ONTARIO

SEAL

Superior Court of Justice
(Name of court)

at **393 University Avenue, Toronto, ON M5G 1E6**
Court office address

Court File Number

Form 8: Application (General)

Applicant(s)

Full legal name & address for service – street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).		*Lawyer's name & address – street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).*
Jane Smith **12 Highfield Road** **Toronto, Ontario** **M4S 4V6** **Tel: 416-222-3434** **Jane_Smith@hotmail.com**		

Respondent(s)

Full legal name & address for service – street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).		*Lawyer's name & address – street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).*
John Smith **290 Merton Street, Suite 415** **Toronto, Ontario** **M4S 1V9** **Tel: 416-399-4555**		

TO THE RESPONDENT(S):
A COURT CASE HAS BEEN STARTED AGAINST YOU IN THIS COURT. THE DETAILS ARE SET OUT ON THE ATTACHED PAGES.

☐ **THE FIRST COURT DATE IS** *(date)* **AT** ☐ **a.m.** ☐ **p.m.**
or as soon as possible after that time, at: *(address)*

NOTE: *If this is a divorce case, no date will be set unless an Answer is filed. If you have also been served with a notice of motion, there may be an earlier court date and you or your lawyer should come to court for the motion.*

☐ **THIS CASE IS ON THE FAST TRACK OF THE CASE MANAGEMENT SYSTEM.** A case management judge will be assigned by the time this case first comes before a judge.

☐ **THIS CASE IS ON THE STANDARD TRACK OF THE CASE MANAGEMENT SYSTEM. No court date has been set for this case** but, if you have been served with a notice of motion, it has a court date and you or your lawyer should come to court for the motion. A case management judge will not be assigned until one of the parties asks the clerk of the court to schedule a case conference or until a motion is scheduled, whichever comes first.

IF, AFTER 365 DAYS, THE CASE HAS NOT BEEN SCHEDULED FOR TRIAL, the clerk of the court will send out a warning that the case will be dismissed within 60 days unless the parties file proof that the case has been settled or one of the parties asks for a case or a settlement conference.

Court File Number

IF YOU WANT TO OPPOSE ANY CLAIM IN THIS CASE, you or your lawyer must prepare an Answer (Form 10 – a blank copy should be attached), serve a copy on the applicant(s) and file a copy in the court office with an Affidavit of Service (Form 6B). **YOU HAVE ONLY 30 DAYS AFTER THIS APPLICATION IS SERVED ON YOU (60 DAYS IF THIS APPLICATION IS SERVED ON YOU OUTSIDE CANADA OR THE UNITED STATES) TO SERVE AND FILE AN ANSWER. IF YOU DO NOT, THE CASE WILL GO AHEAD WITHOUT YOU AND THE COURT MAY MAKE AN ORDER AND ENFORCE IT AGAINST YOU.**

Check the box of the paragraph that applies to your case

☐ This case includes a claim for support. It does not include a claim for property or exclusive possession of the matrimonial home and its contents. You **MUST** fill out a Financial Statement (Form 13 – a blank copy attached), serve a copy on the applicant(s) and file a copy in the court office with an Affidavit of Service even if you do not answer this case.

☒ This case includes a claim for property or exclusive possession of the matrimonial home and its contents. You **MUST** fill out a Financial Statement (Form 13.1 – a blank copy attached), serve a copy on the applicant(s) and file a copy in the court office with an Affidavit of Service even if you do not answer this case.

IF YOU WANT TO MAKE A CLAIM OF YOUR OWN, you or your lawyer must fill out the claim portion in the Answer, serve a copy on the applicant(s) and file a copy in the court office with an Affidavit of Service.

- If you want to make a claim for support but do not want to make a claim for property or exclusive possession of the matrimonial home and its contents, you **MUST** fill out a Financial Statement (Form 13), serve a copy on the applicant(s) and file a copy in the court office.
- However, if your only claim for support is for child support in the table amount specified under the Child Support Guidelines, you do not need to fill out, serve or file a Financial Statement.
- If you want to make a claim for property or exclusive possession of the matrimonial home and its contents, whether or not it includes a claim for support, you **MUST** fill out a Financial Statement (Form 13.1, not Form 13), serve a copy on the applicant(s), and file a copy in the court office.

