

**PART 6: RESOLVING ISSUES AND PRESERVING RIGHTS**

**DIVISION 1**  
**Applications to the Court**

**What this Division applies to**

**6-1** This Division:

- (a) applies to every application filed in the Court unless a rule or an enactment provides otherwise or the Court orders or permits otherwise; and
- (b) does not apply to originating applications unless the parties agree otherwise or the Court orders otherwise.

*Subdivision 1*  
*Application Process Generally*

**Interpretation of Subdivision**

**6-2** In this Subdivision, “**application**” means an application in the course of an action with respect to which a commencement document has been filed.

**Applications generally**

**6-3(1)** All applications must be by notice of application except where otherwise specifically provided.

- (2) If pursuant to any enactment an application may be made to the Court or to a judge, the application must be by notice of application unless the enactment or these rules provide otherwise.
- (3) If the Court is satisfied that a delay caused by proceeding in the ordinary way would result in serious mischief, the Court may make an order without notice on any terms it considers appropriate, and subject to any undertaking, that the Court considers just.
- (4) Any party affected by an order mentioned in subrule (3) may move to set it aside or to vary it.
- (5) In all applications, any pleading on file in the office of the local registrar may be used and taken as evidence of the pleading, unless proven otherwise.

**Procedure on applications without notice**

**6-4** Every application without notice must be by memorandum in Form 6-4 that sets out all of the following:

- (a) the special provision authorizing the application to be made without notice;
- (b) the precise remedy sought;
- (c) a statement that either:
  - (i) sets out that none of the opposite parties is, to the knowledge of the applicant, represented by a lawyer; or
  - (ii) if any of the opposite parties is, to the knowledge of the applicant, represented by a lawyer, sets out the name of the lawyer representing the opposite party;
- (d) citations of all the following authorities relied on:
  - (i) the short titles, chapter numbers and section numbers of enactments;
  - (ii) rule numbers;
  - (iii) complete citations of cases with designation of relevant passages.

**Information Note**

Also see rule 6-14.

**Contents of notice of application**

**6-5(1)** Every notice of application must be in Form 6-5 and must be addressed to and served on all parties and every other person affected by the application.

- (2) Every notice of application must set out all of the following:
- (a) the precise remedy sought;
  - (b) the grounds to be argued, including a reference to any section of an enactment or rule to be relied on; and
  - (c) a list of the documentary evidence to be used at the hearing of the application.

**Affidavits in support**

**6-6** Every affidavit on which any application to the Court is founded must:

- (a) if the application is made without notice, be filed with the application; or
- (b) be served and filed with any notice of application or petition or other proceeding, as the case may be.

**Chambers sittings**

**6-7(1)** Regular sittings for the transaction of business and the hearing of applications that may be heard in chambers must be held at those times and places that:

- (a) are designated by the Chief Justice; and
  - (b) are published in *The Saskatchewan Gazette*.
- (2) With leave of the Court, an application may be heard at a time or place other than a time and place mentioned in subrule (1).
- (3) An application within a proceeding must be brought:
- (a) if weekly chamber sittings are held at the judicial centre where the proceeding is commenced or pending, at that judicial centre; or
  - (b) with leave of the Court, at any other judicial centre.

**Applications in chambers**

**6-8(1)** Every application that is authorized by these rules or by an enactment to be made to the Court, other than an application made at or during the trial of any action, issue or other proceeding, must be made to a judge in chambers.

- (2) Every application may be made returnable before and heard by a judge sitting in chambers on any of the days designated for that purpose.
- (3) If any day designated for the purpose of sitting in chambers falls on a holiday or if an application has been made returnable on a day on which a judge does not sit in chambers, the application stands adjourned to the next day on which a judge sits in chambers.

**Length of notice for an application**

**6-9** Unless the Court gives special leave, without notice, to the contrary, there must be at least 14 days between the service of a notice of application and the day named in the notice for hearing the application.

**Service of notice of application before defence**

**6-10** The plaintiff may, without leave, serve any notice of application on any defendant along with the statement of claim or at any time after service of the statement of claim.

