# Resolution Services

Alberta Government

**Court Procedure Booklet**

# APPLYING FOR A CIVIL RESTRAINING ORDER

# (On Notice to the Other Party)

Revised, January 2017 KB

# APPLYING FOR A CIVIL RESTRAINING ORDER (On Notice to the other party)

## *CONTENTS*


**INTRODUCTION ..... 2**
**PREPARING YOUR COURT DOCUMENTS ..... 8**
**FILING AND SERVING YOUR COURT DOCUMENTS .... 12**
**PREPARING FOR COURT ..... 15**
**GOING TO COURT ..... 17**
**AFTER COURT ..... 18**
**RESOURCES ..... 21**
**ANY QUESTIONS?? ..... 21**


***Resolution Services and Court Staff cannot give you legal advice or predict the outcome of your case.***
***This booklet provides general information only. You should speak to a lawyer for legal advice about your own situation***

# APPLYING FOR A CIVIL RESTRAINING ORDER (On Notice to the other party)

## INTRODUCTION

**These instructions have been prepared for you by Resolution Services. Contact us at:**

**Calgary**
7th floor, Calgary Courts Centre
601 - 5 Street SW
Phone 403-297-6981

**Edmonton**
8th floor, Brownlee Building
10365 – 97 Street
Phone 780-415-0404

**Grande Prairie**
Main Floor, Court House
10260 - 99 St.
Phone: 780-833-4234

**Lethbridge**
1st Floor, Court House
320 - 4 St. S
Lethbridge AB T1J 1Z8
Phone: 403-388-3102

**Red Deer**
Main Floor, Court House
4909 - 48 Ave
Phone: 403-340-7187

**Medicine Hat**
Court House
460 First Street SE
Medicine Hat, AB T1A 0A8
Phone 403-529-8716

**Outside these centres, call the Resolution Services Contact Centre at 1-855-738-4747**

**If you have been assaulted, or are in a family violence situation, call your local police or RCMP detachment or have a neighbour or friend call for you.**

**If the threat of danger is immediate, call 911 or your local police emergency number if you do not have 911 service.**

## When to use this booklet

This booklet tells you what steps to take when:

- The other party is **not** someone to whom you are related by blood, adoption or marriage, or the parent of your child or with whom you lived in a relationship of interdependence (sometimes called common law);
- You have reason to believe the other party will cause you physical harm;
- You believe that giving the other party advance notice of your court application will **not** put you in danger, or you have been told by the judge to serve the other party with notice of your application; and
- You have chosen not to get a lawyer and will be representing yourself throughout the court process.

More than one person can apply for a Restraining Order – each person will be listed as a Plaintiff / Applicant. Also, the application can be made against more than one person – each person will be listed as a Defendant / Respondent. To make these instructions simpler, we will assume that there is only one applicant and one respondent.

***Tip:***

The instructions in this booklet are general and apply to most cases. There are cases where different rules apply. The Alberta Rules of Court tell you the process and procedure for all kinds of cases in the Court of King's Bench. You can find the Rules of Court in the library in your courthouse or at: www.qp.alberta.ca

## Important things to know about Restraining Orders

A Restraining Order is an order made by the court and enforced by the police. It will limit the contact the respondent can have with you.

Usually, the Order will state that the respondent can have no contact, either directly or indirectly, and in person or by other means (for example, by telephone). The respondent will also be prevented from coming within a certain distance of certain places (for example, your residence or place of employment).

You should not contact the respondent during the time the Restraining Order is in place unless your order says that you can.

When court is over, in most cases, you will have to have someone personally serve the respondent with a copy of the Restraining Order. Court staff and the police do not serve Restraining Orders.

If you change your mind and want to end the Restraining Order early, you will have to make a court application on notice to the respondent.

## Should you hire a lawyer?

The staff at the court house cannot give you legal advice and cannot do your work for you.

Lawyers can help with steps along the way. They can:

- Tell you about your legal rights and obligations;
- Give you an opinion about what your chances are, or how the judge might decide;
- Tell you which option is the better choice for you;
- Complete the court forms and other necessary paperwork;
- Do legal research to find case law to help convince the judge;
- Tell you which court documents would be helpful to your case;
- Help you decide which facts the judge will want to hear;
- Negotiate with the other side;
- Rehearse the court hearing with you;
- Represent you in meetings or in court;
- Go to court for you if you can't go yourself;
- Prepare the Order after court;
- Prepare any letters needed as your matter goes through court; and/or
- Prepare any follow up documents.

***Tip:***

Many lawyers are willing to give "unbundled legal services." This means that you can choose which steps the lawyer will do and which steps you will do yourself. If you are interested in this, talk to a lawyer about how unbundled legal services can work in your case.

Duty Counsel is available at court. The Duty Counsel program is funded by Legal Aid. The Duty Counsel Lawyers (or students) will speak with you on the day you are in court, and will help you present your case to the judge. If both parties do not have a lawyer, Duty Counsel will present both sides to the judge.

You should hire a lawyer if:

- You don't want to or can't do the paperwork yourself;
- You don't want to or can't make several trips to the courthouse during business hours;
- You will have problems speaking for yourself in the court hearing; or
- The judge recommends to you that you hire a lawyer.

