's expenses (i.e., child support) or their spouse's expenses (i.e., spousal support). These guides to child support and spousal support outline support orders in more detail.

Court record

The court record is the record that the court keeps about a court hearing. This can include things like evidence, court documents, affidavits, and a trial transcript.

Crown

Crown is another word for the government.

Damages

Damages are the money that one party must pay to another party to compensate for loss or harm. The amount of damages is decided by a judge following their decision of a lawsuit.

Decision

A decision is the conclusion a judge comes to at the end of a lawsuit, after both parties have had a chance to present their arguments, the law, and respective evidence. A decision can also be made with regards to a specific proceeding within a lawsuit, instead of being a conclusion on the lawsuit as a whole. This is referred to as an interim decision or interim order.

Often used interchangeably with judgement.

Default Judgement

A default judgement is a judgement or decision in favour of one party when the other party fails to respond to legal proceedings, does not go to court, or otherwise fails to comply with the rules of court. A default judgement will not be automatically granted, an application must be made for one, and you must provide evidence as to why a default judgement should be granted in your favour. Default judgements are often overturned, so it may be possible to continue with a legal proceeding even after a default judgement has been made.

To protect yourself from a default judgement, you should always keep track of and meet any deadlines that the court sets so that the opposing party does not have a reason to ask for a default judgement.

Guide to default judgements for civil law matters in Provincial Court (Small Claims Court) (see Section B. Small Claims Court)

Guide to default judgements for civil law matters in Supreme Court (see section on Default Judgement on page 4)

Guide to default judgements for family law matters

Defendant

A defendant is an individual who is being sued in civil court.

Disclosure

The exchange of information needed to settle a matter or to conclude a legal matter.

Discovery Process

The discovery process is the process through which opposing parties in a lawsuit can collect information and evidence from each other about their understanding of what happened in your case. The discovery process allows you to determine the strengths and weaknesses of your case. You might also use the information that you have obtained during trial. During the discovery process, you will be able to collect documents and ask the opposing party questions. Conversely, the opposing party will have a chance to request documents from you and ask you questions. It is important that you are forthcoming and honest during this process. It would be detrimental to your case if you were to destroy documents or lie to the other party. Discovery occurs before trial so that both sides can have enough time to analyze the information they have collected. This guide to the discovery process for family law matters and this guide to the discovery process for civil law matters are helpful if you are preparing for discovery.

Document Discovery

A document discovery is the process where opposing parties exchange documents that are relevant to the lawsuit. Document discovery begins with you making a list of all the documents that are

relevant to your case. You should then put a copy of all the documents on your list into a binder, using the proper forms. The opposing party is allowed access to any of these documents and, if they wish, can make copies.

As a general rule of thumb, if you have a document that you think would be detrimental to your lawsuit, it is relevant and should be disclosed in your list. Do not destroy documents, even ones that you think are irrelevant. If you destroy documents, the court may decide that those documents would have hurt your case even without viewing them.

This guide to the discovery process has a helpful section on document discovery starting on page 2.

Examination for Discovery/Oral Discovery

An examination for discovery or oral discovery is the process where one party is given the opportunity to ask the opposing party questions that are relevant to the lawsuit.

This process does not happen in front of a judge and is not part of the trial. You and the opposing party will decide on a time and place to meet. A person called a "court reporter" will also be present to record everything that is said onto a written transcript. The transcript containing the questions and answers can then be used at trial as evidence. However, only the party asking questions can use the answers at trial. The party answering questions is not allowed to use their own answers at trial. Do not waste your time giving lengthy answers that you think will be beneficial to your case to the other side—save these for the trial. You will not be able to use these answers in court. All that is required of you during discovery is to give clear and honest answers.

When you are asking the opposing party questions, you should use it as an opportunity to gather information that you may not have personal knowledge of. You should also get the opposing party's version of the story. If they contradict themselves later on in trial, you can use that to your advantage.

Interrogatories

Interrogatories are written questions that one party of a lawsuit sends to the opposing party. Interrogatories are used during the discovery process to ask the opposing party questions that are relevant to the lawsuit.

You should not (and cannot) ask all of your questions using interrogatories (i.e., written questions). During the discovery process most questions are asked orally and in person through the examination for discovery. However, interrogatories are useful when you have a question that might not be answered properly if asked in person.

For example, if you ask the opposing party "on which days in the year 2019 did you meet with your supervisor?", the opposing party would probably say, "I can't remember". This answer, while completely useless to you, is a reasonable answer as most people do not have the ability to recall such specific details. The use of interrogatories in this example would ensure that you receive a useful answer. When you send the opposing party interrogatories, they must do a reasonable investigation to find the answer. This means that if you send interrogatories asking, "on which days in 2019 did you meet with your supervisor?", the opposing party cannot respond that they don't remember. They are required to do a reasonable investigation which would involve checking their calendar or asking their supervisor. Similarly, if the opposing party sends you interrogatories, you should do your best to properly answer the questions.