**Court may direct application to be turned into application for judgment or hearing**

**6-11(1)** If the Court is satisfied on the hearing of any application that may be pending before the Court that it is conducive to the ends of justice to permit it, the Court may direct any application to be turned into:

- (a) an application for judgment; or
- (b) a hearing of the cause or matter.

(2) In making a direction pursuant to subrule (1), the Court may make an order respecting:

- (a) the time and manner of giving the evidence in the cause or matter; and
- (b) the further conduct of the cause or matter as the circumstances of the case may require.

(3) On a hearing directed pursuant to subrule (1), the Court may:

- (a) pronounce judgment; or
- (b) make any order that the Court considers expedient.

***Subdivision 2******Evidence, Argument and Procedure on Applications*****Affidavits to be filed**

**6-12(1)** Except with leave of the Court, every affidavit to be used in a cause, matter or proceeding must be filed before being used.

(2) Every affidavit to be used on an application in chambers, and proof of service of the affidavit, must be filed before the hearing of the application with:

- (a) the local registrar of the judicial centre at which the application is to be heard; or
- (b) the chamber clerk where the application is to be heard.

(3) The local registrar shall transmit any material filed pursuant to subrule (2) to the chamber clerk, and the chamber clerk shall, after the application is disposed of, transmit all material to the proper local registrar.

**Evidence on applications**

6-13(1) On any application or petition, evidence may be given by affidavit, but the Court may, on the application of either party, order the attendance for cross-examination of the person making the affidavit.

(2) The party applying for any cross-examination pursuant to subrule (1) shall bear the costs of the cross-examination.

**Information Note**

Regarding the form and content of affidavits, see Subdivision 2 of Division 4 of Part 13.

See rule 6-32 regarding how the practice on cross-examination at trial extends to evidence taken pursuant to this rule.

**Filing of affidavits re applications**

6-14 A party intending to oppose a claim made in an application shall:

(a) serve a copy of each affidavit on which that party intends to rely at the hearing on every other party to the application; and

(b) file the affidavits with proof of service at least 7 days before the date set for hearing the application.

(2) The party bringing the application may:

(a) serve an affidavit replying only to any new matters raised by the opposite party; and

(b) file the affidavit with proof of service at least 2 clear days before the date set for hearing the application.

**Brief of argument**

6-15 If a party files a brief of law with respect to an application, the brief:

(a) must be concise and address the legal aspects of the case and not the factual aspects; and

(b) must be served on the every other party to the application and filed at least 2 days before the designated chamber day to which the application is made returnable.

**Information Note**

If filing copies of any case reports, statutes or articles from legal journals with a brief, please refer to the Practice Directive on the topic.

**Adjournment by consent or by Court**

6-16(1) The local registrar for the judicial centre at which any application is to be heard shall adjourn the hearing to any subsequent chamber day if:

- (a) the parties consent to the adjournment; and
  - (b) the parties either:
    - (i) file with the local registrar a memorandum that requests the adjournment and that is signed by the parties or by the lawyers for the parties or their agents without the appearance of lawyers; or
    - (ii) if the local registrar considers it appropriate to accept an oral consent, orally consent to the adjournment.
- (2) Unless a party is otherwise required to appear by the Court, a party is not required to appear in chambers on:
- (a) an application made without notice; or
  - (b) an application where the written consent of each party is filed.
- (3) If a party is required to appear, the local registrar shall notify the party or the party's lawyer of the date and time set for the hearing.
- (4) The hearing of any application may be adjourned on any terms that the Court considers appropriate.

**Electronic hearings**

6-17(1) In this rule, “**electronic hearing**” means an application, proceeding or trial conducted, in whole or part, by electronic means in which all the participants in a hearing and the Court can hear each other, whether or not all or some of the participants and the Court can see each other or are in each other's presence.

- (2) An electronic hearing may be held if:
- (a) the parties agree and the Court permits; or
  - (b) the Court orders an electronic hearing.
- (3) The Court may:
- (a) direct that an application for an electronic hearing be heard by electronic hearing;
  - (b) direct that an application or a trial be heard in whole or in part by electronic hearing;

- (c) give directions about arrangements for the electronic hearing or delegate that responsibility to another person;
  - (d) give directions about the distribution of documents and the practice and procedure at the electronic hearing;
  - (e) order that an electronic hearing be completed in person.
- (4) The local registrar must participate in an electronic hearing unless the Court directs otherwise.