## The Court File

The court keeps a file folder with all of the court documents that have been filed in your case. That folder is labeled with a court file number. You must put the court file number on all of your court forms, so that they can be properly filed.

If you need to get copies of any of the documents on your court file, you can ask for them. You will be charged $10 to pull the file, plus $1 per page for photocopying. If you want a certified copy of any of the court documents, there will be an extra $10 fee.

To get copies from your court file, you must go to or contact the court where your file is located. For example, if your court file is in Red Deer, you must make your request for copies of the documents to the courthouse in Red Deer.

Other provinces' courts also keep court files, and will give you copies of court documents if you ask. Their fees may be different. If you are asking for a copy of an Order from another province, always ask for a certified copy.

***Tip:***

A certified copy of a court form has a stamp on it saying that it is a certified (or true) copy of the original. It is signed by a court official under the stamp. To be a certified copy, the copy must have this original stamp and signature.

## Find the Other Party

In almost every court application, the other party must be given notice of the application. You do this by serving them, which is by handing them copies of the court forms that you have filed.

If you do not know where the other party is, you must try everything you can think of to find them. Some ideas:

- Talk to their friends or family members.
- Talk to the staff where they worked.
- Look them up in the phone book or on www.canada411.com.
- If you know their phone number, try a reverse search at the phone company's website.
- Look them up on social networking sites. Even if they do not reply to you, see if you can contact their friends for information.

## Getting Ready

Before you start to prepare your court forms, you should think about what kinds of documents you will need to prove your case. You will have to attach all of the documents to your application form, so you will need to collect them ahead of time.

***Tips:***

If you have made a report to the police, it can be helpful to attach a copy of the report.

You only have one chance to make your case to the court. The judge makes their decision using only the documents that are on the court file. Make sure you have all the information that the judge will need.

## Getting Help

It is always a good idea to get legal advice before you start.

***Legal Aid*** **310-0000**, then ask for the Legal Aid office near you.
If you are a low income Albertan, and need a lawyer to take your case, you can apply for help from Legal Aid.

***Pro Bono (Volunteer) services by lawyers***

| | |
|---|---|
| Calgary Legal Guidance | 403-234-9266 |
| Lethbridge Legal Guidance | 403-380-6338 |
| Grande Prairie Legal Guidance | 780-882-0036 |
| Central Alberta Community Legal Clinic (Red Deer) | 403-314-9129 |

Check the Pro Bono Law Alberta website www.pbla.ca to see if there are any other services that can help you.

***Lawyer Referral Service*** **1-800-661-1095**
This service will refer you to lawyers in private practice. When you call, ask for a family law lawyer. You will be given the names of 3 lawyers who practice in the area of family law, and in your area. You can speak to any of them for the first ½ hour for free.

There are other services that may be able to help you with legal information (not advice) and the filling in of forms. Some of these are:

- Student Legal Services (Edmonton) 780-492-8244
- Student Legal Assistance (Calgary) 403-220-8637
- Immigration Services in your area
- Paralegal Companies in your area

***Alberta Law Libraries***
There are libraries located in most courthouses in Alberta. You can go to the library to:

- Do research on cases with facts similar to yours;
- Find sample court forms for other kinds of court applications; or
- Look for specific procedures in the Alberta Rules of Court.

The library has reference librarians who can answer questions and get you started, however, they can not give you legal advice.

## PREPARING YOUR COURT DOCUMENTS

To start your court action, you will prepare a **Statement of Claim**. The purpose of this form is to provide a brief summary of the facts that support your court action.

Then, to make your application to the Court of King's Bench, you must prepare two court forms – an **Application** and an **Affidavit**. These two forms let the Court know "what" you want, and "why". An **Application** is a brief summary for the Court of "what" you want. The Court wants to know, on one or two pages, what kind of an Order you are asking for. The **Affidavit** is your story. It is a summary of the "why" that supports what it is that you are asking for.

These court forms make up your entire application documents. If you want the Court to know something, it has to be in these court forms. For example, you can't ask the Court for something that you haven't already asked for in your Application. Also, you can't say anything to the Court that you haven't already written in your Affidavit.

***At the beginning of every form***

Fill in the following:

- Court File Number – Your file number as written on your other court documents (You may not have a file number yet)
- The Judicial Centre, e.g. Edmonton
- Both parties' full names
- Your complete address and phone number

***Tips:***

You may not want to put your own address and phone number on this form, if you think it will put you in danger. However, you MUST have an address on the form where court documents can be delivered to you. It is OK to use a friend's address or a work address as your address for service, so long as the people there know that the Respondent may be coming there to deliver documents.

You do not have to put your phone number on this form if you do not want the Respondent to have it.

When filling in your **Application**, complete the sections that apply to you:

1. *Remedy claimed or sought:* This has been filled in for you, but if you want to give less than 5 days' notice of the application to the respondent, then check off the box "Variation of time for service".
2. *Grounds for making this application:* Fill in the date that your affidavit was sworn.
3. *Material or evidence to be relied on:* Again, fill in the date that your affidavit was sworn.
4. *Applicable rules:* Leave this blank in most cases.
5. *Applicable Acts and Regulations:* Leave this blank in most cases.
6. *Any irregularity complained of or objection relied on:* Leave this blank in most cases.
7. *How this application is proposed to be heard or considered:* Leave this blank in most cases.