To send someone interrogatories you must get permission from the judge first. If the other party sends you interrogatories without permission from the judge, you are not obligated to answer. The answers to interrogatories must be written in the form of an affidavit. This guide to the discovery process has more information regarding interrogatories.

List of Documents

See document discovery.

Notices to admit

A notice to admit is a request that one party admit that certain facts are true.

Document

A document is very broadly defined. It includes any type of record whether on paper or any other device. Documents include USB drives, photos, videos, emails, etc.

Enforcement

Enforcement is the steps that you can take to make sure that a party follows the instructions in an order.

Below are some guides on enforcing an order:

Guide to enforcing family law orders

Guide to enforcing civil law orders made in Supreme Court

Guide to enforcing civil law orders made in Provincial Court (Small Claims Court)

Evidence

Evidence is the information presented to the court by the parties of a lawsuit or legal proceeding. Evidence is used to help prove the facts of someone's case. A judge will consider all the evidence that has been presented and decide which facts in a lawsuit are true based on the evidence.

For example, if you sue person "X" for crashing his car into your house, an important fact that you must prove is that "X" was actually driving the car. In this example, evidence would be information capable of proving that "X" was driving the car when the accident happened. This could include video of the accident or a witness telling the court that they saw "X" driving the car.

There are many rules on the types of information you are allowed to use as evidence in court. This guide on proving your case at the BC Supreme Court gives a helpful overview on how evidence is used in court. The guide is tailored to civil lawsuits in the BC Supreme Court. However, it is still a useful tool for when you are preparing evidence. e Be aware that there may be differences in the rules of what kinds of things will be allowed as evidence when dealing with family law issues or when using the BC Provincial Court.

Affidavit Evidence

Affidavit evidence is evidence that is presented as a written statement in an affidavit.

Character Evidence

Character evidence is evidence that speaks to an individual's character. For example, information implying that an individual is dishonest would be character evidence. Character evidence is generally not allowed in court.

If you are giving the court evidence regarding a person, you should try to avoid saying things about someone's character. Just focus on the facts that you know. For example, instead of saying "I saw 'X' steal my car, he is a thief who can't be trusted" just simply say, "I saw 'X' steal my car".

However, character evidence is allowed if an individual's character is an issue in your lawsuit. For example, if you are trying to prove that your spouse is not fulfilling their parenting responsibilities, you would be allowed to talk about how they are not a responsible person.

Circumstantial Evidence

Circumstantial evidence is evidence that, if believed, would help the court infer that another fact is true. In other words, circumstantial evidence, unlike direct evidence, is evidence that indirectly proves a fact.

Circumstantial evidence can be helpful when you don't have direct proof that an event happened. Take, for example, a situation where you are trying to prove that "X" stole your car. If you tell the court that, "'X' recently lost his car and has asked me several times if he can have my car", this will likely be determined as circumstantial evidence. Even if a judge decides that you are telling the truth, your statement does not directly prove that "X" actually stole your car. Just because "X" lost his car and liked yours does not mean that he stole from you. However, a judge might infer from this information that "X" stole your car because his car was recently stolen, and he wanted your car.

Corroborating Evidence

Corroborating evidence is evidence that supports and strengthens the validity of other evidence. For example, if one witness says that they saw person "X" steal your car, another witness saying the same thing would be corroborating evidence.

Direct Evidence

Direct evidence is evidence that, if believed, would help prove a fact without the need for further inferences. In other words, direct evidence, unlike circumstantial evidence, is evidence that directly proves a fact.

Take, for example, a situation where you are trying to prove that "X" stole your car. If you tell the court, "I saw 'X' breaking into my car and driving off with it", this would be direct evidence. If a judge decides that you are telling the truth, then your statement is proof that "X" stole your car. The judge does not need to make any other assumptions or inferences to come to that conclusion.

Expert Evidence/ Expert Opinion

Expert evidence is evidence that an expert witness gives on issues that ordinary people do not have much knowledge of. Expert evidence is the opinion of an expert witness on issues that the expert has special knowledge of. Expert evidence is an exception to the rule that prohibits opinion evidence from being used in court.

Expert evidence is useful in cases that deal with issues an ordinary person would not have a lot of knowledge of. Cases involving medical injuries or complicated technology are often hard for an ordinary person to understand. You might want to ask an expert witness to give their expert opinion on these matters in court. There is a specific process that you must follow when you want to use expert evidence in court.

