

	<u>Statement of Claim</u>	<u>Originating Application</u>	<u>Application/Notice of</u>	<u>Appearance Day Notice</u>	<u>Appeal/Notice of Appeal</u>
What Used to Do	<p>Bring an action unless the rules specifically require it be brought by Originating Notice (Rule 3-2)</p> <p><i>This will be the most common (default) process by which to start an action.</i></p>	<p>Bring actions specifically authorized by the rules or an enactment to be brought by originating application (3-2)</p> <p>Obtain decisions including;</p> <ul style="list-style-type: none"> - the Court's opinion/direction re: administration of an estate or execution of a trust (3-49(a)); - an order directing executors or trustees to do/abstain from any act (3-49(b)); - removal/replacement of executor/trustee or fixing their compensation (3-49(c)); - the interpretation of a deed, will, contract, enactment, o/c, bylaw or resolution (3-49(d)); - declaration of an interest in land (3-49(e)); - the approval of an arrangement or compromise or the approval of a purchase, sale, mortgage, lease or variation of trust (3-49(f)); - judicial review (3-49(g)); -Charter remedy (3-49(h)); <p>-where it is unlikely that there will be any material facts in dispute (i.e. a form of declaration of a pure point of law) (3-49(i));</p> <p>-if an enactment or the rules authorize or require an application, originating application, originating notice, originating summons, a notice of motion or a petition can be used (3-49(2));</p> <p>-if an enactment provides for a remedy, direction or order to be obtained from the Court without describing the procedure (3-49(3));</p> <p><i>This will be the basis on which to bring actions where specifically directed + the default process for all other commencement proceedings.</i></p>	<p>Obtain decisions from the Court in the course of an action in which a commencement document has been filed (3-2(4)(a) and (b), 6-1, 6-2 and 6-3).</p> <p><i>This will not be used to commence actions or proceedings but will be the most common method of determining matters within the context of proceedings already begun by Statement of Claim or Originating Application.</i></p>	<p>Obtain decisions where:</p> <ul style="list-style-type: none"> -the only remedy sought is compliance with the rules re: conduct of a proceeding 6-23(1)(a)); -a timetable is set (6-23(1)(b)); -the parties jointly request the Court's direction regarding management of a trial or proceeding (6-23(1)(c)). <p><i>This will be the quick and efficient method of determining simple practice and process issues where no facts are in dispute.</i></p>	<p>Appeal by statute (3-2(1)(c)).</p> <p><i>This will be the method of bringing appeals.</i></p>

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Form Used	3-9	3-49	6-5, 6-4 (ex parte)	6-24	As set out by the relevant statutory provision
Contents of Form	Notice to defendant, names of the parties and places of residence, states the claim and basis for it, states any remedy sought, complies with rules about pleadings at Part 13, Div.3 (3-9)	State the claim and the basis for it, the remedy sought and identify the affidavit or other evidence to be used in support of the application	(Ordinary) Addressed to all parties and every other person affected, set out the precise remedy sought, the grounds to be argued including any section or rule relied upon and a list of the documentary evidence to be used at the hearing (6-5) (Ex parte). Memorandum that sets out the special provision authorizing no notice, the precise remedy sought, a statement that either opposite parties are not represented or setting out the name of the lawyer representing the opposite parties, citations of authorities relied on.	Brief description of the proposed order and the reason for the application, reference to any provision of any enactment or rule relied upon, a representation that the application can be heard and determined in 30 minutes or less (6-24)	As prescribed by the appeal provisions relied upon.
Supporting Materials	Claim (alone)	(Ordinary); affidavit evidence, including expert affidavits, admissible documents exhibited to an affidavit, anything permitted by any other rule or enactment, evidence taken in any other action (on 5 days notice and with the Court's permission), oral evidence (With the Court's permission) (3-55). Brief, if desired (3-50(2)) (Judicial review); written record of the decision being reviewed, the reasons, the document that started the proceeding, the evidence and exhibits filed with the body being reviewed, anything added by the Court (3-57). Brief, if	Affidavits (6-6, 13) or other documentary evidence (6-5c), cross examination on affidavits, if any (6-13).	No affidavits – only facts that cannot be reasonably contested allowed (6-26(1)).	As prescribed by the appeal provisions relied upon.

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		desired (3-50(2))			
Time Constraints	Serve within 6 months of issuance or need to apply to extend (3-10).	Serve application and evidence 14 days or more before date scheduled for the hearing and any brief (if desired) at least 3 days before the date scheduled for the hearing (3-50). Response affidavits be provided 10 days before the hearing. Affidavits in response to reply affidavits must be served at least 5 days before the hearing (3-52).	Serve application at least 14 days before day named in the notice for the hearing (6-9) along with any affidavits on which application founded (6-6). Concise brief filed at least 2 days before return date (6-15). Response affidavits served and filed at least 7 days before the return date (6-14).	Serve notice at least 14 days before the matter is scheduled to be heard (6-24(3)).	As prescribed by the appeal provisions relied upon.
Procedural Incidents	Full procedural obligations; pleadings, disclosure of documents, questioning, pre-trial settlement conference, trial.	(Ordinary) Limited procedural obligations unless the Court requires them as appropriate to the circumstances (3-51). Affidavits and other document-based methods of providing evidence the usual course to be followed unless by agreement or order of the Court's fuller procedural obligations arise (3-55). Cross examination on affidavits if allowed (3-54(1)). (Judicial Review) Further limited procedural obligations as per 3-57 (record of proceedings as set out there the basis of the application).	Further limited procedural incidents (in Chambers). Concise brief, affidavits and cross examination on affidavits if allowed (6-13).	Very limited procedural incidents (in Chambers, at foot of list and dealt with by telephone (6-25)).	