

Substitutional Service

# Court of Queen's Bench

Application for Substitutional Service  
Outside Canada



**Resolution Services**



*Alberta*  
Government

# Instructions

## Substitutional Service Outside Canada

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### Before you Begin:

- You must have a court action in the Court of Queen's Bench to use these forms. If you do not, talk to us about how to start.
- You can apply to serve outside Canada if the application that you want to make, or the court action that you want to start has a **real and substantial connection** to Alberta.

The Rules of Court say:

11.25(3) Without limiting the circumstances in which a real and substantial connection may exist between Alberta and the facts on which a claim in an action is based, in the following circumstances a real and substantial connection is presumed to exist:

- (a) the claim relates to land in Alberta;
- (b) the claim relates to a contract or alleged contract made, performed or breached in Alberta;
- (c) the claim is governed by the law of Alberta;
- (d) the claim relates to a tort committed in Alberta;
- (e) the claim relates to the enforcement of a security against property other than land by the sale, possession or recovery of the property in Alberta;
- (f) the claim relates to an injunction in which a person is to do or to refrain from doing something in Alberta;
- (g) the defendant is resident in Alberta;
- (h) the claim relates to the administration of an estate and the deceased died while ordinarily resident in Alberta;
- (i) the defendant, although outside Alberta, is a necessary or proper party to the action brought against another person who was served in Alberta;
- (j) the claim is brought against a trustee in relation to the carrying out of a trust in any of the following circumstances:
  - (i) the trust assets include immovable or movable property in Alberta and the relief claimed is only as to that property;
  - (ii) the trustee is ordinarily resident in Alberta;
  - (iii) the administration of the trust is principally carried on in Alberta;
  - (iv) by the express terms of a trust document, the trust is governed by the law of Alberta;
- (k) the action relates to a breach of an equitable duty in Alberta.

- If you are filing for divorce, a real and substantial connection exists if you have lived in Alberta for at least one year before filing.
- If you are not sure if your application or action has a real and substantial connection to Alberta, talk to a lawyer.
- You can apply for substitutional service if:
  - It would be **impractical** to serve personally or by recorded mail; and
  - The way the you are wanting to serve will **likely** bring the court forms to the attention of the Respondent.



***Tips:***

If you are able to personally serve the other party, then you should do so.

“Personal service” does not mean the YOU have to do the serving. It just means that someone has to hand the documents directly to the other party, and be willing to swear an Affidavit of Service setting out the date when they served and the address where the service took place.

- See our booklet “Making an Ex Parte (Without Notice) Application in the Court of Queen’s Bench” for more information about how to prepare, file and serve court forms and how to present your case in court.
- The application may be made to a special kind of judge called a Master, or it may be made to a Queen’s Bench Justice. The Clerk can tell you who will hear your application in your location. In these instructions, we will refer to the Master or Justice as “the judge”.

***Examples of cases of substitutional service outside Canada:***

1. Lucy wants to apply for a divorce. Her spouse, Nigel lives in Korea. Lucy believes that there is a real and substantial connection between her divorce action and Alberta because she has lived in Alberta for more than one year. Lucy looks into the cost of having the documents served, and the Affidavit of Service notarized in Korea, and finds that it is more than she can afford to pay. However, Lucy is in regular contact with Nigel by e mail, and asks the judge to be allowed to serve him in Nigeria by e mail.
2. Pearl wants to apply for a parenting order. Pearl believes that there is a real and substantial connection between her parenting application and Alberta because she and the children have lived here for many years. Joe, the father, lives in England, and Pearl can’t find out exactly where he lives. Joe’s mother lives in England as well and is in regular contact with Joe, but she won’t give Pearl his address. Pearl asks the judge to let her serve Joe in England by having a process server deliver the court forms to his mother.

### **Fill in the Court forms that you are wanting to serve**

- If you are filing for divorce, fill in and file your Statement of Claim.
- If you are making a court application (for example, to change your child support), fill in the court forms that you will need to make that application. **Do not file them yet** – the judge will tell you how much notice you will need to give the other party.