This guide on family law trials has a section that talks about expert evidence in more detail.

This guide on civil law trials also gives more information on expert evidence (see the Expert Witnesses section on page 13).

Hearsay Evidence

Hearsay evidence is second-hand information that is used to prove a fact. Although there are exceptions, hearsay evidence is generally not allowed to be used as evidence.

For example, you are trying to prove in court that "X" stole something from 7-11. You did not see "X" steal from 7-11, but your friend tells you that she saw "X" steal from 7-11. You tell the court, "my friend told me that 'X' stole from 7-11". Your statement to the court is second-hand information that you received from your friend. You have no firsthand knowledge of whether or not "X" stole from 7-11 or what your friend saw. If you try to use this second-hand information as evidence to prove the fact that "X" stole from 7-11, it will be considered hearsay. It would not be hearsay if your friend tells the court herself that she saw "X" steal the money since she would be giving a firsthand account of what she saw.

This does not mean you are never allowed to repeat someone else's statement in court. It is possible to use someone else's statement in a way that doesn't involve using second-hand information. For example, you want to prove in court that your friend is having trouble with her memory. Your friend tells you that they saw "X" steal from 7-11. However, "X" has been dead for over 10 years and could not have stolen from 7-11. You then tell the court, "my friend told me that 'X' stole from 7-11". Although you are repeating what your friend said, this is not second-hand information. This is because what you are trying to prove is not that "X" stole from 7-11, but that your friend is having trouble with her memory. You have firsthand knowledge that your friend claimed to see a dead person, and thus firsthand knowledge is related to the issue of your friend's memory. Using your friend's statement in this way would not be hearsay. Generally, if a witness has firsthand knowledge related to the fact that they are trying to prove will not result in a determination of hearsay.

There are many exceptions that would allow hearsay to be used in court. For instance, hearsay is allowed when you make an interim application. This guide on proving your case at the Supreme Court includes a good overview on how to deal with hearsay evidence.

Opinion Evidence

Opinion evidence is the opinion of a witness who is giving evidence to the court. Opinion evidence is usually not allowed. A witness' role is not to tell the court about their opinion, but to tell the court about the facts that they know.

Take, for example, a situation where a witness is telling the court about a car accident involving driver "X". The witness would be allowed to tell the court that they saw X run a red light. This is a fact that the witness observed. However, the witness would not be allowed to say, "'X' was probably drunk because he was driving very fast". This is the witness' opinion and not a fact.

The rule prohibiting opinion evidence does not mean that a witness is never allowed to speak about their opinions in court. A witness is allowed to talk about their "lay opinion" when they are giving evidence. Lay opinion generally means an opinion that an ordinary person would naturally incorporate into their story. For example, it would likely be acceptable for a witness to say, "'X' was slurring his words, stumbling a lot, and drinking from a large bottle of vodka - he seemed drunk". The witness does not actually know for a fact that "X" was drunk. It is still their opinion that "X" seemed drunk. However, an ordinary person observing "X" would likely come to the same conclusion and incorporate it into their story. This would be an example of "lay opinion" that is usually allowed in court.

Generally, when you are acting as a witness in court, you don't need to worry too much about accidently giving opinion evidence. You should focus on speaking in a way that is clear and easy to understand. However, you should try to avoid voicing opinions that are speculations and not based in fact.

Viva Voce Evidence/Oral Evidence/Testimony

Viva voce evidence or oral evidence is evidence that is given by a witness to the court orally instead of through a written statement. This happens when a witness answers the questions asked by the other party, the lawyers involved in the case, and the judge. If you are self-represented, it will include the information you give as a witness. Witnesses give their answers to the judge, rather than the person asking them the questions.

If a witness is giving evidence through oral testimony, it is usually done through direct examination, a process where the witness will answer questions in court. If you are your own witness and you do not have a lawyer who can ask you questions, you can just tell the court about what you know. This is called testifying. The judge may ask you questions when you are testifying.

Usually, a person giving viva voce evidence must physically be present in court. However, a witness may ask permission to give their evidence by video if they have a good reason for why they are unable to make it to court (for example, if they are out of the country).

Examination

An examination is the act of asking witnesses questions. If you or the other party are represented by a lawyer, a lawyer will ask the witness question. If you are self-represented, you will ask the witness questions.

Cross-examination

Cross-examination is the portion of a legal proceeding where you question the opposing party's witness or the opposing party questions your witness. Cross-examination gives you a chance to have

the witness provide evidence relevant to your case or to cast doubt on the credibility of the witness and test the accuracy of their evidence.

This guide to cross examination has a family law focus, but the concepts are helpful for cross-examinations in general.

