

Court File No.: _____
Court Registry: **Vancouver**

In the Supreme Court of British Columbia

Petitioners:

JEREMIAH JACOB SMITH and JOSEPHINE JANE SMITH

Petition Respondents:

JOHN JAMES DOE and JANE JANICE DOE

PETITION

This family law case has been started by the petitioner(s) for the relief set out in Part 1 below.

If you intend to respond to this petition, you or your lawyer must

- (a) file a Response to Petition in Form F74 of the Supreme Court Family Rules in the above-named registry of this Court within the time for response described below, and
- (b) serve on the petitioner(s)
 - (i) two copies of the filed Response to Petition, and
 - (ii) two copies of each Affidavit on which you intend to rely at the hearing.

Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the Response to Petition within the time for response.

Time for Response to Petition

A Response to Petition must be filed and served on the petitioner(s),

- (a) if you were served with the Petition anywhere in Canada, within 21 days after that service,
- (b) if you were served with the Petition anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the Petition anywhere else, within 49 days after that service, or

(d) if the time for response has been set by order of the Court, within that time.

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| (1) | <p>The address of the registry is:</p> <p style="text-align: center;">Law Courts 800 Smithe Street Vancouver, British Columbia V6Z 2E1</p> |
| (2) | <p>The address for service of the petitioners is:</p> <p style="text-align: center;">122 Main Street Falkland, British Columbia V1A 2B3</p> <p>Fax:</p> <p>Email:</p> |
| (3) | <p>The name and office address of the petitioner's lawyer is:</p> <p style="text-align: center;">None.</p> |

CLAIM OF THE PETITIONERS

Part 1: Orders Sought

1. An order that the Petitioners have leave under s. 17(2) of the *Divorce Act* to apply to vary the custody order made between the Respondents in action no. E131234 before the Vancouver registry of this Honourable Court.
2. Costs.

Part 2: Factual Basis

1. The Respondent Jane Janice Doe is the child of the Petitioners.
2. The Respondent John James Doe is the former married spouse of the Respondent Jane Janice Doe.
3. The Respondents were married on 1 April 1996, separated on 1 January 2012 and were divorced by an order made on 1 October 2012. The Respondents have two children, Jennifer Jean Doe and Jeffrey Jonas Doe.
4. The divorce order gave the Respondents joint custody of the children under the *Divorce Act* and gave the children's primary residence to Jane Doe and access to John Doe every other weekend and at other times.
5. Since the order was made, John Doe has been arrested for drinking and driving and, in a later, unconnected incident, Jane Doe has been arrested for manslaughter. Both Respondents have been denied bail and are being detained in jail pending their trials.

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

6. The children have lived with the Petitioners at all times since the arrest of Jane Doe.
7. The Respondents have demonstrated by their actions that they are not fit to care for the children. They are in any event unable to care for the children as they are presently incarcerated.

Part 3: Legal Basis

1. Jane Doe has placed the children into the care of the Petitioners. Neither parent is presently able to care for the children. It is in the best interests of the children to remain in the care of the Petitioners.
2. While the children remain in the care of the Petitioners, the Petitioners will be required to make decisions on their behalf and will require the authority to act on their behalf with respect to the children's schooling and health care among other things.
3. The Petitioners seek leave to apply to vary the divorce order with respect to custody of the children, pursuant to s. 17(2) of the *Divorce Act*.

Part 4: Material to be Relied Upon

1. Affidavit #1 of Jeremiah Jacob Smith, made on 1 January 2015; and,
2. Affidavit #1 of Josephine Jane Smith, made on 31 December 2014.

The petitioners estimate that the hearing of the Petition will take 15 minutes.

Date: 1 January 2015

Jeremy Doe

JEREMIAH JACOB SMITH
Petitioner

Date: 1 January 2015

Josephine Doe

JOSEPHINE JANE SMITH
Petitioner

To be completed by the court only

Order made:

on the terms requested in paragraphs _____ of Part 1 of this Petition

with the following variations and additional terms

Date: _____

Signature of Judge Master