### **Fill in the Affidavit form**

- Follow the instructions on the form and in the “Making an Ex Parte Application” booklet.
- This form has been prepared with the information that the court is likely to want to see. You can, if you wish, change the content of the form to set out the information in a way that you think is best.
- **Do not make any changes to the Affidavit after it is sworn.**

### **Fill in the Order**

- Do not fill in the judge’s name or the date, until you go to court.
- Ask the Resolution Services or court staff how much of the Order you should fill in. Judges in different court locations have different requirements.

### **After you get your Order for Substitutional Service Outside Canada, file the documents that you want to serve, then serve the Respondent:**

- File the court forms for the action or application that you want to make. The clerk can help you pick a court date, keeping in mind the instructions in your Order for Substitutional Service Outside Canada.
- Follow the instructions from the judge to serve the Respondent.
- In addition to the court forms (e.g. Statement of Claim, Application, etc), you must also serve the Respondent with:
  - A filed copy of the Substitutional Service Order
  - A filed copy of the Affidavit – Substitutional Service



#### ***Tip:***

Make a note of which documents you served – you will need to know when you fill in the Affidavit of Service.

**After the other party has been served, fill in the Affidavit of Service form**

- Follow the instructions on the form and in the “Making an Ex Parte Application” booklet.

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

**Calgary**

7<sup>th</sup> floor, Calgary Courts Centre  
601 - 5 Street SW  
Phone 403-297-6981

**Edmonton**

8<sup>th</sup> floor, Brownlee Building  
10365 – 97 Street  
Phone 780-415-0404

**Grande Prairie**

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

**Lethbridge**

1<sup>st</sup> 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, phone the  
Resolution Services Contact Centre at 1-855-4747**

COURT FILE NUMBER \_\_\_\_\_  
 (File number, as on other court documents)

COURT Court of Queen's Bench of Alberta

JUDICIAL CENTRE \_\_\_\_\_  
 (City or town where court is located)

PLAINTIFF / APPLICANT \_\_\_\_\_  
 (Print your full name, as on other court documents)

DEFENDANT /  
 RESPONDENT \_\_\_\_\_  
 (Print the other party's full name, as on other court documents)

DOCUMENT: **Affidavit – Substitutional Service  
 Outside of Canada**

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)

\_\_\_\_\_  
 ( )

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I, \_\_\_\_\_, of \_\_\_\_\_, Alberta,  
 (Your name) (Name of City / Town)

**SWEAR / AFFIRM AND SAY THAT:**

1. I am the Applicant. 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 facts to be true.

**SERVICE OUTSIDE CANADA**

2. I am asking the Court for an Order allowing me to serve the Defendant / Respondent outside of Canada. Throughout the rest of this Affidavit, I will refer to the Defendant / Respondent as "the Respondent".
3. The Respondent lives in \_\_\_\_\_  
 (Name of city and country where Respondent lives)

4. The documents that I want to serve are:  
(Check only those that apply and write in any additional documents.)

- Statement of Claim for Divorce
- Statement of Claim for relief other than Divorce
- Application form
- Originating Application form
- Affidavit
- Claim
- Statement \_\_\_\_\_  
(State what kind of Statement – e.g. “Parenting” or “Recipient’s Statement – Vary Child Support”)
- Disclosure Statement
- \_\_\_\_\_
- \_\_\_\_\_

5. There is a real and substantial connection between Alberta and the facts on which I base my claim because: (Check off all that apply)

- (For Statements of Claim for Divorce only) I have been ordinarily resident in Alberta for at least one year.
- immediately before the date of filing of the Statement of Claim for Divorce.
- I live in Alberta.
- The respondent is resident in Alberta.
- This is a family matter and the child(ren) live in Alberta.
- Other: (choose from the list included in the instructions, write the item out here, and explain how your facts fit that item.)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SUBSTITUTIONAL SERVICE (Delivering the documents in a way other than personal service)**