You are allowed to ask leading questions during cross-examination.

Direct Examination/Examination-in-chief

Direct examination is the portion of a legal proceeding where you question your witness. The witness' answers to your questions are used as evidence to support your case.

This guide to direct examination has a family law focus, but the concepts are helpful for direct examinations in general.

You should avoid leading questions during direct examination.

Re-examination

Re-examination is an opportunity to ask your witness questions after they have been cross-examined (i.e., questioned by the other party). Sometimes the cross-examination of your witness may result in issues or inconsistencies with their story. The purpose of re-examination is to give you a chance to clear up those issues. When you are re-examining your witness, you can only ask them questions related to issues brought up during cross-examination. You are not allowed to ask them questions about things that were not mentioned during cross-examination.

Factum

A factum is a document that explains your argument to the court, including the relevant facts and laws. Factums may be required when you are appealing your case or if you are filing a motion. There are often specific rules about what is allowed to be written in a factum and how long it can be.

Family law

Family law deals with legal issues related to family matters. This includes divorce, custody, support, protection, parentage, and division of property.

File/Submit

To file or submit a document is to give the court your documents to keep on file. Documents can be filed in person at the relevant courthouse, or in some cases, you can file your documents online through e-filing. Documents can be e-filed here.

Final Submission/Closing Statement

The final submission or the closing statement is the portion of a trial where you have the opportunity to summarize your case. You can also restate the strengths of your case and point out the weaknesses of the other party's case. Final submissions are made after all the evidence has been presented.

Financial Statement

A financial statement is a document that describes your income, assets, and other financial information. Financial statements must be filed with the court in family law matters where child or spousal support is an issue. This guide takes you through the steps of filling out a financial statement for BC Provincial Court matters. There is also a similar guide if you are using the BC Supreme Court.

Hearing

A hearing is any proceeding heard in court where a legal issue is determined.

Impoverished Status/Indigent Status/Waiving Fees

"Impoverished status" and "indigent status" are old terms that referred to self-represented litigants who could not afford BC Supreme Court fees. These people can apply for an order to have some court fees waived. However, you may still see these terms occasionally.

Currently, if you do not have the means to pay the BC Supreme Court fees, you can apply to "waive" your fees.

Infant

An infant is an individual who has not reached the age of majority (nineteen years old in British Columbia). They are sometimes referred to as a child. An infant cannot bring a lawsuit or any other legal proceeding. They also cannot be the defendant of a lawsuit. A litigation guardian is required to act on their behalf.

Judge

A judge is a person who has been appointed to hear and make decisions on legal matters in a court.

Judgement

A judgement is the written conclusion of a court proceeding. Often used interchangeably with a decision.

Jurisdiction

The authority a court has to make decisions about certain people, locations, and subject matters.

Lawsuit

A lawsuit is a legal dispute that is brought before a court for a decision.

Below are some guides on starting a lawsuit:

Guide on starting a family lawsuit in BC Provincial Court

Guide on starting a civil lawsuit in BC Provincial Court (Small Claims Court)

Guide on starting a family lawsuit in BC Supreme Court

Guide on starting a civil lawsuit in BC Supreme Court

If someone starts a lawsuit against you, you will need to respond.

The term "lawsuit" is sometimes used interchangeably with "action", "claim", "case", "litigation", and "proceeding".

Leading question

A leading question is a question that has the answer in the question. For example: "You hit my car on November 3rd, didn't you?".

Limitation Period

The limitation period is the amount of time that you are allowed to wait before bringing an issue before a court. The general rule is that you have two years, from the date that you discovered your claim, to bring the claim before a court. There are special circumstances under which the limitation period may be longer than two years.

You can find more details on the topic of limitation periods here.

Litigant

See party.

Litigation

See action.

Litigation Guardian

A litigation guardian is an individual who acts on behalf of an infant or someone who is mentally incapacitated in legal proceedings. Litigation guardians are typically family members of the individual they are acting for. Sometimes the Public Guardian and Trustee will be the litigation guardian.

If you are a litigation guardian, you cannot have a stake in the outcome of the legal proceeding. You must be neutral to the proceeding. This means that the outcome of the proceedings must not legally affect you - you can still be emotionally invested in the proceedings. If the court finds that you have an interest in the proceedings, you will be removed as the individual's litigation guardian.

Master

A master is similar to a judge. Masters have the authority to decide certain legal issues. However, masters generally do not determine the final outcome of a lawsuit and are limited in what kinds of decisions they can make.

Mediation

Mediation is a process where a neutral "mediator" tries to help you and the opposing party settle a lawsuit. A mediator has no power to decide how your lawsuit should be resolved. A mediator's job is to help you and the opposing party reach an agreement. You and the opposing party can use a mediator of your choice. Here is a list of mediators in British Columbia.

