

SUPREME COURT OF YUKON

Between

Plaintiff

and

Defendant

STATEMENT OF CLAIM (Family Law - Divorce)

(Name and address of each plaintiff)

(Name and address of each defendant)

TAKE NOTICE that these legal proceedings have been commenced against you by the plaintiff(s) for the claim(s) set out in this Statement of Claim (Family Law – Divorce).

IF YOU INTEND TO DEFEND these claim(s), or if you have a counterclaim, YOU OR YOUR LAWYER MUST:

- (a) **FILE AN APPEARANCE** in Form 9 in the court registry, at the Court Registry in the Law Courts Building (address shown below), within the time for Appearance provided for below. YOU MUST ALSO DELIVER a copy of the Appearance to the plaintiff's address for delivery, which is set out in this Statement of Claim (Family Law – Divorce); and
- (b) **FILE A STATEMENT OF DEFENCE** in Form 92 at the Court Registry in the Law Courts Building within the Time for Defence provided for below and DELIVER a copy of the Statement of Defence (Family Law – Divorce and Common Law) to the plaintiff's address for delivery.

You or your lawyer may file the Appearance and the Statement of Defence (Family Law – Divorce and Common Law). You may obtain the appearance and statement of defence forms at the Court Registry.

AN ORDER MAY BE MADE AGAINST YOU IF:

- (a) **YOU DO NOT FILE** the Appearance within the time provided for below;
or
- (b) **YOU DO NOT FILE** the Statement of Defence (Family Law – Divorce and Common Law) within the time provided for below.

TIME FOR APPEARANCE

If this Statement of Claim (Family Law – Divorce) is served on you, the time for Appearance is (not including the day of service):

- (a) in Yukon:
 - (i) 7 days from the day of service.
- (b) outside Yukon:
 - (i) 21 days if you reside in Canada;
 - (ii) 28 days if you reside in the United States; and
 - (iii) 42 days if you reside anywhere else.

The above does not apply if the time for Appearance and/or Statement of Defence (Family Law – Divorce and Common Law) has been set by a Court Order in which case the dates set by the Court apply.

TIME FOR DEFENCE

YOU MUST FILE AND DELIVER a Statement of Defence (Family Law – Divorce and Common Law) to the plaintiff within 14 days from the end of the time for Appearance set out above.

OR

If the time to file the Statement of Defence (Family Law – Divorce and Common Law) has been set by order of the court, within that time.

(1)	<p><u>COURT REGISTRY ADDRESS:</u> The Law Courts 2134 Second Avenue Whitehorse, Yukon. Y1A 5H6 Telephone: (867) 667-5937 Fax: (867) 393-6212</p>
(2)	<p><u>PLAINTIFF'S ADDRESS FOR DELIVERY (Required:</u> (per Rules 4(10) and (11)) must be a residential address OR business address AND postal address in Yukon:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p><u>Optional:</u> Telephone: _____ Email address: _____ Fax number for delivery: _____</p>
(3)	<p><u>PLAINTIFF'S LAWYER IS:</u></p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>

PLAINTIFF'S CLAIM FOR RELIEF

INSTRUCTIONS TO THE PLAINTIFF:

Complete the following:

1. The Summary of Relief Sought;
2. Parts A to E; and
3. Any of Parts F to J that apply.

Omit the paragraphs that are not relevant or relied upon.

If a paragraph or Part is omitted, the remaining paragraphs and Parts **MUST NOT** be renumbered.

If a paragraph is added, give it a decimal subnumber (e.g. a paragraph added after paragraph 7 must be numbered 7.1, etc.). If a paragraph is added after paragraph 34, it must be given the next whole number (e.g. paragraph 35).