**Hearing without oral argument**

**6-18(1)** If an application is on consent or unopposed or is without notice pursuant to subrule 6-4, the application may be heard in writing without the attendance of the parties, unless the Court orders otherwise.

- (2) If an application is on consent, the consent and a draft order must be filed with the notice of application.
- (3) If an application is unopposed, a notice from the responding party stating that the party does not oppose the application and a draft order must be filed with the notice of application.
- (4) If all parties are represented by lawyers and the issues of fact and law are not complex, the applicant may propose in the notice of application that the application be heard in writing without the attendance of the parties, in which case:
- (a) the application must be made on at least 14 days notice;
  - (b) the applicant shall serve with the notice of application and immediately file, with proof of service, in the judicial centre where the application is to be heard:
    - (i) any affidavits on which the application is founded;
    - (ii) a draft order; and
    - (iii) a brief of argument entitled Brief of Argument for an Application; and
  - (c) the application may be heard in writing without the attendance of the parties, unless the Court orders otherwise.
- (5) Within 10 days after being served with the applicant's material, the responding party shall serve and file, with proof of service, in the judicial centre where the application is to be heard:
- (a) a consent to the application;
  - (b) a notice that the responding party does not oppose the application;

- (c) all of the following materials:
    - (i) any affidavits on which the responding party intends to rely;
    - (ii) a notice that the responding party agrees to have the application heard and determined in writing pursuant to this rule;
    - (iii) a brief of argument entitled Brief of Argument for an Application; or
  - (d) a notice that the responding party intends to make oral argument, along with any material intended to be relied on by the party.
- (6) If the responding party delivers a notice pursuant to subrule (5) that the party intends to make oral argument, the applicant may either:
- (a) attend the hearing and make oral argument; or
  - (b) not attend and rely on the party's affidavits and brief of argument.

**How the Court considers applications**

**6-19** The Court may consider a filed application in one or more of the following ways:

- (a) in person, with one, some or all of the parties present;
- (b) by means of an electronic hearing if an electronic hearing is permitted pursuant to rule 6-17;
- (c) in writing pursuant to rule 6-18.

**Proceeding failing by non-attendance of party**

**6-20** If a proceeding in chambers fails by reason of the non-attendance of any party and the Court does not think it expedient to proceed without that party, the Court may order that an amount for any costs that the Court considers reasonable is to be paid to the party attending by:

- (a) the absent party; or
- (b) the absent party's lawyer personally.

**Applications may include several matters, and Court power to make orders**

**6-21(1)** In every cause or matter, if any party makes any application in chambers, the party may include in that application all matters on which the party desires an order or any directions of the Court.



(2) On the hearing of any application pursuant to subrule (1), the Court may make any order and give any directions relative to or consequential on the matter of the application that the Court considers just.

(3) If the Court considers it appropriate to do so, the Court may adjourn an application pursuant to subrule (1):

- (a) from chambers into Court; or
- (b) from Court into chambers.

*Subdivision 3*  
*Appearance Day Applications*

**Interpretation of Subdivision**

**6-22** In this Subdivision, “**appearance day notice**” means a notice that is made pursuant to rule 6-24.

**When appearance day application appropriate**

**6-23(1)** A party may make an appearance day application if:

- (a) the only remedy being sought is to require another party to comply with these rules respecting the conduct of a proceeding;
- (b) a party wishes to have the Court set a timetable for steps to be taken in a proceeding; or
- (c) the parties jointly request the Court’s direction on an issue respecting the management of a trial or proceeding.

(2) Subdivisions 1 and 2 do not apply to an appearance day application.

**Appearance day notice**

**6-24(1)** A party may make an appearance day application by filing and serving an appearance day notice.

(2) Unless the Court permits otherwise, an appearance day notice must:

- (a) be in Form 6-24;
- (b) briefly describe the proposed order or direction sought and the reason for the application;
- (c) refer to any provision of an enactment or rule relied on;

- (d) contain a representation that the application can be heard and determined in less than 30 minutes; and
  - (e) be signed by the party making the application or the party's lawyer.
- (3) An appearance day notice must be made be served on each of the other parties 14 days or more before the appearance day application is scheduled to be heard or considered.