Mediation is usually voluntary, meaning that both you and the opposing party have to agree to mediation. However, in family cases at the BC Supreme Court you may be able to make the opposing party attend a mediation session.

Mediations do not result in a legally binding agreement unless the parties create a legally binding agreement out of the mediation. These types of agreements would have to be authorized by someone with legal authority, such as a lawyer.

Motion

A motion is a request made by one party that the court makes a specific decision or order on an issue related to your lawsuit. Motions are made before the final decision of the case is completed.

If you are the person making the motion, you are called the moving party, the other party is called the responding party.

Moving party

A moving party is the party who files a notice of motion in a lawsuit.

Responding party

A responding party is the person who responds to a motion in a lawsuit.

Motion Record

A motion record is a bound brief with the affidavits and other evidence relevant to the court.

Examples of motions include requests for extensions of time to file documents, a request of default judgement, or a temporary order for one party to pay the other child support.

If you submit a notice of motion, you will have to go to court and explain to the court why you should receive the order you are asking for. The court will then decide if they will grant the order or not.

Notary

A notary is a professional person who has been granted the authority to certify legal documents, witness the signing of documents, commission affidavits, and administer oaths and affirmations.

Notice of Application

A notice of application is a document that you must file with the court to make an application or an interim application. The notice of application must be served on the parties of the lawsuit or legal proceeding using ordinary service.

Notice of Civil Claim/Notice of Claim/Notice of Family Claim

A notice of civil claim or a notice of family claim is a document that you must file with the court to begin an action or lawsuit. The notice of claim must be personally served on the person you are starting the lawsuit against. This document is called a "notice of civil claim" for civil lawsuits in the BC Supreme Court and a "notice of claim" for civil lawsuits in the BC Provincial Court (Small Claims Court). A similar document called a "notice of family claim" serves the same function for family lawsuits in the BC Supreme Court.

Family lawsuits in the BC Provincial Court do not begin with a notice of claim, they begin with an application.

Oath

Before a witness provides their testimony, they will be asked to swear an oath or make an affirmation where they promise to tell the truth. Some people will simply promise to tell the truth, others will swear an oath to tell the truth on a religious book or item, such as the Bible or the Qur'an.

Objection

An objection is when someone raises an objection in court (i.e., says "objection" to the judge). It means that they are opposed to something the other party is doing. You will want to object when you disagree with something the other party is doing in court, but there are rules for what you can object to. The judge will make a decision on whether the objection is justified or not.

An objection might be raised against you in three situations.

- (1) When the other party believes that you have asked a witness an improper question.
- (2) When the other party believes that you are presenting, to the court, evidence that you should not be allowed to use.
- (3) When the other party believes you have not followed the procedures of the court properly.

After the other party raises an objection, they will have to explain to the judge why they are objecting. You may also explain to the judge why you think your question or evidence should be allowed. If the judge agrees with the other party's objection, your question or evidence will not be allowed. However, the judge may disagree with the objection, in which case your question or evidence will be allowed.

Making objections at trial and having them put on the court record can be important if you are going to appeal your case.

This guide to making objections is intended for lawyers, but you may find it helpful if you want more information on the topic.

Opening Statement

Opening statements are statements made at the beginning of a trial by both parties of a lawsuit. Opening statements are used to give an overview of the lawsuit, including the facts that you are going to prove.

Order

See court order.

Party

When an individual begins or responds to a lawsuit or court proceeding, they are a "party" or a"litigant" to the proceeding.

Third party

Can mean:

1. An individual who did not begin or respond to a court proceeding, but is brought into the proceeding by one of the parties.

2. An individual who is not a party to a court proceeding.

Petition Proceeding/Originating Application (Supreme Court)

Certain lawsuits or legal issues, such as some wills and estates cases, must be resolved in court through a process called a "petition proceeding".

Petition proceedings can sometimes be similar to actions, but will usually involve less complex issues. One main difference between an action and a petition proceeding is that an action will always involve at least two opposing parties. Although a petition proceeding can involve two opposing parties, sometimes they can involve just one party with no opposing party.

The Supreme Court Civil Rules and Supreme Court Family Rules set out when a petition proceeding is required. A petition proceeding can always be converted into an action if necessary (for example, if the issue becomes too complex). To start a petition proceeding, you must file a document called a petition. This overview of petition proceedings gives further details on both family and civil law petition proceedings. This guide to starting petition proceedings focuses on civil law matters, but it is also helpful if you are dealing with a family law matter. Just be aware that you will have to use different forms for family law. You can find most BC court forms here.