When filling in your **Affidavit**, be sure to:

- Only state the facts that you know to be true
- Only state the facts that are relevant to what you are asking for
- Attach as exhibits copies of all the documents that you want the Court to see

Your Affidavit is your evidence and the judge will use this to help make their decision. There are serious consequences for not telling the truth in your Affidavit.

**Tip:**

Be specific when writing out your story. Write down what the respondent did and give dates whenever you can. For example:

| ***Too vague*** | ***More Specific*** |
|---|---|
| Fred is violent. | Fred has slapped me and punched me several times in the last year. The last time was last Tuesday, when he punched me 4 or 5 times in the face. |
| I am afraid of Sally. | I am afraid that Sally will come to my house when she is drinking and try to break down the door. |
| John has made threats. | John has said to me that I had better watch my back. |

How to choose and attach **Exhibits** to your Affidavit:

- Exhibits are documents that you attach to your Affidavit because they support what you have said in your Affidavit. For example, if you filled out a police report, you may want to attach that. Any documents that you want the court to see must be attached as an exhibit to your Affidavit. You will not be allowed to show the documents to the Judge in Court if they are not attached as exhibits to your Affidavit.
- Make sure your exhibits are relevant, that is that they have a logical connection to the application that you are making.
- Do not attach documents that are already on the court file except for the Order that you want to change.
- Think before you attach copies of text messages, e mails, diaries, or social media postings. If they are not relevant, the court may order you to pay costs.
- Exhibits are labeled - Exhibit "A", Exhibit "B", etc.
- Your exhibits must be legible and the photocopies must also be legible. The font must be about 12.
- The total number of pages of exhibits can be no more than 40.
- Number all of the pages of your exhibits, starting with the first page of Exhibit "A" and finishing with the last page of your exhibits.
- You must tab each exhibit, and label the tab with the exhibit letter. You can buy divider tabs at a stationary store, or you can use "post it" (or similar) notes to tab the exhibits.

- You must have a "Table of Exhibits" inserted between the signature page of the Affidavit and the first page of the exhibits. Your "Table of Exhibits" will contain a brief description of each exhibit, for example, Exhibit "A" – Police Report, and will state the page number that the exhibit starts on.

Your Affidavit is your evidence and the judge will use this to help make their decision. There may be serious consequences for not telling the truth in your Affidavit.

Once you have finished filling in your Application and Affidavit, you must have your Affidavit sworn before a Commissioner for Oaths.

You may come to the Resolution Services office or the Clerk's office to have your Affidavit sworn. Bring photo identification with you when you come.

***Tips:***

Remember that you want your court documents to be as neat and easy to read as possible. The easier you can make the job for the judge, the better.

Make sure all of your pages have print only on one side (no double sided printing or copying!).

Your Affidavit must explain what each exhibit is.

If some of the documents you want to attach are smaller than a letter sized piece of paper (e.g. receipts), tape them to a piece of paper. You can tape more than one similar document to a sheet of paper, so long as they will all show when being photocopied.

You can group related documents as one exhibit.

Make sure that your exhibits are complete. For example, don't attach one page of a two-page letter.

Make sure to bring a photocopy of your exhibit(s) with you when you have your Affidavit sworn otherwise you may lose your original.

DO NOT photocopy your Application or Affidavit until AFTER it is sworn.

## FILING AND SERVING YOUR COURT DOCUMENTS

Once you have had your Affidavit sworn, there are several steps you need to follow to get ready for court.

- ☐ **Step 1**: Make copies of your court documents
- ☐ **Step 2**: Go to the Court of King's Bench Chambers Clerk's office to speak to the clerk about a court date and to file your court documents
- ☐ **Step 3**: Serve your court documents on all other parties
- ☐ **Step 4**: Prepare your Affidavit of Service

### ☐ Step 1- Make copies of your court documents

Remember that you should not make photocopies of your Affidavit until after you have had it sworn. After this is done, you should make **2 copies** each of your Statement of Claim, Application and Affidavit (including all exhibits). Make one more copy for each extra respondent.

### ☐ Step 2 – Go to the Court of King's Bench Chambers Clerk's office to speak to the Clerk about a court date and to file your court documents

Go to the Chamber's clerk's office in the Court of King's Bench and hand them your completed court documents. You will speak to the clerk about setting a court date.

> ***Tip:***
>
> Each court location has a different name for the counter that files these types of forms. Ask us, or ask one of the court staff where the proper filing counter is.

When you set a court date, you are not just picking a date that is convenient for you. You must provide the other party (the Respondent) with enough notice of the court date or else the judge may refuse to hear your application. The clerk at the Chambers office can help you pick a date but be aware that the Respondent must have **5 days' notice** of your application.

When you are setting your court date, make sure you allow enough time for service. It may take a few days for you to get the documents to the respondent. Keep this in mind and don't schedule your court date too soon.

After you have picked a suitable court date, make sure the court date is written on the first page of all copies of your Application.

The clerk will stamp and keep the original copies of your Statement of Claim, Application and Affidavit and return the copies to you. These copies are what you will need for the next step.