6. I am also asking for an Order allowing me to substitutionally serve the Respondent.

7. I believe it is impractical to personally serve the Respondent in the other country because: (Explain why it is impossible or impractical for you to arrange to have someone in the other country personally serve the Respondent.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. (Choose one)

- I know that the Respondent lives at the following address: *(Write out the complete address.)*

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I know this is the correct address because:

- The Respondent has told me that this is the correct address.
- I have been at this address and have seen that the Respondent lives there.
- I have sent mail to the Respondent at this address and the Respondent has either told me that the mail was received or has responded to the mail.
- Other: *(Provide your reasons why you know this is where the Respondent lives.)*

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- I know the Respondent works at the following address: *(Write out the complete address.)*

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I know this is the correct address because:

- The Respondent has told me that this is the correct address.
- I have been at this address and have seen that the Respondent works there.
- Other: *(Provide your reasons why you know this is where the Respondent works.)*

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- The Respondent's e mail address is: \_\_\_\_\_  
*(Respondent's e mail address)*

I know this is the correct e mail address because:

- I have received e mail from the Respondent, using that e mail address. I have attached, as Exhibit "A", a copy of an e mail from the Respondent, showing that e mail address.
- I have sent e mail to the Respondent, using that address, and it was not returned "undelivered".
- Other: *(Provide your reasons for believing that this is an accurate e mail address for the Respondent.)*

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9. The way I would like to serve these documents is:

- Handing the documents to an adult person at the Respondent's residence, or if there is no adult present, posting them to the documents to the door.
- Sending the documents to the Respondent by regular mail or by courier to the address listed above without the requirement of a signature.
- Scanning the documents and sending them to the Respondent by e mail at the e mail address listed above.
- Other method: *(Describe how you propose to serve.)*

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10. I believe that if I serve the documents in the way I have proposed, they will likely come to the attention of the Respondent because:

*(Explain how you believe the other party will find out about the documents, if you deliver them in the way that you are suggesting.)*

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11. I have the following other information in support of my application:

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**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 \_\_\_\_\_

Clerk's Stamp

COURT FILE NUMBER \_\_\_\_\_  
(File number, as on other court documents)

COURT Court of Queen'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 **Order for Substitutional  
Service Outside Canada**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT \_\_\_\_\_  
(Applicant's Name)

\_\_\_\_\_  
(Full address)

\_\_\_\_\_  
( )

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**DATE ON WHICH ORDER WAS PRONOUNCED:** \_\_\_\_\_

**LOCATION OF HEARING OR TRIAL** \_\_\_\_\_

**NAME OF MASTER WHO MADE THIS ORDER:** \_\_\_\_\_

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THE COURT HAS REVIEWED the affidavit filed in support of this application and is satisfied that

- a. personal service of the court documents listed in this Order would be impractical;
- b. the method of service set out in this Order is likely to bring the documents to the attention of the Respondent, and
- c. a real and substantial connection exists between Alberta and the facts on which the claim in this action are based.

**IT IS ORDERED THAT:**

*(Master, please initial all items checked off)*

1. The Plaintiff / Applicant is at liberty to substitutionally serve this Order along with the following documents in the within action outside Canada: *(Select all that apply)*

- An Application Form and supporting Affidavit(s)
- A Claim and supporting Statement(s)
- An Originating Application and supporting Affidavit(s)
- Notice to Disclose
- Statement of Claim
- Other \_\_\_\_\_
- And all other documents in this action.

by the following method *(Select the way the judge has said to serve)*

by leaving the documents with an adult person at the following address:

\_\_\_\_\_  
*(Complete street address, including city/town and province)*

by posting the documents on the door of the respondent's / defendant's home at:

\_\_\_\_\_  
*(Complete street address, including city/town and province)*

by leaving the documents with \_\_\_\_\_  
*(Name of person who will be given the documents)*

by scanning the documents and sending them by e mail to the following address:

\_\_\_\_\_  
*(E mail address)*

by registered mail (with a signature to prove receipt) to the following address:

\_\_\_\_\_  
*(Complete street address, including city/town and province)*

by regular mail to the following address:

\_\_\_\_\_  
*(Complete street address, including city/town and province)*

by scanning or photographing the documents and delivering them to the Respondent / Defendant through Facebook.

by sending the documents, along with the required service request form and fee to the Alberta Maintenance Enforcement Program.

by posting an advertisement in the \_\_\_\_\_ newspaper for \_\_\_\_\_ day(s), with the wording of the advertisement as set out in Schedule A to this Order.