If someone starts a petition proceeding against you, you will have to respond to it.

Although an "action" is technically different from a "petition proceeding", people sometimes use these two terms interchangeably.

Petition

A petition is a document which starts petition proceedings.

Petitioner

A petitioner is the individual that begins a petition proceeding.

Petition Respondent

A petition respondent is the individual that a petition proceeding is started against. You are a petition respondent if someone starts a lawsuit against you by a petition. You must respond to the petition.

Plaintiff

A plaintiff is the individual who begins a lawsuit. The individual who is suing another person is known as the defendant.

Pleadings

Pleadings are a document which set out the issues of a lawsuit that you want the court to decide on. Pleadings include the facts of the lawsuit that you intend to prove in court and the relevant laws. Pleadings are submitted to the court at the beginning of a lawsuit. Opposing parties of a lawsuit will each have their own pleadings. Your pleadings for a lawsuit will often be the first document that you file with the court.

For example, if you are starting a family lawsuit in the BC Supreme Court, the first step is to file a "notice of family claim" with the court. The notice of family claim will set out what you are suing for and the facts that you intend to prove in order to win the lawsuit. Thus, your notice of family claim will be the pleadings of your lawsuit.

Another example would be a situation where someone is suing you in a civil law matter. To start their lawsuit, the opposing party would have to file a "notice of civil claim" with the court. The notice of civil claim will set out what the opposing party is suing you for and the facts that they intend to prove. The notice of civil claim is the opposing party's pleadings. At this point, you have not yet filed any pleadings. As you are the person being sued in this example, you will have to file a "response to civil claim" with the court. The response to a civil claim will contain your defence to the lawsuit, as well as your version of the facts if you disagree with the opposing party. In this example, the response to the civil claim would be your pleadings. Again, your pleadings contain the facts and issues that you intend to bring up in court. Thus, it is usually the first document that you file with the court.

Pleadings are very important because the court will only deal with what has been stated in your pleadings. For example, you are suing person "X" for crashing his car into your house. The crash damaged your house and you were also injured in the accident. Your pleadings (which in this example would be a notice of civil claim) state that you want "X" to pay for the damage to your house, but you do not mention your personal injuries. Because you do not mention your personal injuries, you will not be allowed to bring this issue up and ask "X" to pay for your personal injuries. You are limited to what you set out in your pleadings. Thus, it's important to be very thorough when you are drafting your pleadings. You are allowed one amendment to your pleadings after it has been filed with the court. If you want to make further changes you will have to get permission from the court to do so.

Privilege

Privilege includes the right to keep certain communications secret or confidential. If someone claims that certain information is privileged, they are saying that they have a right to not tell you or the court about that information. Privileges which allow you to keep things secret generally only applies to communications (i.e., conversations, emails, letters) and does not apply to facts.

To illustrate the difference between a communication and a fact, imagine a situation where you can't remember whether or not you ran a red light on Friday night. Your lawyer then tells you that they found surveillance footage showing that you did run a red light. This conversation with your lawyer is a communication. However, from this conversation you now know that you ran a red light. It is a fact that you ran a red light. Depending on other factors, your communications (i.e., the conversation) with your lawyer could potentially be privileged. Let's assume for this example that the conversation is privileged. This means that you have a right to keep the conversation a secret. If you are asked in court to repeat what your lawyer said to you, you do not have to repeat the conversation for the court. However, if somebody asks you in court whether or not you ran a red light on Friday night, you would have to answer truthfully and say yes. You do not have a right to stay silent when someone asks you to tell them about a fact that you have knowledge of. Your conversation with your lawyer is privileged, but the fact that you ran a red light is not privileged. Again, certain communications can be privileged but facts are never privileged.

There are many rules that dictate when a communication is considered a privileged communication. You cannot claim that a conversation is privileged just because you think it was a private conversation. The most important privilege is the solicitor-client privilege which protects communications between you and your lawyer. However, this privilege only applies to communications related to seeking or giving legal advice. Solicitor-client privilege would not apply, for example, if you asked your lawyer what he thinks you should have for dinner.

It is important to note that communications to and from an anti-violence worker are not automatically privileged. Depending on the circumstances, privilege may or may not apply. This means that if you are an individual who requires the assistance of an anti-violence worker, do not assume that what you say will be kept private in court. Similarly, anti-violence workers should be aware that their communications with victims of violence may be brought up in court.

This guide to privilege is intended for lawyers, however, it still gives a good overview of the topic. If you do take a look at the guide, you can likely disregard anything that talks about "in-house counsel" or "in-house lawyers" as this information is only relevant for businesses and corporations.