***Tip:***

**Counting the days for service:** You do not count the day you serve the document when you are counting the number of days' notice you are giving. If you must give 5 days' notice and you can serve on March 1st, March 2nd is day 1, and March 3rd is day 2, so the earliest court date you can pick is March 6th.

## ☐ Step 3 – Serve your court documents on all other parties

A person over the age of 18 must serve each Respondent with copies of all the court documents you have filed.

Service means a person must hand-deliver the documents directly to the Respondent (this is called personal service).

If you want the judge to hear your application on the court date you've selected, then you must be able to show the judge that the Respondent was given enough notice. If you do not give the Respondent the required amount of notice then the judge may refuse to hear your application.

When serving the court documents:

- Have someone else serve the documents for you – i.e. ask a friend or family member or hire a process server.
- Have whoever is delivering the documents make a note of the address where the Respondent is when they hand-deliver the documents;
- Make sure the person that serves the documents knows that they will have to swear an Affidavit of Service.

***Tips:***

You should think about hiring a **process server** to serve the Respondent for you. You can find one by looking under "Process Servers" in the yellow pages or on www.canada411.ca. Process servers can sometimes help you find the Respondent, will serve the court documents, and will complete the Affidavit of Service for you. The do charge a fee for their services.

If you cannot find the Respondent to serve, then check out the tips for finding the other party on page 6 of this booklet.

## □ Step 4– Prepare your Affidavit of Service

After you have served your court documents on the Respondent, you have to prepare your Affidavit of Service. This is the court form that proves to the judge that the other party was properly notified of your application.

Just like your Affidavit for your application, your Affidavit of Service must be sworn. Your Affidavit of Service must be completed and sworn by the person who served the documents.

The Affidavit of Service will:

- Explain who delivered the documents;
- Say the date the documents were delivered; and
- Say the address of where the Respondent was served.

You must be sure to **file** the original Affidavit of Service at the clerk's office before the court date and bring a copy of it with you to court.

***Tip:***

The Respondent is allowed to file an Affidavit setting out the facts they want the judge to know. They must serve you with a copy a reasonable amount of time before your court date. They will serve you by leaving a filed copy of their response at the address for service that you had written on your court documents.

If you want to respond to anything in their affidavit, you must complete and file a supplementary affidavit. Ask us how to do that. You may need to adjourn your application.

## PREPARING FOR COURT

Your court application will be heard by a Justice of the Court of King's Bench in Regular Chambers. Regular Chambers is where one judge sits in an open courtroom and hears several court applications on a list. Check your application form to find out what time you must appear in court.

Because there can be many applications on a list for the judge to get through, you want to be sure not to waste any of the Court's time. For this reason, there are some things you should think about before you go to court:

- Make sure you know what you want to say to the Court;
- Make sure that everything you want to say to the Court is in your Affidavit;
- Make sure you have filed your Affidavit of Service and that you bring a filed copy of it with you;
- Try to talk to the Respondent to find out if they are coming to court; and
- If you and the Respondent agree that you need more time, phone the Chamber's clerk's office to ask about adjourning your application.

Remember that you have put a lot of work into preparing and filing your court documents, and serving the other party and you want to be as ready as you can on the court date.

The Court of King's Bench can seem quite intimidating. Although the staff and judges try to make the court system as open and friendly as possible, there are still some basic things you should know going in:

- Dress for court in a neat and respectable manner;
- Be on time;
- Do not eat, drink or chew gum/tobacco in the courtroom;
- Remove your hat;
- Turn off cell phones, pagers and music devices;
- Make sure you have copies of all of your filed court documents;
- Make sure to bring a pen and paper to write down the judge's decision, name, room number and the date;
- Speak clearly and loudly when you are in court;
- Stand up when the judge is speaking to you or when you are speaking to the judge;
- Be respectful of the judge and refer to him/her as "My Lord/My Lady"; and
- Be respectful of the other party and do not interrupt them while they are speaking.

***Tips:***

Regular Chambers is set up to do quick applications (less than 20 minutes). If you think your matter is going to take more than 20 minutes, it should be adjourned to **Special Chambers**. Ask us how to do that.

You can go in and watch regular chambers, so you can see how applications are made and what information the judge wants to hear when making a decision.

## GOING TO COURT

On your court date, plan to arrive early, especially if you want to talk to Duty Counsel before court.

Bring with you:

- Copy of your Statement of Claim
- Copy of your Application
- Copy of your Affidavit(s)
- Copy of each Affidavit of Service
- Pen and paper

Find out which courtroom you are in by asking security staff and checking the docket lists or boards. Make sure you are in the right courtroom – there may be several courtrooms where family matters are heard.

Duty Counsel will be outside the courtroom. If you would like their help, speak to them before court.

There will be a list of all of the matters in your courtroom either outside the door or on a table inside the courtroom. The list will not necessarily be called in order. Expect to be in the courtroom for at least 2 hours.

Sit in the gallery area of the courtroom. All conversation in the courtroom is recorded, so it is best to have any discussions outside. Once the judge comes in, you should not talk.