Other: *(Describe method of service)* \_\_\_\_\_

2. The following deadlines shall apply: *(Check the box that the judge directs.)*
- The Respondent shall be served at least 2 months before the date scheduled in the Application or Claim.
  
  - The Defendant shall have 2 months to respond to the Statement of Claim.

*(Cross out unless serving a Statement of Claim for Divorce)*

3. The requirement in Rule 12.57 that a photograph be attached to the Affidavit of Service is waived.
4. Service by the method set out in paragraph 1 above shall be deemed to be good and sufficient.
5. In the event that the Defendant / Respondent does not file a response to the documents served, the Applicant shall be at liberty to apply for any relief deemed appropriate by the Court without further Order of the Court.

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Master of the Court of Queen's Bench of Alberta

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

COURT Court of Queen's Bench of Alberta

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

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

RESPONDENT /DEFENDANT \_\_\_\_\_  
*(Print the other party's full name, as on other court documents)*

DOCUMENT: **Affidavit of Substitutional Service outside Canada**

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 following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true.

2. On \_\_\_\_\_ I served the Respondent / Defendant  
(Date)  
\_\_\_\_\_ with the following documents:  
(Name of Respondent or Defendant)

(Check off all that apply and fill in the date the document was filed with the court)

- Order allowing Substitutional Service Outside Canada \_\_\_\_\_  
(Date filed)
- Affidavit (in support of service order) \_\_\_\_\_  
(Date filed)
- Application form \_\_\_\_\_  
(Date filed)
- Originating Application form \_\_\_\_\_  
(Date filed)
- Claim \_\_\_\_\_  
(Date filed)
- Statement \_\_\_\_\_  
(Date filed)
- Statement of Claim for Divorce \_\_\_\_\_  
(Date filed)
- Statement of Claim for relief other than divorce \_\_\_\_\_  
(Date filed)
- Other: \_\_\_\_\_  
(Name of document and date filed with the court. If not filed, attach it as an Exhibit to this Affidavit)

3. I served the documents listed above using the following method: (Choose one)

- by leaving the documents with an adult person at the following address:  
\_\_\_\_\_  
(Complete street address, including city/town and country)
- by posting the documents on the door of the respondent's / defendant's home at:  
\_\_\_\_\_  
(Complete street address, including city/town and country)
- by leaving the documents with \_\_\_\_\_  
(Name of person who will be given the documents)
- by scanning the documents and sending them by e mail to the following address:  
\_\_\_\_\_  
(E mail address)

by registered mail (with a signature to prove receipt) to the following address:

\_\_\_\_\_  
*(Complete street address, including city/town and country)*

Attached as Exhibit “\_\_\_\_\_” is the receipt from the post office where I mailed envelope, and attached as Exhibit ‘\_\_\_\_\_’ is a copy or computer printout from Canada Post showing the Respondent’s / Defendant’s signature, obtained when the envelope was delivered to the Respondent / Defendant.

by regular mail to the following address:

\_\_\_\_\_  
*(Complete street address, including city/town and country)*

by scanning or photographing the documents and delivering them to the Respondent / Defendant through Facebook.

by posting an advertisement in the \_\_\_\_\_ newspaper.

*(Name of newspaper)*

Attached as Exhibit “\_\_\_\_\_” is a copy of the advertisement, which was printed on the following dates:

\_\_\_\_\_  
*(Dates)*

Other: *(Describe method of service)* \_\_\_\_\_

**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 \_\_\_\_\_