YOU SHOULD GET LEGAL ADVICE ABOUT THIS CASE RIGHT AWAY. If you cannot afford a lawyer, you may be able to get help from your local Legal Aid Ontario office. *(See your telephone directory under LEGAL AID.)*

Date of issue	*Clerk of the court*

Court File Number

FAMILY HISTORY

APPLICANT: Age: 42 Birthdate: *(d, m, y)* 03/01/1967

Resident in *(municipality & province)* Toronto, Ontario

since *(date)* 30/06/1988

Surname at birth: Doe Surname just before marriage: Doe

Divorced before? [X] No [ ] Yes *(Place and date of previous divorce)*

RESPONDENT: Age: 45 Birthdate: *(d, m, y)* 20/03/1964

Resident in *(municipality & province)* Toronto, Ontario

since *(date)* 30/06/1976

Surname at birth: Smith Surname just before marriage: Smith

Divorced before? [X] No [ ] Yes *(Place and date of previous divorce)*

RELATIONSHIP DATES:

[X] Married on *(date)* 23/05/1992 [X] Started living together on *(date)* 01/06/1992

[X] Separated on *(date)* 07/04/2009 [ ] Never lived together [ ] Still living together

THE CHILD(REN)

List all children involved in this case, even if no claim is made for these children.

Full legal name	**Age**	**Birthdate** *(d, m, y)*	**Resident in** *(municipality & province)*	**Now Living With** *(name of person and relationship to child)*
Timothy John Smith	14	12/08/1995	Toronto, Ontario	Mostly with mother
Mary Jane Smith	12	15/03/1997	Toronto, Ontario	Mostly with mother

PREVIOUS CASES OR AGREEMENTS

Have the parties or the children been in a court case before?

[X] No [ ] Yes

Have the parties made a written agreement dealing with any matter involved in this case?

[X] No [ ] Yes *(Give date of agreement. Indicate which of its terms are in dispute. Attach an additional page if you need more space.)*

Court File Number

CLAIM BY APPLICANT

I ASK THE COURT FOR THE FOLLOWING:
(Claims below include claims for temporary orders.)

Claims under the *Divorce Act* *(Check boxes in this column only if you are asking for a divorce and your case is in the Superior Court of Justice or Family Court of the Superior Court of Justice.)*	**Claims under the *Family Law Act* or *Children's Law Reform Act***	**Claims relating to property** *(Check boxes in this column only if your case is in the Superior Court of Justice or Family Court of the Superior Court of Justice.)*
00 [X] a divorce 01 [X] support for me 02 [X] support for child(ren) – table amount 03 [ ] support for child(ren) – other than table amount 04 [X] custody of child(ren) 05 [ ] access to child(ren)	10 [X] support for me 11 [X] support for child(ren) – table amount 12 [ ] support for child(ren) – other than table amount 13 [X] custody of child(ren) 14 [ ] access to child(ren) 15 [ ] restraining/non-harassment order 16 [X] indexing spousal support 17 [ ] declaration of parentage 18 [ ] guardianship over child's property	20 [X] equalization of net family properties 21 [X] exclusive possession of matrimonial home 22 [X] exclusive possession of contents of matrimonial home 23 [ ] freezing assets 24 [ ] sale of family property
Other claims 30 [X] costs 31 [ ] annulment of marriage 32 [X] prejudgment interest	50 [ ] Other *(Specify.)*	

Give details of the order that you want the court to make. *(Include any amounts of support (if known) and the names of the children for whom support, custody or access is claimed.)*

1. An Order granting the Applicant periodic spousal support of $1,000.00 per month based on the Respondent's annual income of $120,000.00.

2. An Order granting the Applicant child support for the children of the marriage, namely Timothy John Smith, born August 12, 1995 and Mary Jane Smith, born March 15, 1997 in the amount of $1,644.00 per month based on the Federal Child Support Guidelines and the Respondent's annual income of $120,000.00.

3. An Order granting the Applicant custody of the children of the marriage, namely Timothy John Smith, born August 12, 1994 and Mary Jane Smith, born March 29, 1996.

4. An Order equalizing the parties' net family property.

5. An Order granting the Applicant exclusive possession of the matrimonial home located at 12 Highfield Road, Toronto, Ontario.

6. An Order granting the Applicant exclusive possession of the contents of the matrimonial home.

7. Costs.

8. Prejudgment interest.

IMPORTANT FACTS SUPPORTING MY CLAIM FOR DIVORCE

[X] **Separation:** The spouses have lived separate and apart since *(date)* 07/04/2009 and

[X] have not lived together again since that date in an unsuccessful attempt to reconcile.

[ ] have lived together again during the following period(s) in an unsuccessful attempt to reconcile: *(Give dates.)*

[ ] **Adultery:** The respondent has committed adultery. *(Give details. It is not necessary to name any other person involved but, if you do name the other person, then you must serve this application on the other person.)*

[ ] **Cruelty:** The respondent has treated the applicant with physical or mental cruelty of such a kind as to make continued cohabitation intolerable. *(Give details.)*

IMPORTANT FACTS SUPPORTING MY OTHER CLAIM(S)

(Set out below the facts that form the legal basis for your other claim(s). Attach an additional page if you need more space.)