When your name is called, go to the front of the courtroom. The usual order of the speakers is as follows:

- The applicant speaks first. Stand up to speak. If you are the applicant, introduce yourself and the respondent (or their lawyer). Tell the judge briefly what you want (e.g. "I am asking for a Restraining Order") then talk about the facts that you have set out in your Affidavit and make any arguments you want to make.
- The respondent speaks next. Stand up to speak. If the applicant did not introduce you, introduce yourself. Tell the judge briefly what your position is (e.g. "I am OK with the Restraining Order, but I still want to see the children") then talk about the facts that you have set out in your Affidavit and make any arguments you want to make.
- The applicant may then respond to what has been said by the respondent.
- The judge may ask questions of either party.

- At this point, both parties will have made all of the arguments they want to make, and should not make any further arguments.
- The judge then gives their decision. You should write down the judge's decision (along with their name and the courtroom number).
- We have staff that will type up the Order for you. You will be told what you need to do to get your copy of the Order.

***Tips:***

Regular chambers is a busy place and the judge will not be familiar with your file. Make sure you cover all of the important points when you are given your chance to speak.

If the respondent has a lawyer, the judge will sometimes reverse the order of speaking allowing them to go first.

When the judge is giving their decision, make sure they have addressed everything you want decided. If they did not, politely ask the judge about it. It may help to have a checklist with you before you start, so you can make sure the judge has dealt with all of the issues.

## AFTER COURT

Make sure your Order is filed. It should have a "Clerk of the Court" stamp on the first page. If you are the applicant, you should also receive a certified copy of the Order.

If the Respondent did not come to court, or if they did not wait for their copy of the Order, it is up to you to arrange to have them served them with a copy.

Have a person over the age of 18 serve each Respondent with a filed copy of the Order.

Ask us for an Affidavit of Service for the Order. Make 2 copies of the sworn Affidavit of Service.

File the Affidavit of Service with the Clerk's office.

## Fill in the Statement of Description

Fill in the form with as much information as you have. If you do not know some of the information, just leave it blank.

## Deliver the Order to the Police

It is important that the Restraining Order is properly registered with the police. This makes sure that the police have an accurate record of the Order on their computer system, and are able to act quickly if the order is breached or disobeyed.

Take your remaining certified copy of the Restraining Order, a filed copy of the Affidavit of Service, and the Statement of Description to your local police headquarters or R.C.M.P. detachment.

The addresses for the Restraining Order Registry offices in Edmonton and Calgary are:

The Chief of Police
Edmonton Police Service
9620 - 103A Avenue
Edmonton, Alberta, T5H 0H7
Attention: Case Management Unit

The Chief of Police
Calgary Police Service
5111 – 47 Street NE
Calgary, Alberta, T3J 3R2
Attention: Case Management Unit

If outside of Edmonton or Calgary, you will need to contact the local police or RCMP detachment in your area - consult the phone directory.

***Tip:***

You should still have one filed copy of the Affidavit of Service and a certified copy of your Restraining Order. Keep these in your possession at all times while the Order is in effect. The police may want to see it if the Order is breached or disobeyed in the future.

## If the Respondent disobeys the Restraining order

If the respondent breaches or disobeys the Restraining Order, call the police or RCMP.

If the respondent is arrested as a result of disobeying the Restraining Order, you will be contacted at the telephone number you had provided on the first page of the Restraining Order. You may be required to appear in court to give evidence of the breach. A judge will decide what penalty the respondent will face.

As the applicant, you must not contact the respondent or allow the respondent into your home while the Restraining Order is in effect. The Restraining Order is directed toward the respondent, so it is not revoked if you do contact the respondent. However, these circumstances make it difficult to enforce the Restraining Order. And, it may make it harder to obtain a Restraining Order in the future, especially if no further threats or violence occur during this contact.

## Terminating, Varying or Extending the Restraining Order

You will have to make a further court application if:

- you decide that you no longer want or need the Restraining Order to be in effect,
- you want to have the Restraining Order continue for a longer period, or
- you want to change what the Restraining Order says.

## Resources

### *Community resources*

For more information about other services that can assist in violence situations, contact the following:

- Your local police, RCMP detachment, shelter or victim's services unit. They can help you get more information about other services in your community.
- Alberta Children's Services - Prevention of Family Violence and Bullying Division. Call toll free from anywhere in Alberta at 310-0000 and ask for 422-5916.
- The Community Service Referral Line can refer you to other helping resources. Call 780-482-INFO(4636) in Edmonton or 403-268-INFO(4636) in Calgary.
- Look in the Human Services Guide of the phone directory under Crisis/Distress Lines (24 hours), Family Violence, and/or Shelters.

## ANY QUESTIONS??

If you have questions about the steps in the booklet or the court forms given to you, please contact us. Our addresses and phone numbers are on page 2 of this booklet.

| | | Clerk's Stamp |
|---|---|---|
| COURT FILE NUMBER | _____ *(File number, as on other court documents)* | |
| COURT | Court of King's Bench of Alberta | |
| JUDICIAL CENTRE | _____ *(City or town where court is located)* | |
| PLAINTIFF(S) / APPLICANT(S) | _____ *(Print full name of each Plaintiff)* | |
| DEFENDANT(S) / RESPONDENT(S) | _____ *(Print full name of each Defendant)* | |
| DOCUMENT | **Statement of Claim** | |
| ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT | _____ *(Plaintiff's Name)*<br>_____ *(Full address)*<br>_____<br>( ) _____ | |

**Notice to the Defendant(s):**

You are being sued. You are a defendant.