SUMMARY OF RELIEF SOUGHT

THE PLAINTIFF CLAIMS THE FOLLOWING RELIEF FROM THE DEFENDANT (MARK BOXES):

- Divorce
- Parenting Order for child(ren)
- Relocation
- Child support
- Spousal support
- Division of assets
- Costs _____

- Other relief [*specify*]

PART A: PARTICULARS OF PARTIES

1. The plaintiff is [*first/middle/last name*]: _____
[*address*]: _____

2. The plaintiff was born on [*date*]: _____
3. The plaintiff has been ordinarily resident in Yukon since: _____

4. The defendant is [*first/middle/last name*]: _____
[*address*]: _____

5. The defendant was born on [*date*]: _____
6. The defendant has been ordinarily resident in Yukon since: _____

7. *[Insert name (first/middle/last name) and address of any other party who is joined in the action]* _____

PART B: RELATIONSHIP OF PARTIES

8. The plaintiff and defendant were married on *[date]* _____
at *[city/province or territory/country]* _____
9. The plaintiff and defendant commenced living together on *[date]*: _____
10. The plaintiff and defendant stopped living together on *[date]*: _____
11. The plaintiff and defendant were divorced from each other at *[city/province or territory/country]* _____ by order made on on *[date]* _____

PART C: CHILDREN

12. The child(ren) of the marriage as defined by the *Divorce Act* is/are:
Name *[first/middle/last name]*: _____
Birth Date: _____
Person with whom child resides: _____
- Name *[first/middle/last name]*: _____
Birth Date: _____
Person with whom child resides: _____

OR

- The child(ren), as defined by the *Family Property and Support Act*, is/are:
Name *[first/middle/last name]*: _____
Birth Date: _____
Person with whom child resides: _____
- Name *[first/middle/last name]*: _____
Birth Date: _____
Person with whom child resides: _____
- Name *[first/middle/last name]*: _____
Birth Date: _____
Person with whom child resides: _____

[add more as required]

OR

There are no children of the marriage as defined by the *Divorce Act*, **who are the subject of this family law proceeding.**

OR

There are no children as defined by the *Family Property and Support Act*, **who are the subject of this family law proceeding.**

PART D: OTHER PROCEEDINGS AND AGREEMENTS

13. There are no other legal proceedings or agreements between the parties.

OR

There are other legal proceedings or agreements and the particulars are:

PART E: DIVORCE

14. There has been a breakdown in the marriage and the grounds are as follows:

the plaintiff and defendant will have been separated for at least one year when the divorce order is granted.

OR

the defendant committed adultery during the marriage at the following times and places: _____

I know the defendant committed adultery because:

(i) the defendant admitted it to me and I believe it to be true; or

(ii) other [*explain*]: _____

OR

The defendant has treated the plaintiff with such mental and/or physical cruelty that living together is intolerable. The details and effect of this cruelty on the plaintiff are as follows: _____

15. (a) The plaintiff's last name on the day before marriage was: _____

(b) The plaintiff's gender on the day before marriage

- Male
 Female
 Another Gender

16. (a) The defendant's last name on the day before marriage was: _____

(b) The defendant's gender on the day before marriage

- Male
 Female
 Another Gender

17. The plaintiff's marital status at the time of marriage was:

- Single
 Divorced
 Other [*explain*] _____

18. The defendant's marital status at the time of marriage was:

- Single
 Divorced
 Other [*explain*] _____

19. There is no possibility of reconciliation.

20. As set out in s. 11 of the *Divorce Act*:

(a) There has been no collusion in relation to this proceeding; **and**

(b) There has been no condonation of any act relied on as a ground for divorce.

21. An original certificate or a registration of the marriage has been filed.

OR

An original certificate or a registration of the marriage will be filed before this action is set down for trial or an application is made for a Divorce Order (set out the reasons for not filing a certificate or registration at this time).