Proceeding/Legal Proceeding

Proceedings or legal proceedings can refer to either

1. The entire process that you go through when a lawsuit is heard before a court; or
2. A specific process that is within a larger court process.

Below are some guides on starting a proceeding:

Guide on how to start family law proceeding in the BC Provincial Court

Guide on how to start civil law proceedings in the BC Provincial Court (Small Claims Court)

Guide on how to start family law proceedings in the BC Supreme Court

Guide on how to start civil law proceedings in the BC Supreme Court

If someone has started a legal proceeding against you, you will need to respond.

The term "proceeding" is sometimes used interchangeably with "action", "case", "claim", "lawsuit", and "litigation".

Provision

A provision is a section of a statute.

Regulation

Regulations are a type of law that outlines the details and applications of a particular statute. The authority to create regulations related to a statute is dictated in the statute.

Remedy

A remedy is something that a person receives when their legal rights have been violated. A common remedy that people ask for are damages (i.e., money).

Response/Reply

Response or reply is required when someone starts a lawsuit or legal proceeding against you. You must file a response within a set amount of time. Failure to reply may result in a default judgement against you. A response may also include a counterclaim or a 3rd party claim.

Below are some guides on how to respond to a lawsuit:

Guide on how to reply to a family law proceeding in the BC Provincial Court

Guide on how to reply to a civil law proceeding in the BC Provincial Court (Small Claims Court)

Guide on how to reply to a family law proceeding in the BC Supreme Court

Guide on how to reply to a civil law proceeding in the BC Supreme Court

Rules of Court

Rules of court are guidelines on the procedures that a court, as well as the parties involved, must follow when dealing with legal matters. Each court has its own rules of court that must be followed.

The rules of each court can be found below:

Provincial Court (Family) Rules

Provincial Court (Child, Family and Community Service Act) Rules

Small Claims Rules (applies to civil lawsuits in Provincial Court (Small Claims Court))

Supreme Court Civil Rules

Supreme Court Family Rules

Service (To serve or to have served)

Service is the act of delivering legal documents to an individual. There are certain documents that you must serve on certain individuals in a particular way. There are specific rules on how and to whom a document must be served. Some documents are served personally while ordinary service is allowed for other documents.

This guide on serving documents has a family law focus, but it is still useful for civil law proceedings. Be aware that you must fill out different forms for civil lawsuits. You can also look at this guide on serving documents for civil lawsuits in the BC Provincial Court (Small Claims Court) for more information. You can find most BC court forms here.

Ordinary Service

Ordinary service is a form of service where court documents are delivered to someone by mail, email, or fax. The rules of court set out the documents which must be served by ordinary service.

Personal Service

Personal service is a form of service where court documents are physically handed over to another person. Personal service requires documents being served to literally be passed into the possession of the person receiving the documents. Dropping off a document on someone's doorstep would not be personal service. The rules of court set out the documents that must be served by personal service. Although you are responsible for making sure that your documents are served, you cannot actually perform personal service yourself. Someone else must serve the document for you. Most people use a process server, but you can also ask a friend or family member.

Process Server

A process server is a professional who you pay to personally serve court documents for you.

Substituted Service/Alternative Service

Substituted service or alternative service is when it is impractical or impossible for you to serve documents in the manner required. In this case, the court may allow you to serve the other party in an alternative manner. For example, you may ask to serve a person through their social media account. You will have to apply to be allowed an alternative method of service.

Settlement

A settlement is an out of court agreement regarding a lawsuit or legal issue. Even if you have already started court proceedings, you can still settle the issue outside of court at any time. You should always try your best to settle a lawsuit since going to court is very time consuming and expensive. When negotiating a settlement, you should always indicate that anything you say to the other party is without prejudice.

Below are some guides on settlement:

Guide on settling family law issues

Guide on settling civil law issues in the BC Provincial Court (Small Claims Court)

Guide on settling civil law issues in the BC Supreme Court (See Settlement section, page 1)

Standard of proof

Standard of proof is the degree of proof required in a certain case. For civil law cases the standard is often on a "balance of probabilities". For criminal trials the standard is "beyond a reasonable doubt".

Statutes

Statutes are the laws made by Parliament or the Legislature, such as the *Family Law Act*. They are sometimes called acts.

Style of Proceeding/Style of Cause

The style of proceedings or the style of cause is the information at the top of every court document identifying the lawsuit or legal proceeding that the document belongs to. In civil cases involving individuals include the names of the parties, along with some identifying information about what court the documents were filed in, the case registry number, and relevant dates. All the court documents of a lawsuit will have the same style of proceeding. This guide to starting a lawsuit has a section on how to prepare the style of proceeding, starting on page 3.

Testimony

See viva voce evidence.

