

How to Serve the Other Party

Instructions

An *Affidavit of Service (Form F8.03A)* is a form that you can use to prove to the Court that the other person received your document. This is called *proof of service*.

When to use an Affidavit of Service

You must complete an Affidavit of Service if:

- 1) You are serving one of the following documents:
 - *Originating Application (Form F4.03A)* involving divorce or parenting (custody/access)
 - *Originating Application for Variation (Form F5.05A)* involving parenting (custody/access)
 - *Response (Form F6.02A)* making a claim for divorce or parenting (custody/access)
 - Notice of Contempt Application
 - A pleading, order, or other document served on a person who is not a party (eg. subpoena)
 - Notice of Application or Notice of Default Hearing in which the person to be served faces a possibility of imprisonment
 - The hearing date on an *Emergency Interim Application (Form F17.03A)*
 - Where personal service is otherwise required by law
- 2) You are serving one of the following documents by leaving a copy at the other persons address (and mailing another copy to that address on the same day or the following day):
 - *Originating Application (Form F4.03A)* NOT involving divorce or parenting (custody/access)
 - *Originating Application for Variation (Form F5.05A)* NOT involving parenting (custody/access)
 - *Response (Form F6.02A)* NOT making a claim for divorce or parenting (custody/access)
- 3) A judge asks or orders you to prove service with an Affidavit of Service.

If none of the above applies to you, you can prove service with a delivery confirmation, a reply e-mail, a copy of the document with the recipient's lawyer's endorsement on it, or an *Acknowledgement of Service (Form F8.04A)*, signed by the person who received the document.

Personal Service (Hand Delivery)

"Personal Service" or "hand delivery" means that the documents must be handed to the other party *in person* by **an adult other than yourself**. If the other person has received your document by personal service, you must file an Affidavit of Service.

Personal Service can be done in 2 ways:

- 1) By any other person (other than yourself) who is 19 years of age or older. That other person must hand the documents to the recipient. If he/she will not accept the documents, the other person can put the documents down in front of him/her.
- 2) By a process server. Process servers are independent, professional servers who charge a fee for service.

If you cannot personally serve the other party for any reason, you can apply for permission to serve the documents another way. You may make an *Interim Application for a Procedural Order (Form F16.03A)* to apply for substituted service.

Completing an Affidavit of Service

The person who served the document must be the one to fill out the ***Affidavit of Service***. He/she can do this by hand or electronically: <https://www.court.nl.ca/supreme/rules-practice-notes-and-forms/family/general/>

That person must sign the Affidavit in front of a commissioner of oaths, notary public, justice of the peace, or a lawyer. Court Registry staff are commissioners of oaths and the person who served the document may sign this application at the Court.

Filing an Affidavit of Service with the Court

It is your responsibility to make sure that the Affidavit of Service is filed with the Court. To file the Affidavit of Service, you (or the person who served the document) must bring the Affidavit to the Supreme Court location where your file is or you can mail the Affidavit to that location.

More Information

Questions? Go to <https://www.court.nl.ca/supreme/family-division/> or contact a Court near you:

Corner Brook: (709) 637-2227

Grand Falls-Windsor: (709) 292-4260

Gander: (709) 256-1115

Happy Valley-Goose Bay: (709) 896-7892

Grand Bank: (709) 832-1720

St. John's: (709) 729-2258

--- It is highly recommended that you get advice from a lawyer ---

If you need help finding a lawyer, you can contact:

Public Legal Information Association of NL (PLIAN): www.publiclegalinfo.com or 1 (888) 660-7788

Legal Aid: www.legalaid.nl.ca or 1(800) 563-9911

Form F8.03A: Affidavit of Service (Family Law)



**In the Supreme Court of
Newfoundland and Labrador
(General/Family)**

FOR COURT USE ONLY

COURT FILE NO: _____

CENTRAL DIVORCE REGISTRY NO: _____

Filed at _____, Newfoundland and
Labrador, this _____ day of _____, 20____.

Registry Clerk of the Supreme Court of Newfoundland and Labrador

BETWEEN: _____ APPLICANT
(Print full name)

AND: _____ RESPONDENT
(Print full name)

AND: _____
(Print full name)

☐ NOT APPLICABLE
☐ SECOND APPLICANT
☐ SECOND RESPONDENT

I declare that I, _____, of _____
(Print your name) (City and Province)

served _____ on _____
(Name of person served) (Date: month/day/year)

at _____ with a copy of the following
(Address of service) documents:

- | | | |
|--|--|---|
| <input type="checkbox"/> Originating Application | <input type="checkbox"/> Originating Application for Variation | <input type="checkbox"/> Response |
| <input type="checkbox"/> Reply | <input type="checkbox"/> Financial Statement | <input type="checkbox"/> Property Statement |
| <input type="checkbox"/> Other (Specify): _____ | | |

I served this person in this manner:

- ☐ Personal Service (hand delivery)
☐ Left a copy of the documents with the person's lawyer
☐ Registered mail, certified mail, or courier
☐ Left a copy of the documents at the person's address
☐ Other (Specify): _____

For personal service:

I was able to identify the person in this manner:

- ☐ I know the person ☐ He/She admitted to being this person ☐ Other: _____

SWORN TO or AFFIRMED at _____, this _____ day of _____, 20____.

Signature

Signature of Person Authorized to Administer Oaths