Go to the end of this document to see what you can do and when you must do it.

**Note: State below only facts and not evidence (Rule 13.6)**

**Statement of facts relied on:**

1. The Plaintiff(s) are residents of:

   *(Name each Plaintiff and state the city/town and province where they reside – e.g. Sally Smith – Edmonton, Alberta)*

   _____

   _____

   _____

2. The Defendant(s) are residents of:

   *(Name each Defendant and state the city/town and province where they reside.)*

   _____

   _____

   _____

3. *(Check and complete those that apply)*

☐ On or about _____ the Defendant(s) made threats
*(Date)*
to the Plaintiff(s) as follows: *(Give details)*

_____

_____

_____

☐ On or about _____ the Defendant(s) assaulted the
*(Date)*
Plaintiff(s) as follows: *(Give details)*

_____

_____

_____

☐ Other: *(Describe other actions done by the Defendant(s) that have caused the Plaintiff(s) to fear for their safety Give dates that the event(s) took place.)*

_____

_____

_____

4. *(Check and complete those that apply)*

☐ The threats and/or assaults by the Defendant(s) have caused the Plaintiff(s) to suffer physical injury and/or mental distress and to fear for their safety.

☐ Other: *(Describe the effect of the actions in paragraph 3, above.)*

_____

_____

_____

5. _____

_____

_____

_____

_____

**Remedy Sought**

1. A restraining order restricting the Defendant(s) from being within 200 metres of the residence and place of employment of the Plaintiff(s) and from being within 200 metres of the Plaintiff(s) anywhere else they may be in the Province of Alberta.

2. An order restraining the Defendant(s) from interfering with or contacting the Plaintiff(s) either directly or indirectly and either personally or by agent, anywhere in the Province of Alberta.

3. An order authorizing any police officer in the Province of Alberta to arrest and detain the Defendant(s).

4. ☐ Costs of this action.

**NOTICE TO THE DEFENDANT(S):**
You only have a short time to do something to defend yourself against this claim

- 20 days if you are served in Alberta
- 1 month if you are served outside of Alberta but in Canada
- 2 months if you are served outside Canada.

You can respond by filing a Statement of Defence or a Demand for Notice in the office of the clerk of the Court of King's Bench at Edmonton, Alberta, AND serving your Statement of Defence or Demand for Notice on the Plaintiff's(s') address for service.

**WARNING:**
If you do not file and serve a Statement of Defence or a Demand for Notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in either of these things, a court may give a judgment to the plaintiff(s) against you.

Clerk's Stamp

COURT FILE NUMBER _____
*(File number, as on other court documents)*

COURT Court of King's Bench of Alberta

JUDICIAL CENTRE _____
*(City or town where court is located)*

PLAINTIFF(S) / APPLICANT(S) _____
*(Print the full name of each Applicant)*

DEFENDANT(S) / RESPONDENT(S) _____
*(Print the full name of each Respondent)*

DOCUMENT **Application by**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

_____
*(Applicant's Name)*

_____
*(Full address)*

_____

( ) _____

**NOTICE TO THE RESPONDENT(S)**

This application is made against you. You are a Respondent. You have the right to state your side of this matter before the judge. To do so, you must be in Court when the application is heard as shown below:

COURT DATE: _____, _____ _____, 20 _____.
*(Weekday)* *(Month)* *(Day)* *(Year)*

TIME: _____
*(Time of Day)*

WHERE: _____
*(Courtroom (if known), Street address of courthouse)*

_____

BEFORE WHOM: **Justice in Chambers**

Go to the end of this document to see what else you must do and when you must do it.

1. **REMEDY CLAIMED OR SOUGHT:**
Restraining Order against the Respondent(s)

☐ Variation of time for service

2. **GROUNDS FOR MAKING THIS APPLICATION:**
My grounds for making this application are set out in my Affidavit sworn on

_____
*(Date)*

3. **MATERIAL OR EVIDENCE TO BE RELIED ON:**
I am relying on the evidence set out in my Affidavit sworn on _____
*(Date)*

4. **APPLICABLE RULES:** *(Leave blank or check off item that applies)*

☐ Rule 13.5 – Variation of time period

☐ Other: *(Please state Rule number(s) that apply to your application)*

_____

_____

5. **APPLICABLE ACTS AND REGULATIONS:** *(Leave blank or list Acts or Regulations)*

_____

_____

6. **ANY IRREGULARITY COMPLAINED OF OR OBJECTION RELIED ON:**

☐ Not applicable

☐ Specify: _____

_____

_____

7. **HOW THE APPLICATION IS PROPOSED TO BE HEARD OR CONSIDERED:**
*(In most circumstances, this section will be left blank. But, if you are asking for your application to be heard in a different way (such as videoconference, or teleconference) you must speak with the Clerk about what to write in this space.)*

_____

_____

_____

AFFIDAVIT EVIDENCE IS REQUIRED IF YOU WISH TO OBJECT

**WARNING**

If you do not come to Court either in person or by your lawyer, the court may give the Applicant(s) what they want in your absence. You will be bound by any order that the Court makes.

