

PRACTICE NOTE 7

MOTIONS AND APPLICATIONS

1. When filing an application or motion, counsel must assure that the rule or section of the statute under which the application or motion is made is set forth.
2. It has come to the attention of the Court that there are a considerable number of motions and applications being filed without compliance with Rules 37.06 and 38.05. Both these rules state what the contents of the notice shall contain. What is occurring is that notices are being filed without setting forth the relief sought, the grounds to be argued or listing the documentary evidence to be used. Instead, counsel are relying upon the supporting affidavits to attempt to convey to the Court the relief they are seeking.
3. If a responding party to an application or motion merely wishes to oppose the matter, a further application or motion should not be used. An affidavit should be filed setting forth the reasons why the application or motion is being opposed. If the opposition to the matter is on a question of law, a factum should be used setting forth the grounds for opposing the matter.
4. If the responding party to an application or motion wishes to make a counter-application or motion, the counter-application or motion may be made returnable at the same time as the original matter and should contain the same court file number.