

Court File No: **E101234**
Court Registry: **Vancouver**

In the Supreme Court of British Columbia

Claimant:

JANE BEATRICE DOE

Respondent:

JOHN LUTHOR DOE

NOTICE OF APPLICATION

Name of Applicant: John Luthor Doe, the Respondent

To: Jane Beatrice Doe, the Claimant

TAKE NOTICE that an application will be made by the applicant to the presiding judge or master at the courthouse at **800 Smithe Street** in **Vancouver**, British Columbia at 9:45am on **1 October 2010** for the orders set out in Part 1 below.

Part 1: Orders Sought

1. a declaration that the parties are unable to reconcile with one another, pursuant to s. 57 of the *Family Relations Act*;
2. an order that the Claimant be restrained from disposing of or encumbering, or attempting to dispose of or encumber, the family assets and other assets at issue;
3. an order that the Respondent have exclusive use and occupancy of the family home at 123 Queen Street in Anytown, British Columbia; and,
4. costs.

Part 2: Factual Basis

1. The Claimant and I were married on 1 April 1994 and separated on 1 April 2009. The Claimant commenced this family law case on 1 April 2010.

THIS DOCUMENT IS A SAMPLE DOCUMENT AND IS INTENDED AS A GENERAL GUIDE. IT MAY NOT CONTAIN INFORMATION RELEVANT TO YOUR CIRCUMSTANCES. IT SHOULD NOT BE USED AS A PRECEDENT FOR DRAFTING YOUR OWN DOCUMENT.

2. The Claimant and I attended couples counselling after we separated. The counselling failed. I do not wish to reconcile with the Claimant and I believe that any reconciliation is impossible.
3. I believe that the Claimant has a secret bank account in the Grand Cayman Islands and that the Claimant has or intends to move the funds in this account to another account of which I am unaware. The Claimant has made threats about closing the accounts of which I am aware at the Vancity Credit Union and moving the funds to an undisclosed account. I am afraid that if the Claimant moves these funds it may be impossible for me to be compensated for my interest in her accounts.
4. I have recently lost my job and have no income. As a result, I can no longer afford to continue renting my apartment at 123 King Street and the only residence available to me is the family home at 123 Queen Street. The Claimant has many other places to live apart from the family home, including her with her parents who live down the street at 666 Queen Street.

Part 3: Legal Basis

1. The Application Respondent and I are unable to reconcile.
2. Applications for financial restraining orders under s. 67 of the *Family Relations Act* are mandatory on the application of a party.
3. The balance of convenience favours my living in family home rather than the Application Respondent.
4. I will rely on Rules 10-6 and 16-1 of the Supreme Court Family Rules and ss. 57, 67 and 124 of the *Family Relations Act*.

Part 4: Material to be Relied Upon

1. Affidavit #1 of John Luthor Doe, made on 1 September 2010.

The applicant estimates that the application will take 30 minutes.

- This matter is within the jurisdiction of a master.
- This matter is not within the jurisdiction of a master.

Responding to Application

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to the application, you must, within the time for response to application described below,

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- (a) file an Application Response in Form F32;
- (b) file the original of every affidavit, and of every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the family law case; and,
- (c) serve on the applicant 2 copies, and on every other party one copy, of the following
 - (i) a copy of the filed Application Response,
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person, and
 - (iii) if this application is brought under Rule 11-3, any notice that you are required to give under Rule 11-3(9).

Time for Response to Application

The documents referred to in paragraph (c) above must be served in accordance with that paragraph,

- (a) unless one of the following paragraphs applies, within 5 business days after service of this Notice of Application;
- (b) if this application is brought under Rule 11-3, within 8 business days after service of this Notice of Application; and,
- (c) if this application is brought to rescind, change or suspend a final order, within 14 business days after service of this Notice of Application.

Date: 1 September 2010

John Doe

Signature of

Applicant lawyer for Applicant

John Luthor Doe

To be completed by the court only

Order made:

on the terms requested in paragraphs _____ of Part 1 of this Notice of Application

with the following variations and additional terms

Date: _____

Signature of Judge Master

Appendix

THIS APPLICATION INVOLVES THE FOLLOWING:

- document discovery: comply with demand for documents
- document discovery: production of additional documents
- document discovery: other matters concerning document discovery
- oral discovery: extend oral discovery
- oral discovery: other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- interim order
- change order
- adjournments
- proceedings at trial
- experts: appointment of additional expert(s): financial matters
- experts: other matters concerning experts

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