If you want to take part in this application, you or your lawyer must attend in Court on the date and time shown at the beginning of the form.

If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court, and serving a copy of that affidavit or other evidence on the Applicant(s) a reasonable time before the application is to be heard or considered.

# STATEMENT OF DESCRIPTION
# FOR RESTRAINING OR PROTECTION ORDER

*(Give this form to the Police along with a Certified Copy of your Restraining or Protection Order)*

Applicant's Full Name: _____

Respondent's Full Name: _____

**WEAPONS WARNING**: The Applicant believes that the Respondent may have the following weapons:

_____

*(Describe weapon – gun, knife, etc. or state "none")*

**The following is a description of the above-named Respondent:**

FULL SURNAME AND GIVEN NAMES: _____

ALIASES: _____

DATE OF BIRTH: _____ SEX: ☐MALE ☐FEMALE

ADDRESS OF RESIDENCE AND PHONE NUMBER: _____

_____

EMPLOYER OR SCHOOL NAME, ADDRESS AND PHONE NUMBER:

_____

_____

RACE: _____

HEIGHT AND WEIGHT: _____

BUILD: _____

EYE COLOUR AND DEFECTS: _____

HAIR COLOUR, LENGTH AND TYPE: _____

FACIAL HAIR AND COLOUR: _____

COMPLEXION: _____

MARKS, SCARS, AMPUTATION AND DEFORMITIES: _____

_____

TEETH AND SPEECH: _____

PHOTOGRAPH ATTACHED: ☐YES ☐NO

ADDITIONAL
INFORMATION: _____

_____

Clerk's Stamp

COURT FILE NUMBER _____
*(File number, as on other court documents)*

COURT Court of King's Bench of Alberta

JUDICIAL CENTRE _____
*(City or town where court is located)*

PLAINTIFF(S)/
APPLICANT(S) _____
*(Print your full name, as on other court documents)*

DEFENDANT(S)/
RESPONDENT(S) _____
*(Print the other party's name as on other court documents)*

DOCUMENT: **Affidavit – Civil Restraining Order**

*SWORN / AFFIRMED BY:* _____
*(Name of person making this Affidavit)*

SWORN / AFFIRMED ON: _____
*(Date Affidavit sworn / affirmed)*

ADDRESS FOR SERVICE
AND CONTACT
INFORMATION OF PARTY
FILING THIS DOCUMENT _____
*(Name of party filing this document)*

_____
*(Full address of party filing this document)*

_____

(_____)

I, _____, of _____, Alberta,
*(Your name)* *(Name of City / Town)*

**SWEAR / AFFIRM AND SAY THAT:**

1. I am (one of) the Applicant(s). I have personal knowledge of the facts set out below, except where I say that they are based on information from another person. In that case, I believe the facts to be true.

2. I know the Respondent(s) because:

_____

_____

_____

_____

3. The Respondent(s) address(es) is/are:
*(List each Respondent, then their complete address, including city/town and province)*

4. My reasons for asking for a Restraining Order are:
*(Set out details of why you need a restraining order against the other parties, stating all relevant facts, including the dates, nature and history of the conduct, threats and/or violence which prompted this application, and whether or not the other parties have any weapons.*
*If you need more room, use a blank sheet of paper – do not write on the back.)*

*(Cross out this paragraph if you plan to serve the Respondent(s) with notice of your application.)*

5. My reasons for asking for this order without notice to the Respondent(s) are:

   *(Set out why you cannot serve the Respondent(s) or why you think it would be dangerous to give them notice of your application.)*

**Sworn (OR Affirmed) before me**

at _____, Alberta

on _____, 20 ____

_____

Commissioner for Oaths in and for the Province of Alberta,
Justice of the Peace or Notary Public

Print Name and Expiry / Lawyer / Student-at-Law

_____

*(Signature of person swearing / affirming Affidavit)*

ID Verified _____

# TABLE OF EXHIBITS

*(List your exhibits and the descriptions again.*
*Number the pages of your exhibits, starting with "1" and numbering all the way through all of the exhibits, like a book. List the page number that each exhibit starts on. For example, if your first exhibit is 3 pages, then it starts on page 1, and your second exhibit starts on page 4.*
*If you do not have any exhibits, then remove this page.)*

| Exhibit Letter | Brief Description of Exhibit | Page Number |
|---|---|---|
| A | | |
| B | | |
| | | |
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Clerk's Stamp

COURT FILE NUMBER _____
*(File number, as on other court documents)*

COURT Court of King's Bench of Alberta

JUDICIAL CENTRE _____

PLAINTIFF(S) / APPLICANT(S) _____
*(Print full name of each Plaintiff)*

DEFENDANT(S) / RESPONDENT(S) _____
*(Print full name of each Defendant)*

DOCUMENT **Restraining Order**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

_____
*(Applicant's Name)*

_____
*(Full address)*

_____

( ) _____

---

**DATE ON WHICH ORDER WAS PRONOUNCED:** _____

**NAME OF JUSTICE WHO MADE THIS ORDER:** _____

**LOCATION OF HEARING:** _____

---

**ON THE APPLICATION** of the Applicant(s), _____
*(Full name of each Plaintiff)*

**AND ON** having heard representations of the Applicant(s);

**AND ON** having read the Affidavit(s) filed in support of this Application

**IT IS ORDERED THAT:**

1. The Respondent(s) _____
*(Full name of each Respondent)*
is/are specifically restrained from being within 200 meters of:

   (a) the Applicant(s)' residence: _____
*(Your complete address)*
_____

   (b) the Applicant(s)' place of employment: _____
*(Complete address of your place of employment)*
_____

   (c) the Applicant[s)' other addresses: _____
*(Complete address of other places as ordered by the judge)*
_____

   or from being within 100 meters of the Applicant(s) anywhere else in the Province of Alberta.

