

Personal Service Outside Canada

Court of Queen's Bench

Application for Service
Outside of Canada



Resolution Services



Alberta
Government

Instructions

Service Outside of Canada

Before you Begin:

- You must be starting a court action in the Court of Queen’s Bench to use these forms. If you do know how to start your action, ask us.
- You are planning to have the documents personally served on the other party.

WARNING: If the country that you are trying to serve documents in is a Contracting State to the Hague Service Convention, then you may not be able to obtain a Service Outside Canada order. Please refer to the “Service Outside of Canada – Hague Service Convention” booklet for more information.

- 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 not sure if your application or action has a real and substantial connection to Alberta, talk to a lawyer.
- If you are filing for divorce, you can do so if you have lived in Alberta for one year, so you do not need to show a real and substantial connection to Alberta.
- 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".



Tips:

"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.

Examples of cases of service outside of Canada:

1. Amara wants to apply for a divorce. Her spouse, Emmanuel lives in Nigeria. Nigeria is not a Contracting State to the Hague Service Convention. Amara 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. She asks for an Order allowing her to serve her divorce documents personally on Emmanuel in Nigeria. She will have her sister serve him, and her sister will swear her Affidavit of Service at the Canadian Consulate.
2. Jasmine wants to apply for a parenting order. Quinn, the father, lives in the United States. The United States is a Contracting State to the Hague Service Convention, but it does not object to the personal service of court documents from another country. Jasmine 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. She asks for an Order allowing her to serve her parenting application on Quinn in the United States. She will hire a process server, who will ensure that the Affidavit of Service is properly completed and notarized.

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

- 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 Service Outside of Canada, file the documents that you want to serve, then serve the Respondent:

- If you have not filed the court forms for the action or application that you want to make, file them. If a court date is required, the clerk can help you pick a date, keeping in mind the instructions in your Order for 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 Order for Service Outside of Canada
 - A filed copy of the Affidavit –Service Outside of Canada



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

- The person that served the documents will have to sign the Affidavit of Service before a Notary Public in their country and send the Affidavit of Service to you for filing.

**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

Grande Prairie

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

Red Deer

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

Edmonton

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

Lethbridge

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

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 _____
(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 –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.
2. I am asking the Court for an Order allowing me to personally 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 at the following address: *(Include Street / P.O. Box, City / Town, Province / State, Postal Code, Country)*

4. I know this is the correct address because:

- 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.)*

5. I have reviewed _____ and I believe the country where the Respondent lives:
(Identify resource reviewed by applicant)

(Choose one)

(If none of these options apply, then your application will be rejected. Please refer to the "Service Outside of Canada (Hague Service Convention)" booklet for more information.)

- Is not a Contracting State to the Hague Service Convention.
- Is a Contracting State to the Hague Service Convention, but the document that I am serving is not a Commencement Document.
- Is a Contracting State to the Hague Service Convention, but the country does not object to personal service of document (see Article 10 of the Hague Service Convention).

6. 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
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(Choose one paragraph 7 and cross out the other)

7. (For Statements of Claim for Divorce)

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.

7. (For All Other Documents)

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

- 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.)

8. I have the following other information in support of my 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 _____

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 Service Outside of 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: _____

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

- a. (Choose one and cross out the paragraph that doesn't apply. Master, please initial any paragraphs crossed out.)
- a real and substantial connection exists between Alberta and the facts on which the claim in this action are based;
 - (for Statements of Claim for Divorce only) the Applicant has been ordinarily resident in Alberta for at least one year;

b. (Choose one and cross out the paragraphs that don't apply. Master, please initial any paragraphs crossed out.)

- the country in which the Respondent resides is not a Contracting State to the Hague Service Convention;
- the country in which the Respondent resides is a Contracting State to the Hague Service Convention, but it does not object to the method of service set out in this Order;
- the document being served is not a Commencement Document, so the Hague Service Convention does not apply;

IT IS ORDERED THAT:

(Master, please initial all items checked off)

1. The Applicant is at liberty to personally serve this Order along with the following documents in the within action outside Alberta / 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.

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

- 2. The requirement in Rule 12.57 that a photograph be attached to the Affidavit of Service is waived.

- 3. Service is effective _____ days after the Applicant has served the documents pursuant to paragraph 1, and shall be deemed to be good and sufficient.

Master of the Court of Queen's Bench of Alberta