

Procedural Fact Sheets (Civil) – Supreme and District Courts

Interlocutory applications

What is an interlocutory application?

- An interlocutory application is an application to the court brought by a party to deal with a specific dispute in a proceeding, after the proceeding has commenced.
- An applicant may claim interim relief or apply for an order regarding compliance with a procedural step.
- Some interlocutory applications may finally determine the rights of the parties, e.g., applications for summary judgment.
- The rules explaining how an application is made are contained in the [Uniform Civil Procedure Rules 1999 \(Qld\)](#) (UCPR).

Before making an interlocutory application

Read [Chapter 11, Part 8 UCPR](#).

If you are applying for directions about the conduct of the proceeding or complaining about the failure of the opposing party to comply with the UCPR ([rule 443](#)), you must write to the party against whom you intend to make the application before filing and serving the application. [rule 444](#)

In your letter, you must:

- Describe your complaint.
- Briefly state the facts relevant to your complaint.
- Advise the orders you will ask the court to make.
- Explain why the court should make the orders.
- Specify a time (at least 3 business days after the date of your letter) within which the respondent must reply to your letter.
- State that your letter is written under Chapter 11, Part 8 UCPR.

You may proceed to bring the application if ([rule 447](#)):

- You receive a response from the other party, but the response does not satisfy your complaint; or
- You do not receive a response within the time nominated in your letter.

If you receive a letter from an opposing party (the applicant) which is stated to be written under Chapter 11, Part 8 UCPR, you must respond in writing to that letter, stating ([rule 445](#)):

- That the letter is a reply to the applicant's letter and that the reply is under rule 445.
- What action you propose to take in response to the complaint.
- Why the court should not make the orders for which the applicant applies.

Send your reply within the timeframe specified in the applicant's letter.

Preparing an interlocutory application

- Use [form 9 \(rule 31\)](#) to make the interlocutory application.
- State the orders that you want the court to make.
- Sign the application. [rule 31](#)
- Prepare an affidavit to support the application (supporting affidavit), providing evidence of the facts you need to prove to succeed on the application.

Filing and serving an interlocutory application

When filing an interlocutory application and supporting affidavit, the registry officer will ask you when you would like the application to be heard by the court.

- When requesting a date, remember that the application must be filed and served on each respondent (the party responding to the application) at least three business days before the application hearing date. The service day and the hearing day are excluded in determining this period. [rule 27](#) Supporting affidavit(s) must also be filed and served.
- The [UCPR](#) allows some applications to be made “ex parte”. [rule 27](#) For these types of applications, you are not required to notify another interested party of your application by serving the application on them. For example, an application for substituted service may be made on an ex parte basis.
- The registry officer will endeavour to list the application for hearing on your preferred date. If that date is not available, a date will be allocated that is close in time to that date. Be prepared to provide some alternative, suitable dates for the hearing.
- Applications are listed to commence at 10.00am on the hearing date. A callover is conducted at this time to determine the order in which the applications listed for hearing that day will be heard.
- The registry officer will note the date and time of the hearing on the original filed application and on the service copies.

Opposing an interlocutory application

- If you are a respondent, you object to the orders, and you intend to oppose the application, prior to the hearing of the application you should file and serve an affidavit explaining your position to the applicant and to the court.
- The affidavit should contain evidence of any facts you intend to rely on in proving to the court that the orders claimed by the applicant should not be made.
- The affidavit should be filed and served as early as possible prior to the application hearing date.

