

**SUPREME COURT OF YUKON**

Between

Plaintiff

and

Defendant

**STATEMENT OF CLAIM  
(Family Law)**

(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.

**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; 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 to the plaintiff's address for delivery.

You or your lawyer may file the Appearance and the Statement of Defence. 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 within the time provided for below.

### TIME FOR APPEARANCE

If this Statement of Claim 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 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 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 has been set by order of the court, within that time.]

(1) <b><u>COURT REGISTRY ADDRESS:</u></b> The Law Courts 2134 Second Avenue Whitehorse, Yukon. Y1A 5H6 Telephone: (867) 667-5937 Fax: (867) 393-6212
(2) <b><u>PLAINTIFF'S ADDRESS FOR DELIVERY (Required:</u></b> Residential address or business address <b>AND</b> postal address in Yukon) is:  <u>Optional:</u> Fax number for delivery: Email address: Telephone:
(3) <b><u>PLAINTIFF'S LAWYER'S IS:</u></b>

## PLAINTIFF'S CLAIM FOR RELIEF

### **INSTRUCTIONS TO THE PLAINTIFF:**

Complete the following:

1. The Summary of Relief Sought;
2. Parts A, B, C and D; and
3. Any of Parts E to I 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 31, it must be given the next whole number (e.g. paragraph 32).

### **SUMMARY OF RELIEF SOUGHT**

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

- Divorce
- Custody of child(ren)
- Access to child(ren)
- Child support
- Spousal support
- Division of assets
- Other relief (specify)
- Costs

#### **Part A: Particulars of Parties**

1. The plaintiff is (name and address):
2. The plaintiff was born on (date):
3. The defendant is (name and address):
4. The defendant was born on (date):
5. The plaintiff has been ordinarily resident in Yukon since:
6. The defendant has been ordinarily resident in Yukon since:
7. (Insert 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 (place):
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 by order made on (date):

### Part C: Children

12. (a) The child(ren) of the marriage as defined by the *Divorce Act* is/are:  
Name                  Birth Date                  Person with whom child resides  
OR  
(b) The child(ren), as defined by the *Family Property and Support Act*, is/are:  
Name                  Birth Date                  Person with whom child reside  
OR  
(c) There are no children of the marriage as defined by the *Divorce Act*, **who are the subject of this family law proceeding.**  
OR  
(d) 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. (a) There are no other legal proceedings or agreements between the parties.  
OR  
(b) The particulars of the other legal proceedings or agreements between the parties are:

### Part E: Divorce

*[Complete this part if you were married to the defendant and you are seeking a Divorce]*

14. There has been a breakdown in the marriage and the particulars are as follows:
  - (a) the plaintiff and defendant will have been separated for at least one year when the divorce order is granted.OR

- (b) the defendant committed adultery during the marriage at the following times and places:
- (c) 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

- (d) 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 wife's surname immediately before marriage was:
    - (b) The wife's surname at birth was:
  - 16. (a) The husband's surname immediately before marriage was:
    - (b) The husband's surname at birth was:
  - 17. The wife's marital status at the time of marriage was:
  - 18. The husband's marital status at the time of marriage was:
  - 19. There is no possibility of reconciliation.
  - 20. As set out in section 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. (a) A certificate or a registration of the marriage has been filed.

OR

- (b) A 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

- (c) It is impossible to obtain a certificate or a registration of the marriage because (set out reasons):

### **Part F: Custody and Access**

*[Complete this part if an Order for custody and/or access to child(ren) is sought]*

- 22. The child(ren) for whom an Order of custody and/or access is sought are:
  - (a) set out names;
  - (b) set out how long the child(ren) have been habitually resident in Yukon;

OR

- (c) set out that the child(ren) are not habitually resident in Yukon; and
  - (d) set out the grounds for jurisdiction under section 37(1)(b) or 38 of the *Children's Law Act*.
23. The plaintiff seeks such Orders under:
- the *Divorce Act*;
  - the *Children's Law Act*; or
  - both the *Divorce Act* and the *Children's Law Act*.
24. The particulars of the past, present and proposed care of the child(ren) are as follows (set out particulars):

**Part G: Child Support and/or Spousal Support**

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

25. The plaintiff seeks an Order for child support under:
- the *Divorce Act* (Canada), and the *Federal Child Support Guidelines*;
  - the *Family Property and Support Act*, and the *Territorial Child Support Guidelines*; or
  - both the *Divorce Act* (Canada) and the *Family Property and Support Act* and their respective *Guidelines*.
26. The plaintiff seeks an Order for spousal support under:
- the *Divorce Act* (Canada); or
  - the *Family Property and Support Act*.
27. (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:
- (i) served with this document.
- OR
- (ii) 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):
28. (a) The plaintiff will require the defendant to complete and deliver a financial statement to the plaintiff, outlining the defendant's:
- (i) income;
  - (ii) expenses;
  - (iii) property.
- OR

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

### Part H: DIVISION OF ASSETS

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

29. (a) The plaintiff and defendant were married and the plaintiff seeks an Order under the *Family Property and Support Act* for:

(i) an equal division of family assets.

OR

(ii) an unequal division of family assets under s. 13.

AND/OR

- (b) The plaintiff and defendant were married and the plaintiff seeks an order based on to the law of resulting trust, express trust or unjust enrichment (constructive trust) for:

AND/OR

- (c) The plaintiff and defendant were married and the plaintiff is making a claim for work done during the marriage (set out particulars):

(i) in a business.

(ii) to construct or renovate real estate.

(iii) other (specify):

OR

- (d) The plaintiff and defendant were **not** married and the plaintiff seeks an order based on the law of resulting trust, express trust or unjust enrichment (constructive trust) for:

(i) an equal division of assets.

(ii) an unequal division of assets on the following basis (set out particulars):

(iii) compensation for work done:

(A) in a business.

(B) to construct or renovate real estate.

(C) other (specify):

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

(i) served with this document.

OR

(ii) 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 I: Other Relief**

*[Complete this part if you seek other relief]*

- 31. 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):

Dated \_\_\_\_\_

\_\_\_\_\_  
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 section 9 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 of lawyer