

**FORM F38 (RULE 10-10 (2))**

This is the .....[1st/2nd/3rd/etc.]..... affidavit  
of .....[name]..... in this case  
and was made on .....[date].....

Court File No.: .....

Court Registry: .....

*In the Supreme Court of British Columbia*

Claimant:

Claimant 1 *[joint family law case]:*

Respondent:

Claimant 2 *[joint family law case]:*

**AFFIDAVIT – DESK ORDER DIVORCE**

*[Rule 21-1 of the Supreme Court Family Rules applies to all forms.]*

*[Complete the form in accordance with the instructions found in the bracketed italicized wording and then remove all bracketed italicized wording so that it does not appear in the form when the form is filed.]*

I, .....[name]....., of .....[address].....,  
.....[occupation]....., SWEAR (OR AFFIRM) THAT:

- 1 I am .....[the claimant/the respondent/Claimant 1/Claimant 2]..... .
- 2 There is no possibility of reconciliation between my spouse and me.

*[Select whichever one of the 2 following provisions is correct and remove the provision that has not been selected so that it does not appear in the form when the form is filed.]*

- 3 I believe that the facts set out in the notice of family claim are true.
- 3 I believe that the facts set out in the response to family claim and counterclaim are true.

*[Select whichever one of the 2 following provisions is correct, provide any required information and remove the provision that has not been selected so that it does not appear in the form when the form is filed.]*

- 4 The certificate of marriage or certified copy of the registration of marriage filed in this family law case fully and correctly describes the true particulars of the marriage.
- 4 It is impossible to obtain a certificate of marriage or a certified copy of the registration of marriage and instead, in accordance with section 52 (1) (a) of the *Evidence Act*, I refer to the affidavit of .....[name]....., a person who was present at the marriage ceremony, which affidavit is filed in this family law case.

*[Select whichever one of the 4 following provisions is correct, complete the selected provision and remove the provisions that have not been selected so that they do not appear in the form when the form is filed.]*

- 5 [Select this provision if the grounds for divorce are separation for more than one year.] I was living separate and apart from my spouse at the start of this family law case and I have lived separate and apart from my spouse since ..... [date]....., except: .....[provide dates of any periods of attempted reconciliation]..... .
- 5 [Select this provision if the grounds for divorce are adultery of a spouse and there has been an admission of adultery.] My spouse has admitted to me that .....[name of spouse]..... committed the acts of adultery alleged in Schedule 1 of the .....[notice of family claim/counterclaim]..... and
- (a) as corroboration I refer to .....[Set out whichever one of the following is applicable: the affidavit(s) of .....[name(s)]....., / the transcript of the examination for discovery of .....[name]..... marked as Exhibit "A" to this affidavit] ..... ,
- (b) I have not condoned the conduct of my spouse that is alleged as the grounds for divorce in that I have not forgiven my spouse for that conduct, nor have I encouraged or acquiesced in that conduct.
- 5 [Select this provision if the grounds for divorce are adultery of a spouse and there has been no admission of adultery.] I have no personal knowledge of the acts of adultery alleged in Schedule 1 of the .....[notice of family claim/counterclaim]..... and
- (a) in proof of the adultery committed by my spouse I refer to .....[Set out whichever one of the following is applicable: the affidavit(s) of .....[name(s)]....., / the transcript of the examination for discovery of .....[name]..... marked as Exhibit "A" to this affidavit]..... ,
- (b) I have not condoned the conduct of my spouse that is alleged as the grounds for divorce in that I have not forgiven my spouse for that conduct, nor have I encouraged or acquiesced in that conduct.
- 5 [Select this provision if the grounds for divorce are physical or mental cruelty of a spouse.] My spouse has treated me with physical or mental cruelty since the date of the marriage as follows: .....[provide details]..... .
- 6 I am neither directly nor indirectly a party to an agreement or conspiracy for the purpose of subverting the administration of justice, or to any agreement, understanding or arrangement to fabricate or suppress evidence or to deceive the court.

[Select whichever one of the 2 following provisions is correct, provide any required information and remove the provision that has not been selected so that it does not appear in the form when the form is filed.]

- 7 There are no children of the marriage as defined by the *Divorce Act* (Canada).
- 7 There are children of the marriage as defined by the *Divorce Act* (Canada) and
- (a) those children are .....[provide the full name, age and birth date of each child of the marriage].....,
- (b) I have sworn a child support affidavit in Form F37, and
- (c) the following arrangements for parenting have been made: .....[provide details]..... .

[Select and complete the following provision if you are seeking a change of name for yourself. If you are not seeking a change of name for yourself, remove this provision so that it does not appear in the form when the form is filed.]

8 Pursuant to section 5 of the *Name Act*, I am seeking to change my name from ..... to ..... . This application for a name change relates only to myself.

*[Select and complete the following provision if you are seeking a change of name for one or more minor children. If you are not seeking a change of name for one or more minor children, remove this provision so that it does not appear in the form when the form is filed. Renumber this provision as section 8 if you are seeking a change of name for one or more minor children and have not included a section 8 immediately before this provision.]*

9 Pursuant to section 5 of the *Name Act*, I am seeking to change the name(s) of the minor child(ren) of the marriage as follows, and a copy of the consent(s) to the change(s) of name referred to in this section of .....[*name*]..... who is/are .....[*relationship to child(ren)*]..... is/are attached to this affidavit and marked as Exhibit(s) ....[*A, B, C, D, as the case may be*].... . *[Complete the following for each minor child of the marriage for whom a name change is sought.]*

from ..... to: .....

*[Select and complete the following provision if the Affidavit of Personal Service is being relied on as proof of service of a Notice of Family Claim or Counterclaim seeking a divorce, and the party served with the pleading was identified by way of a photograph.]*

10 Attached as Exhibit ...[*A, B, C, D, as the case may be*]... to this Affidavit is a copy of a photograph of the .....[*Claimant/Respondent*]....., .....[*name*]....., which is a true likeness of the .....[*Claimant/Respondent*]..... This same photograph is attached as an exhibit in the Affidavit of Personal Service of .....[*name*]..... sworn (or affirmed) ..... [*date*].....

*[The following paragraphs must be included if the affidavit was sworn or affirmed by video conference:*

*[#] "I acknowledge the solemnity of making a sworn statement/solemn declaration and acknowledge the consequences of making an untrue statement." and*

*[##] "I was not physically present before the person before whom this affidavit was sworn or affirmed but was in that person's presence using video conferencing."*

SWORN (OR AFFIRMED) BEFORE ME )

at .....[*commissioner's city/town*]....., )

British Columbia on .....[*date*]..... ) .....

)

..... )

A commissioner for taking )

affidavits for British Columbia )

....[*print name or affix stamp of commissioner*]....