OR

It is impossible to obtain an original certificate or a registration of the marriage because (set out reasons): _____

PART F: PARENTING ORDER (DECISION MAKING RESPONSIBILITY AND/OR PARENTING TIME)

[Complete this part if a Parenting Order for decision making authority and/or parenting time for child(ren) is sought]

22. The child(ren) for whom a Parenting Order is sought is/are:

set out names;

Name *[first/middle/last name]*: _____
Habitually resident in Yukon since: _____

Name *[first/middle/last name]*: _____
Habitually resident in Yukon since: _____

Name *[first/middle/last name]*: _____
Habitually resident in Yukon since: _____

[add more as required]

OR

the child(ren) are not habitually resident in Yukon

Name *[first/middle/last]*: _____

Name *[first/middle/last]*: _____

Name *[first/middle/last]*: _____

[add more as required]

23. The plaintiff seeks such Orders under the *Divorce Act*.

24. The circumstances of the past, present and proposed care of the child(ren) are as follows *[set out circumstances]*: _____

PART G: RELOCATION

[Complete this part if you are seeking an Order for relocation]

25. The child(ren) that the plaintiff is seeking a relocation order for is/are:

Name [first/middle/last]: _____

Name [first/middle/last]: _____

Name [first/middle/last]: _____

[add more as required]

26. The proposed location for relocation is [country/territory or province/city]:

27. The circumstances for the proposed relocation are: _____

PART H: CHILD SUPPORT AND/OR SPOUSAL SUPPORT

[Complete this part if you seek an Order for support]

28. The plaintiff seeks an Order for child support under:

the *Divorce Act* (Canada), and the *Federal Child Support Guidelines*; or

both the *Divorce Act* (Canada) and the *Family Property and Support Act* and its respective *Guidelines*.

29. The plaintiff seeks an Order for spousal support under:

the *Divorce Act* (Canada); or

the *Family Property and Support Act*.

30. (a) The financial position of the plaintiff and of the child(ren) in the plaintiff's care is set out in a financial statement that will be:

served with this document.

OR

delivered or served after service of this document.

OR

(b) The financial position of the plaintiff and of the child(ren) in the plaintiff's care is as follows [*set out particulars*]: _____

31. (a) The plaintiff will require the defendant to complete and deliver a financial statement to the plaintiff, outlining the defendant's:

- income;
- expenses;
- property.

OR

(b) The financial position of the defendant is as follows [*set out particulars*]:

Part I: DIVISION OF ASSETS

[*Complete this part if you seek an Order for division of assets*]

32. The plaintiff and defendant were married and the plaintiff seeks an Order under the *Family Property and Support Act* for:

an equal division of family assets.

OR

an unequal division of family assets under s. 13.

AND/OR

The plaintiff and defendant were married and the plaintiff seeks an order based on the law of resulting trust, express trust or unjust enrichment [*constructive trust*] for: _____

AND/OR

The plaintiff and defendant were married and the plaintiff is making a claim for work done during the marriage [*set out particulars*]:

- in a business.
- to construct or renovate real estate.
- other [*specify*]: _____

33. (a) The assets owned by each of the parties are set out in the financial statement that will be:

served with this document.

OR

delivered or served after service of this document.

OR

(b) The assets owned by each of the parties are [*set out particulars*]:

(c) The legal description of land in which the plaintiff claims an interest is [*set out legal description*]: _____

PART J: COSTS AND/OR OTHER RELIEF

[*Complete this part if you seek costs and/or other relief*]

34. The plaintiff seeks the following relief [set out any other Orders sought and the sections of the *Act, Rules of Court*, or the principle of law relied upon and the particulars]:

Costs: _____

Other relief [*specify*] _____

Dated _____

Signature [*Plaintiff or Plaintiff's Lawyer*]

Print Name [*Plaintiff or Plaintiff's Lawyer*]

Statement of Lawyer

[Complete only if required by the *Divorce Act* (Canada)]

I, _____, lawyer for the plaintiff, certify to the court that I have complied with s. 7.7 of the *Divorce Act* (Canada). [If the circumstances of the case are of such a nature that it would clearly not be appropriate to so comply, set out such circumstances.]

Dated _____ at _____, in Yukon.

Address of lawyer:

Signature [*lawyer*]

Print Name [*lawyer*]