2. The Respondent(s) is/are restrained from harassing, molesting, watching, following, telephoning, or otherwise interfering with or contacting the Applicant(s), either directly or indirectly, and either personally or by agent, anywhere in the Province of Alberta.

3. On a Respondent being in breach of any of the terms of this Order, any Police Officer is authorized to forthwith arrest that Respondent, and bring that Respondent, as soon as possible, before a Justice of the Court of King's Bench of Alberta to show reason why there should not be a finding of civil contempt. However, that Respondent shall not be arrested unless that Respondent has previously been served with a copy of this Order, or if not served, is shown a copy of this Order by the Police Officer and, on being given an opportunity to do so, does not then obey it.

4. In making an arrest under this Order, a Police Officer is authorized to do anything necessary to carry out the arrest, including the use of as much reasonable force as may be necessary to make the arrest, and without warrant to enter any place where, on reasonable and probable grounds, the Police Officer believes that the Respondent may be found.

5. This Order is sufficient authority for the keeper of a correctional institution to hold a Respondent in custody pending appearance before a Justice of the Court of King's Bench of Alberta.

6. This Order remains in effect up to and including _____
*(Date Order is to end)*

7. Any party may apply to amend, vary, or strike out the within Order on providing notice to the other party 5 days or more before the date the application is scheduled to be heard or considered.

8. SERVICE: *[Choose from below and initial]*
*[If the Applicant has the means, and if there is no danger in relation to service, a private process server or other neutral third party should be utilized to serve this Order.]*
☐ A copy of this Order, together with a copy of the Application or Statement of Claim and Affidavit relied on in support of this application shall forthwith be personally served on each Respondent by a third party to be arranged by the Applicant.

OR

☐ A copy of this Order together with a copy of the Application or Statement of Claim and Affidavit relied on in support of this application is to be personally served upon the Respondent(s) as soon as reasonably possible by a Peace Officer.

OR

OR

☐ A Peace Officer may assist in serving this Order (and Application or Statement of Claim and Affidavit) upon the Respondent(s).

*[Only requires a Peace Officer to provide information that will assist with service]*

OR

☐ _____

_____

*[If anything, other than personal service is ordered, a Peace Officer will not serve the order.]*

_____

Justice of the Court of King's Bench of Alberta

Clerk's Stamp

COURT FILE NUMBER _____
*(File number, as on other court documents)*

COURT Court of King's Bench of Alberta

JUDICIAL CENTRE _____
*(City or town where court is located)*

APPLICANT _____
*(Print your full name, as on other court documents)*

RESPONDENT _____
*(Print the other party's full name, as on other court documents)*

DOCUMENT: **Affidavit of Personal Service**

*SWORN / AFFIRMED BY:* _____
*(Name of person making this Affidavit)*

SWORN / AFFIRMED ON: _____
*(Date Affidavit sworn / affirmed)*

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

_____
*(Name of party filing this document)*

_____
*(Full address of party filing this document)*

_____

( ) _____

---

I, _____, of _____, Alberta,
*(Name of person who served)* *(Name of City / Town)*

**SWEAR / AFFIRM AND SAY THAT:**

1. I have personal knowledge of the facts set out below, except where I say that they are based on information and belief. In that case, I believe the information to be true.

2. I am 18 years of age or older.

3. On _____ I served the ☐ Applicant ☐ Respondent
*(Date)*

_____
*(Name of person who was served)*

with the following documents:

☐ Application form filed: _____
*(Date filed)*

☐ Originating Application filed: _____
*(Date filed)*

☐ Affidavit filed: _____
*(Date filed)*

☐ Claim filed: _____
*(Date filed)*

☐ Statement filed: _____
*(Date filed)*

☐ Disclosure Statement filed: _____
*(Date filed)*

☐ Order filed: _____
*(Date filed)*

☐ Other: *(State the name of the document and the date filed with the court. If it is not a filed document, attach a copy as an exhibit to this Affidavit.)*

_____

_____

4. I served the documents listed above by personal service, that is, I left the documents with the ☐ Applicant ☐ Respondent at: *(Complete address where you served the Applicant or Respondent)*

_____

_____

_____

**Sworn (OR Affirmed) before me**

at _____, Alberta

on _____, 20 ____

_____
Commissioner for Oaths in and for the Province of Alberta.
Justice of the Peace or Notary Public

Print Name and Expiry / Lawyer / Student-at-Law

_____
*(Signature of person swearing / affirming Affidavit)*

ID Verified _____