Transcript

All proceedings are transcribed by a court clerk in text or audio format. What is said during the proceeding and entered into the record is recorded. They are not generally publicly available. However, if you want a copy of the court transcript you will need to make a request to the court. There are some restrictions on which transcripts can be released and it can be expensive to order them.

Subpoena

A subpoena is a document that tells someone they must attend court and act as a witness.

If you receive a subpoena, you must go to court at the date and time set out in the subpoena. If you don't show up to court, there may be legal consequences.

If someone has information which could benefit your lawsuit, you will probably want them to be a witness for you. If they refuse to do so, you should issue a subpoena to ensure that they come to court and give evidence.

This guide to family law trials in the BC Supreme Court has a section on how to issue a subpoena, as does this guide to family law trials in the BC Provincial Court. The same concepts apply to civil lawsuits, however, be aware that you must fill out different forms. You can find most BC court forms here.

Swear

See oath or affirmation.

Tort

A tort is a wrongful act (for example, trespassing, defamation, assault) committed by a person which would result in an individual receiving a remedy or damages.

Trial

A trial is the hearing of a lawsuit before a judge in court. Parties will have an opportunity to present evidence and submit arguments. Since a final decision on the lawsuit will usually be made, a trial is the last step of a lawsuit.

Below are some guides on going to trial:

Guide to family law trials in Provincial Court

Guide to preparing and attending civil law trials in Provincial Court (Small Claims Court)

Guide to family law trials in Supreme Court

Guide to civil law trials in Supreme Court

Trial Brief

A trial brief is a binder of various documents that must be filed with the court and served on the opposing party at least 28 days before a trial management conference. This guide to Supreme Court Trials has a section on trial briefs, starting on page 3.

Trial Record

A trial record is a binder of all the documents that will be used at trial. This guide to Supreme Court Trials has a section on trial records, starting on page 2.

Without Prejudice

When parties in a lawsuit try to settle their case out of court, the information that they exchange with each other is usually exchanged "without prejudice". Information that is exchanged without prejudice cannot be used in court as evidence. This allows you to openly exchange information with the opposing party during settlement negotiations. The opposing party cannot use the information against you later. You should always try your best to settle a lawsuit out of court since going to court is very time consuming and expensive. In the event that you and the opposing party cannot come to an agreement you may have to go to court. But again, information you give the opposing party during settlement negotiations that is exchanged is "without prejudice" and cannot be used against you in court.

You should always indicate that your communications are without prejudice when you try to negotiate a settlement with the opposing party. If you are communicating orally, just tell the other party early on that your communications are made without prejudice. If you are sending an email or a letter, write the words "without prejudice" somewhere at the beginning of the email.

It is important to note that only communications for the purpose of negotiating a settlement can be without prejudice. Simply writing "without prejudice" on every single email you send someone does not mean that they cannot be used against you in court. For example, if you send someone a threatening email, they can still use that email in court even if you add "without prejudice" to the beginning of the email.

This guide gives a more detailed overview on without prejudice communications.

Witness

A witness is an individual who gives evidence relating to a lawsuit or legal proceeding. Usually both sides of a lawsuit will use their own witnesses to help their case. You can ask other people to be a witness for your case. You can also be your own witness in a lawsuit.

Witnesses will give evidence to the court either through oral testimony or an affidavit. If a witness is giving evidence through oral testimony, it will usually be done through direct examination, a process where the witness will answer questions in court. If you are your own witness and you do not have a lawyer who can ask you questions, you can just tell the court about what you know.

During a trial, there are rules that dictate what a witness is allowed to say. Generally, witnesses are only allowed to tell the court about things that they have first-hand knowledge of and cannot talk about their opinions. However, there are many exceptions. Additionally, during other legal proceedings, such as interim applications, a witness will have more flexibility with what they are allowed to say.

This guide to family law trials in the BC Supreme Court as well as this guide to civil law trials in the BC Supreme Court have sections dealing with using witnesses in court.

Expert Witness

An expert witness is a witness who gives expert evidence relating to a lawsuit or legal proceeding. Expert witnesses only give evidence regarding issues that require special skill or knowledge to understand.

You may want to consider using an expert witness if your case deals with issues that an ordinary person would not have knowledge of (for example, an individual's medical condition). There is a special process that you must follow if you want to use an expert witness. A regular witness is not allowed to give expert evidence.

This guide talks about using expert witnesses in family law matters. This guide to evidence in civil law matters has a section on using expert witnesses in civil law matters on page 13.

Technology Safety Project

This document was published March 2021.

We gratefully acknowledge Sherry Xu, JD Candidate, Peter A. Allard School of Law, UBC, and support by the Pro Bono Students Canada Organization for the creation of this information sheet.