

Affidavit of Records

# Court of Queen's Bench

Affidavit of Records



**Resolution Services**



*Alberta*  
Government

# Instructions

## Affidavit of Records

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### Before you Begin:

- You must have a file in the Court of Queen's Bench to use this form. If you do not, talk to us about how to start.
- This form is one step in the work needed to prepare your case for trial. You should read Part 5 of the Alberta Rules of Court which discusses this form. The Alberta Rules of Court is a book which is online here: [http://www.qp.alberta.ca/documents/Regs/2010\\_124.pdf](http://www.qp.alberta.ca/documents/Regs/2010_124.pdf). Or you can see it at an Alberta Law Library (located in the Queen's Bench court houses).
- Be prepared to take several days or weeks to gather up the information that you need, and several hours to fill in your paperwork properly. This is not something you can dash off in a few minutes.
- If you have questions about how to fill in this form, you must talk to a lawyer.

### Understanding the Affidavit of Records:

- You will list all records that are material and relevant and that either in your care and control now, or were, in the past, in your care and control.
  - **Records** – this is defined in the definitions section of the Rules of Court as follows:

“includes the representation of or a record of any information, data or other thing that is capable of being reproduced.”

Records may be paper documents, audio recordings, video recordings, photographs, etc. that relate to your action in some way.
  - **Relevant and Material** – this is defined in Rule 5.2 as something that:

“could reasonably be expected

    - (a) To significantly help determine one or more of the issues raised in the pleadings, or
    - (b) To ascertain evidence that could reasonably be expected to significantly help determine one or more of the issues raised in the pleadings.”
- You must also decide which of the records you do not object to showing to the other party now, and which ones you do object to providing. You must have a legally valid reason for objecting. Some reasons for objecting are listed on the Affidavit of Records (Schedule 2). If you have any questions about whether or not you can object to showing a record to the other party, you must ask a lawyer.

## **Organize Your Records**

- Divide your records into 3 groups:
  - In your care and control and you do not object to produce
  - In your care and control and you do object to produce
  - No longer in your care and control
- Decide how you are going to organize the records in each group –whether by date or in some other way that will allow someone to go through them easily.
- Think about what name you will give the record when you list it in your Affidavit of Records. An example is attached to these instructions.
- Similar records can be bundled and listed together. For example, if you have several letters, all from the same person, or relating to the same issue, you can list them all as one item.

## **Fill in the Affidavit of Records form**

- An online fillable form is here: <https://albertacourts.ca/docs/default-source/Court-of-Queen's-Bench/CTS3796.pdf> Or you may fill in the attached one, by hand.
- List your records in the schedule that applies
  - Schedule 1 – the records in your care and control that you do not object to produce
  - Schedule 2 – the records in your care and control that you do object to produce (and the reason why)
  - Schedule 3 – the records no longer in your care and control (and where they are now)
- Write in the time, date and place where the other party can come to view your records.
- Have your Affidavit of Records sworn or affirmed before a Commissioner for Oaths
- Make 2 copies.

## **File and Serve the Affidavit of Records**

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

- Bring the original and copies of the Affidavit of Records to the filing counter of the Court of Queen's Bench. They will keep the original and stamp your copies.
- Serve the other party with a copy of the Affidavit of Records. You may serve personally, by sending it by registered mail to the address for service or by delivering it to the address for service. The person who served must complete an Affidavit of Service. Ask us for the Affidavit of Service.

## **Allow the Other Party to Inspect Your Records**

- Have your records ready and organized, so that the other party can sort through them easily.
- The other party may ask for copies of your records.

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

### **Calgary**

7<sup>th</sup> floor South, 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, call the  
Resolution Services Contact Centre at 1-855-738-4747**

COURT FILE NUMBER 123456  
 COURT COURT OF QUEEN'S BENCH OF ALBERTA  
 JUDICIAL CENTRE CALGARY  
 PLAINTIFF(S) Alice White  
 DEFENDANT(S) Fred Black  
 DOCUMENT **AFFIDAVIT OF RECORDS**

Clerk's Stamp

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT Alice White  
 123 – 45 Street  
 Calgary, AB T3Y 5B3  
 (403) 555-3456

Affidavit of Records of Alice White, Plaintiff, Sworn by Alice White ON \_\_\_\_\_, 2017.

I, Alice White, of Calgary, Alberta, have personal knowledge of the following or I am informed and do believe that:

1. I am the plaintiff.
2. The records listed in Schedules 1 and 2 are under my control.
3. I object to produce the records listed in Schedule 2 on the grounds of privilege identified in that Schedule.
4. The records listed in Schedule 3 were previously under the control of the plaintiff, but ceased to be so at the time and in the manner stated in Schedule 3.
5. Other than the records listed in Schedules 1, 2, and 3, I do not have and never had any other relevant and material records under my control.

SWORN (OR AFFIRMED) BEFORE ME at [City], Alberta, this [Date] day of [Month], 20[Year].