BACKGROUND

1. The parties were married on May 23, 1992 in a resort at Banff National Park and began living together when they came back from their honeymoon on June 1, 1992. They separated on April 7, 2009.

2. There are 2 children of the marriage, namely Timothy John Smith, born August 12, 1995 and Mary Jane Smith, born March 15, 1997.

SPOUSAL SUPPORT

3. The Respondent is a Banker with CIBC and earns approximately $120,000.00 per year.

4. I am an X-Ray Technician employed by Credit Valley Hospital and earn $90,000.00 per year.

5. I stopped working as an X-Ray Technician once our first child Timothy was born and was a stay-at-home Mother for the next 7 years. If I had not stopped working, I would be making at least $20,000.00 more than what I am now.

6. I do not have a pension plan.

CHILD SUPPORT

7. Based on the Respondent's income of $120,000.00 he should be me paying child support in the sum of $1,644.00 per month.

8. Our children are involved in a number of activities. Timothy plays hockey and soccer and Mary Jane takes ballet and tap lessons. Mary Jane also wants to start taking singing lessons as she wants to perform in musicals when she is older. The Respondent should be required to pay his proportionate share of these expenses.

CUSTODY OF THE CHILDREN

9. After our son Timothy was born, I stayed at home for 7 years. I was the one primarily responsible for caring for and raising our children during this period.

10. At that time, the Respondent was working at the bank and taking the courses required to give RRSP advice to customers. He also played a bunch of sports such as hockey and baseball. The Respondent only occasionally helped me to feed the children, change their diapers and put them to sleep when they were young because he was always too busy with other things.

11. Even though I was the one that spent hours trying to teach the children how to use the toilet, the Respondent credits himself with toilet training our son Timothy because the first time Timothy used the toilet on his own was a night I happened to be out with some girl friends of mine for dinner.

12. The Respondent is a good father. When I went back to work, he did do his best to become more involved with their care.

13. The Respondent takes Timothy to some of his hockey and soccer practices and games. He also takes Mary Jane to her ballet classes on occasion.

14. The children are most bonded with me. I think it is best for our children that they live primarily with me and spend most of their time with me.

ACCESS TO THE CHILDREN

15. Right now the children are seeing the Respondent a lot. I am fine with the Respondent continuing to have lots of time with the children, so long as they live and spend most of their time with me.

16. The Respondent has told me he wants the children to live with him 50% of the time. I believe he only wants this so that he doesn’t have to pay the full amount of child support that he should be paying me.

EQUALIZATION OF NET FAMILY PROPERTY

17. We have two major assets: the matrimonial home which is a house located in Leslieville at 12 Highfield Road, Toronto, Ontario and a cottage in Muskoka. The house is approximately 1,800 square feet and is worth approximately $650,000.00. There is a mortgage on the matrimonial home with a current balance of approximately $350,000.00.

18. Our cottage is worth approximately $350,000.00. There is a mortgage on the cottage with a current balance of approximately $250,000.00. I believe both mortgages are with CIBC because that is where my husband works.

19. There is a line of credit secured against the matrimonial home which we used to purchase some boats for

the cottage. The boats were not my idea: they were my husband's idea. I barely use them.

20. The Respondent has a pension through his employment at CIBC and significant RRSP's. I do not know exactly how much his pension is worth but I expect over $300,000.00. His pension should be valued.

EXCLUSIVE POSSESSION OF THE MATRIMONIAL HOME AND ITS CONTENTS

21. The children have been living in the matrimonial home for over 10 years now. Their school Duke of Connaught is located only 3 blocks away. The arena where Timothy plays hockey at is less than 10 minutes away by car and the soccer field is at his school. Mary Jane's dance classes are in walking distance of our home.

22. The children have made a bunch of friends at their school and in the neighbourhood. They would be very sad if they had to move.

23. Right now I cannot afford to buyout the Respondent's interest at this time. However, I believe the Respondent will owe me a significant equalization payment because of the value of his pension and RRSPs. Once equalization of net family property has been determined, I may be in a position to buy out the Respondent's interest in the home.

Put a line through any blank space left on this page. If additional space is needed, extra pages may be attached.

Date of signature

Signature of applicant

Court File Number

LAWYER'S CERTIFICATE

For divorce cases only

My name is:

and I am the applicant's lawyer in this divorce case. I certify that I have complied with the requirements of section 9 of the *Divorce Act.*

Date | *Signature of Lawyer*