

Form F38 (Rule 10-10 (2))

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

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.]

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

[Check the correct box.]

1 I am the  claimant  respondent   
  claimant 1 [joint family law case]  claimant 2 [joint family law case].

2 There is no possibility of reconciliation between my spouse and me.

[Check the correct box.]

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

[Check whichever one of the following boxes is correct and complete any required information.]

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 marriage.

[OR]

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.

5 [Indicate the grounds for divorce by selecting one of the following.]

(a) [If the grounds for divorce are separation for more than one year, check the following box and complete the required information.]

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 .....[dd/mmm/yyyy]....., except: .....[provide dates of any periods of attempted reconciliation].....

(b) [If the grounds for divorce are adultery of a spouse, check the boxes that apply and complete the required information.]

My spouse has admitted to me that .....[he/she]..... committed the acts of adultery alleged in Schedule 4 of the .....[notice of family claim/counterclaim]..... and as corroboration I refer to:

the affidavit(s) of .....[name(s)].....,

[OR]

the transcript of the examination for discovery of .....[name]..... marked as Exhibit "A" to this affidavit.

[OR]

I have no personal knowledge of the acts of adultery alleged in Schedule 4 of the .....[notice of family claim/counterclaim]..... and in proof of the adultery committed by my spouse I refer to:

the affidavit(s) of .....[name(s)].....,

[OR]

the transcript of the examination for discovery of .....[name]..... marked as Exhibit "A" to this affidavit.

(c) *[If the grounds for divorce are physical or mental cruelty of a spouse, check the following box and complete the required information.]*

My spouse has treated me with physical or mental cruelty since the date of the marriage as follows:  
.....,

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.

*[Paragraph 7 is to be checked ONLY if the grounds for divorce are the adultery or physical or mental cruelty of a spouse. If the grounds are separation for more than a year, do not check paragraph 7.]*

7  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.

8  There are no children of the marriage as defined by the *Divorce Act* (Canada).

[OR]

The following are the children of the marriage:

| Name | Age | Birth Date [dd/mmm/yyyy] |
|------|-----|--------------------------|
|      |     |                          |
|      |     |                          |
|      |     |                          |

*[Check the following box if there are children of the marriage.]*

9  I have sworn a child support affidavit in Form F37.

*[Check the following box and complete the required information if there are children of the marriage.]*

10  The following arrangements have been made for the custody of and access to the children:  
.....[provide details].....

SWORN (OR AFFIRMED) BEFORE )

ME at ....., British Columbia )

on .....[dd/mmm/yyyy]..... )

.....

)

..... )

A commissioner for taking )

affidavits for British Columbia )

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