\_\_\_\_\_  
 (Commissioner for Oaths in and for the Province of Alberta)

\_\_\_\_\_  
 (Signature of Plaintiff/ Defendant/Plaintiff's Representative/Defendant's Representative)

\_\_\_\_\_  
 PRINT NAME AND EXPIRY/LAWYER /STUDENT-AT-LAW

\_\_\_\_\_  
 (Print Name)

### Schedule 1

Relevant and material records under my control for which there is no objection to produce:

	DATE (OR OTHER CONVENIENT ORDER)	DESCRIPTION
1.	December 15, 2015	Agreement between Alice White and Fred Black
2.	January – February, 2016	Letters sent by Fred Black to Alice White
3.	June, 2016	Receipts from Bestbuy, Leons and Costco

### Schedule 2

Relevant and material records under my control for which there is an objection to produce:

- (a) without prejudice communications: None
- (b) communications and copies of communications between solicitor and client: Letter from Hubert Tompkins Q.C. to Alice Black dated October 3, 2016
- (c) solicitors' work product, including all interoffice memoranda, correspondence, notes, memoranda and other records prepared by the solicitors or their assistants: None
- (d) records made or created for the dominant purpose of litigation, existing or anticipated: None
- (e) other: *(provide particulars of objection relied on)* None
- (f) records that fall into 2 or more of the categories described above: None

### Schedule 3

Relevant and material records previously under the control of the Plaintiff:

DESCRIPTION OF RECORD	WHEN THIS RECORD CEASED TO BE UNDER PLAINTIFF'S CONTROL	MANNER IN WHICH THIS RECORD CEASED TO BE UNDER PLAINTIFF'S CONTROL	PRESENT LOCATION OF THE RECORD
1. Letters sent from Alice White to Fred Black	January – February, 2016	Original mailed to Fred Black, copies kept	Fred Black 9876 – 54 Street Calgary, Alberta
2. Invoice from Custom Electronics	July 11, 2016	original was lost	unknown
3. Recording of telephone call from Fred Black to Alice White on November 1, 2016	November 2, 2016	delivered to the Calgary Police Service	Calgary Police Service

#### NOTICE

The time when the producible records listed in this affidavit of records may be inspected is 4:00 – 6:00 pm, April 27, 2017 or such other time and date as may be agreed to between the parties.

The place at which the producible records may be inspected is Calgary Public Library, Marigold Branch, 5436 Marigold Way NW, Calgary, 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 \_\_\_\_\_  
*(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 Records**

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)*

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

Affidavit of Records of \_\_\_\_\_ the \_\_\_\_\_  
*(Your name) (Plaintiff or Defendant)*

Sworn / Affirmed by \_\_\_\_\_ on \_\_\_\_\_  
*(Your name) (Date)*

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

have personal knowledge of the following or I am informed and do believe that:

1. I am the \_\_\_\_\_  
*(Plaintiff or Defendant)*

2. The records listed in Schedules 1 and 2 are under my control.
3. I object to produce the records listed in Schedule 2 on the grounds of privilege identified in that Schedule.
4. The records listed in Schedule 3 were previously under my control, but ceased to be so at the time and in the manner stated in Schedule 3.
5. Other than the records listed in Schedules 1, 2 and 3, I have and never had any other relevant material records under my control.

**Sworn (OR Affirmed) before me**

at \_\_\_\_\_, Alberta  
on \_\_\_\_\_, 20 \_\_\_\_\_

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

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



\_\_\_\_\_  
*(Signature of person swearing / affirming Affidavit)*

ID Verified \_\_\_\_\_

### Schedule 1

**Relevant and material records under my control for which there is no objection to produce:**

	DATE (OR OTHER CONVENIENT ORDER)	DESCRIPTION
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		

*(Add more pages if necessary)*

## Schedule 2

**Relevant and material records under my control for which there is an objection to produce:**

*(List items or state "None")*

a)	without prejudice communications:	
b)	communications and copies of communications between a solicitor and client:	
c)	solicitors' work product, including all interoffice memoranda, correspondence, notes, memoranda and other records prepared by the solicitors or their assistants:	
d)	records made or created for the dominant purpose of litigation, existing or anticipated:	
e)	other: <i>(Provide particulars of objection relied on)</i>	
f)	records that fall into 2 or more of the categories described above: <i>(Describe which categories)</i>	

### Schedule 3

**Relevant and material records previously under my control:**

	DESCRIPTION OF RECORD	WHEN THIS RECORD CEASED TO BE UNDER MY CONTROL	MANNER IN WHICH THIS RECORD CEASED TO BE UNDER MY CONTROL	PRESENT LOCATION OF THE RECORD
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				

*(Add more pages if necessary)*

**NOTICE**

The time when the producible records listed in this Affidavit of Records may be inspected is: \_\_\_\_\_

*(State date(s) and time(s) when the records may be inspected by the other party)*

The place at which the producible records may be inspected is:

*(Complete address)*

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 full name, as on other court documents)*

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

DOCUMENT: **Affidavit of Service (delivery to lawyer or address for 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 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 \_\_\_\_\_  
(Date) (Plaintiff / Applicant / Defendant / Respondent)

\_\_\_\_\_ with the following documents:  
(Name of person served)

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

Application form \_\_\_\_\_  
(Date filed)

Affidavit \_\_\_\_\_  
(Date filed)

Response \_\_\_\_\_  
(Date filed)

Reply Statement(s) \_\_\_\_\_  
(Date filed)

Disclosure Statement \_\_\_\_\_  
(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 a staff person at the office of that party's lawyer.  
The name of the lawyer / law firm is:

\_\_\_\_\_  
(Name of lawyer or law firm)

and their address is:

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

by delivering and leaving the documents at the following address:

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

This is the address that has been provided as the address for service for the \_\_\_\_\_ on court documents filed by that party.

\_\_\_\_\_  
*(Plaintiff / Applicant / Defendant / 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 \_\_\_\_\_