**How appearance day applications are to be dealt with**

- 6-25(1)** Appearance day applications must be placed at the end of the chamber list and heard by telephone.
- (2) The parties to an appearance day application must be available by telephone up until 4:00 p.m. on the chamber day to which the appearance day notice is returnable.
- (3) If a party requests an adjournment from the chamber day mentioned in subrule (2):
- (i) that party shall contact the other party in advance of that date; and
  - (ii) all parties shall jointly consult with the local registrar to set a new date within the next 4 weeks, unless the parties jointly agree to adjourn for a longer period of time.

**Evidence on appearance day application**

- 6-26(1)** A party may make representations to the judge on appearance day of a fact that could not reasonably be contested.
- (2) Representations may be made in the appearance day notice and expanded on in oral submissions to the judge when the application is heard.
- (3) The judge may act on the representations.

**Disposition of appearance day application**

**6-27** After the hearing of an appearance day application, the judge may:

- (a) if satisfied that there is no relevant fact that may reasonably be contested, make any order that the circumstances require; or
- (b) if not satisfied that it is appropriate to deal with the application pursuant to this Subdivision, order that the application be heard in general chambers, in which case the general application rules apply.

**Form 6-4**  
(Rule 6-4)

COURT FILE NUMBER \_\_\_\_\_

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE \_\_\_\_\_

PLAINTIFF(S) \_\_\_\_\_

DEFENDANT(S) \_\_\_\_\_

<b>Clerk's Stamp</b>
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**APPLICATION WITHOUT NOTICE**

This application is being made without notice.

**Provision authorizing the application to be made without notice:**

1.

**Remedy claimed or sought:**

2.

**Respecting opposite parties (mark applicable boxes):**

none of the opposite parties is, to my knowledge, represented by a lawyer;

the name of the lawyer(s) representing the opposite party(ies) is(are):

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

**Applicable Acts and Regulations:**

3.

**Applicable rules:**

4.

Applicable cases relied on (provide citations and designate the relevant passages) :

5.

DATED at \_\_\_\_\_, Saskatchewan, this \_\_\_\_\_ day  
of \_\_\_\_\_, 2 \_\_\_\_\_.

**CONTACT INFORMATION AND ADDRESS FOR SERVICE**

**If prepared by a lawyer for the party:**

Name of firm: \_\_\_\_\_

Name of lawyer in charge of file: \_\_\_\_\_

Address of legal firm: \_\_\_\_\_  
*(set out the street address)*

Telephone number: \_\_\_\_\_

Fax number (if any): \_\_\_\_\_

E-mail address (if any): \_\_\_\_\_

or

**Address for service and contact information of party filing this document:**

Name of party: \_\_\_\_\_

Address for service: \_\_\_\_\_  
*(set out the street address)*

Telephone number: \_\_\_\_\_

Fax number (if any): \_\_\_\_\_

E-mail address (if any): \_\_\_\_\_

**Form 6-5**  
(Subrule 6-5(1))

COURT FILE NUMBER \_\_\_\_\_  
COURT OF QUEEN'S BENCH FOR SASKATCHEWAN  
JUDICIAL CENTRE \_\_\_\_\_  
PLAINTIFF(S)/  
APPLICANT(S) \_\_\_\_\_  
DEFENDANT(S)/  
RESPONDENT(S) \_\_\_\_\_

Clerk's Stamp

**NOTICE OF APPLICATION**

**NOTICE TO 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 Court.

To do so, you must be in Court when the application is heard as shown below:

Where \_\_\_\_\_  
Date \_\_\_\_\_  
Time \_\_\_\_\_

*(Read the Notice at the end of this document to see what else you can do and when you must do it.)*

**Remedy claimed or sought:**

1.

**Grounds for making this application:**

2.

**Material or evidence to be relied on:**

3.

**Applicable rules:**

4.

**Applicable Acts and regulations:**

5.

DATED at \_\_\_\_\_, Saskatchewan, this \_\_\_\_\_ day  
of \_\_\_\_\_, 2 \_\_\_\_\_.

