

## In the Supreme Court of British Columbia

Claimant:

**JOHN JAMES DOE**

Respondent:

**JANE JANICE DOE**

### NOTICE OF APPLICATION

**Name of Applicant: John James Doe, Claimant**

To: Jane Janice Doe, Respondent

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 Tuesday 2 April 2013 for the orders set out in Part 1 below.

#### Part 1: Orders Sought

1. An order that the Application Respondent be restrained from removing the children, Jennifer Jean Doe and Jeffrey Jonas Doe, from the Greater Vancouver Regional District without the express written consent of the Applicant;
2. An order that the Application Respondent be restrained from disposing or encumbering the family property and other property at issue, except as may be necessary to meet her reasonable day to day living expenses; and,
3. Costs

#### Part 2: Factual Basis

1. The Applicant is 38 years old and is normally employed as bricklayer. He was recently laid off and is collecting EI benefits.
2. The Application Respondent is 38 years old and is employed as the manger of a cell phone store, earning about \$65,000 per year.

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3. The parties began to live together in 1995 and were married in 1996.
4. There are two children of the parties' marriage, Jennifer, who is 13 years old, and Jeffrey, who is 11 years old.
5. The parties separated on 1 January 2012. After the Applicant moved out of the family home, the parties established a parenting schedule which divided the children's time equally between their homes.
6. This court proceeding started on 1 January 2013 when the Applicant filed his Notice of Family Claim.
7. The Application Respondent has recently discussed travelling with the children to Louisiana and cashing in some of her RRSPs to pay for the trip and her living expenses.
8. The Applicant opposes the children's travel to Louisiana, not only because it is the middle of the school year but because the Application Respondent's family has their ancestral home in acreage in the bayou.
9. The Applicant opposes disposing of family property until the nature and extent of the family property and family debt have been determined.
10. Accordingly, the Applicant seeks order restraining the Application Respondent from removing the children from the area and from disposing of the property at issue in this proceeding.

### **Part 3: Legal Basis**

1. Under s. 64 of the *Family Law Act*, the court may make an order restraining someone from removing the children from an area.
2. Under s. 91 of the *Family Law Act*, the court must make a financial restraining order on the application of a party.

### **Part 4: Material to be Relied Upon**

1. Affidavit #1 of John James Doe, made on 1 March 2013.

The applicant estimates that the application will take 15 minutes.

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

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## 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,

- (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 March 2013

*John Doe*

\_\_\_\_\_  
JOHN JAMES DOE  
Applicant

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**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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