**NOTICE**

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 at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

**CONTACT INFORMATION AND ADDRESS FOR SERVICE**

**If prepared by a lawyer for the party:**

Name of firm: \_\_\_\_\_

Name of lawyer in charge of file: \_\_\_\_\_

Address of legal firm: \_\_\_\_\_  
*(set out the street address)*

Telephone number: \_\_\_\_\_

Fax number *(if any)*: \_\_\_\_\_

E-mail address *(if any)*: \_\_\_\_\_

or

**Address for service and contact information of party filing this document:**

Name of party: \_\_\_\_\_

Address for service: \_\_\_\_\_  
*(set out the street address)*

Telephone number: \_\_\_\_\_

Fax number *(if any)*: \_\_\_\_\_

E-mail address *(if any)*: \_\_\_\_\_

**Form 6-24**  
(Subrule 6-24(2))

COURT FILE NUMBER \_\_\_\_\_  
COURT OF QUEEN'S BENCH FOR SASKATCHEWAN  
JUDICIAL CENTRE \_\_\_\_\_  
APPLICANT(S) \_\_\_\_\_  
RESPONDENT(S) \_\_\_\_\_

Clerk's Stamp

**APPEARANCE DAY NOTICE**

TO: \_\_\_\_\_  
*(name of each party entitled to notice)*

TAKE NOTICE that an application is being made in this proceeding.

The application will be heard by telephone conference with the chambers judge from the judicial  
centre of \_\_\_\_\_ on \_\_\_\_\_ after 10:00 a.m.  
*(state judicial centre)* *(date)*

**NOTICE**

Parties must remain available by telephone between the hours of 10:00 a.m. and 4:00 p.m. on the date mentioned until the matter is heard.

**Order or direction claimed or sought:**

1.

**Reasons for making this application:**

2.

**Applicable rules:**

3.

**Applicable Acts and regulations:**

4.

DATED at \_\_\_\_\_, Saskatchewan, this \_\_\_\_\_ day  
of \_\_\_\_\_, 2\_\_\_\_\_.

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

**NOTICE**

A party may make representations at the hearing about facts that are not contested. No party will provide an affidavit or testimony at the hearing. The judge will only act on facts that cannot be contested, as told to the judge by the parties or their lawyers. You have the right to be present and speak at the hearing. You must be as brief as possible. If you or your lawyer do not attend, the judge may grant an order without further notice to you.

**CONTACT INFORMATION AND ADDRESS FOR SERVICE**

**If prepared by a lawyer for the party:**

Name of firm: \_\_\_\_\_

Name of lawyer in charge of file: \_\_\_\_\_

Address of legal firm: \_\_\_\_\_  
*(set out the street address)*

Telephone number: \_\_\_\_\_

Fax number *(if any)*: \_\_\_\_\_

E-mail address *(if any)*: \_\_\_\_\_

*or*

**Address for service and contact information of party filing this document:**

Name of party: \_\_\_\_\_

Address for service: \_\_\_\_\_  
*(set out the street address)*

Telephone number: \_\_\_\_\_

Fax number *(if any)*: \_\_\_\_\_

E-mail address *(if any)*: \_\_\_\_\_



**Form 13-31**  
(Rule 13-31)

COURT FILE NUMBER \_\_\_\_\_

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE \_\_\_\_\_

PLAINTIFF(S) \_\_\_\_\_

DEFENDANT(S) \_\_\_\_\_

Clerk's Stamp

**AFFIDAVIT**

AFFIDAVIT OF \_\_\_\_\_  
(name of deponent)

I, \_\_\_\_\_, of the \_\_\_\_\_ of \_\_\_\_\_,  
(full name) (city, town, village, etc.)

Saskatchewan, (if the deponent is a party or the lawyer, officer, director, member or employee of a party, set out the deponent's capacity), MAKE OATH AND SAY (or AFFIRM):

1 (Set out the statements of fact in consecutively numbered paragraphs, with each paragraph being confined as far as possible to a particular statement of fact.)

SWORN (OR AFFIRMED) BEFORE ME

at \_\_\_\_\_, Saskatchewan,

this \_\_\_\_\_ day of \_\_\_\_\_,

2 \_\_\_\_\_.

\_\_\_\_\_  
Commissioner for Oaths in  
and for Saskatchewan



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