

**FORM P29  
(Rule 25-10(3))****NOTICE OF DISPUTE****General Notes**

A *Notice of Dispute*<sup>(1)</sup> is a document filed by a person (the “disputant”) who:

- is entitled to Notice pursuant to Rule 25-2; or
- claims an interest under a prior or subsequent will;

and intends to oppose the issue of an:

- estate grant; or
- authorization to obtain estate information; or
- authorization to obtain resealing information; or

or the resealing of a foreign grant (s. 106 of WESA and subrule 25-10(1)) for example, when there is a dispute about a will or about the appointment of a personal representative.

***A Notice of Dispute:***

- may be filed with **any** Probate Registry in British Columbia;
- receives an autonomous number, separate from the probate application (if such an application is already filed). All subsequent filings (amendment, renewal or removal) with respect to the *Notice of Dispute* must be filed under that number.

While the *Notice of Dispute* is in effect, the registrar may not with respect to the estate in question (subrule 25-10(8)):

- issue an:
  - estate grant; or
  - authorization to obtain estate information; or
  - authorization to obtain resealing information; or
- reseal a foreign grant.

Once the Notice of Dispute is removed, then any subsequent documents are filed under the P number (which is the same number of application for the estate grant).

**Filing of Notice of Dispute**

The *Notice of Dispute* must be filed after the death of the person whose estate it is and before the:

- issuance of an authorization to obtain estate or resealing information; and
- issuance of an estate grant; or
- resealing of a foreign grant.

The person filing a *Notice of Dispute* may only file one *Notice of Dispute* in relation to any estate (subrule 25-10(2)).

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<sup>(1)</sup> A Notice of Dispute is the equivalent of a Caveat under the former Rules.

Amendment to the *Notice of Dispute* (Rule 26-10(4))

The *Notice of Dispute* may be amended:

- once without leave of the court; and
- after that, only with the leave of the court.

Rules 6-1(2) and (3) of the Rules of the *Supreme Court Civil Rules* [Amendment of Pleadings] apply to an amendment of a *Notice of Dispute* without leave of the court and, for that purpose, a reference in that rule to a pleading is deemed to be a reference to the *Notice of Dispute*.

*Notice of Dispute* ceases to be in effect (Rule 25-10(12))

A *Notice of Dispute* in relation to an estate ceases to be in effect (or is effectively cancelled):

- one year after the date on which the *Notice of Dispute* was filed, unless the *Notice of Dispute* has been renewed;
- if the *Notice of Dispute* has been renewed at the end of the renewal period;
- when the *Notice of Dispute* is withdrawn by the disputant;
- if the Will to which the *Notice of Dispute* relates is proved in solemn form;
- if a person who is interested in the estate (including the applicant) applies for an order removing the *Notice of Dispute* and the court orders (subrule (11)) that the *Notice of Dispute* be removed.

Renewal of *Notice of Dispute* (subrule 25-10(6))

Although at this time the procedure to renew a *Notice of Dispute* is beyond the scope of this Guide, note that pursuant to subrule 25-10(6), the court may renew a *Notice of Dispute* for any period the court considers appropriate, as follows:

- if the application for renewal is brought before the *Notice of Dispute* ceases to be in effect, and the court is satisfied that it is appropriate to make an order for renewal;
- if the application for renewal is brought after the *Notice of Dispute* ceases to be in effect, and the court is satisfied that:
  - there were good reasons that the application for renewal could not be brought before the *Notice of Dispute* ceased to be in effect,
  - substantial prejudice would be suffered by the person seeking renewal of the *Notice of Dispute* if the order for renewal was not made; and
  - no other person interested in the estate would suffer substantial prejudice if the order for renewal was made.

In order to renew the *Notice of Dispute* (Rule 25-10(7)) subject to Rule 8-5(6) of the *Supreme Court Civil Rules* [Urgent Applications – When an Application may be heard without any Notice], an application to renew a *Notice of Dispute* must be made on notice to:

- each person who has submitted for filing a submission for estate grant, or a submission for resealing, in relation to the estate; and
- each person who has filed a *Notice of Dispute* in relation to the estate; and
- any other interested person to whom the court directs notice be given.

*Continued...*

**FORM P29**  
**(Rule 25-10(3))**  
**NOTICE OF DISPUTE**

**General Notes (see previous pages)**

**Preparation**

- ❶ Leave the number blank. The Registry will assign it an autonomous number, separate from the probate application (if such an application is already filed). You may file the *Notice of Dispute* with any probate registry. Insert the location of the probate registry where you intend to file it.
- ❷ The person filing the *Notice of Dispute* (the “disputant”) must be one of the persons entitled to Notice (Rule 25-2(2) (see the **Notice** chapter).
- ❸ Insert the full legal name of the Deceased, which is usually found in the *Death Certificate* or in a foreign grant (see the **Appendix** at the end of this chapter – **Style of Proceeding**).
- ❹ Select the appropriate paragraph depending on whether or not the person filing the *Notice of Dispute* knows if a court file has been opened. If you have selected the first paragraph, complete the information (see ❶ above).
- ❺ To describe the disputant’s interest in the estate, insert the sub-paragraph number of Rule 25-2(2) (**Persons to whom Documents must be Delivered**). For example: “(b)(ii)” if the Deceased did not leave a Will and the disputant is one of the creditors whose claim exceeds \$10,000.
- ❻ Insert the grounds for the dispute. The supervising lawyer should dictate the reason(s) why the *Notice of Dispute* is being filed.
- ❼ Insert an accessible address for service. This will be necessary later if anyone files a *Form P30 – Withdrawal of Notice of Dispute* (see next pages). The address must comply with Rule 4-1(1) (see **Accessible Address for Service** in the **Appendix** at the end of this Chapter).

**Processing**

See: Filing of Notice of Dispute on the preceding page.

## FORM P29 (RULE 25-10(3))

No. ❶ \_\_\_\_\_  
 ❶ *{Location}* Registry

*In the Supreme Court of British Columbia*

In the Matter of the Estate of  
*{LEGAL NAME OF DECEASED}*, Deceased

## NOTICE OF DISPUTE

TAKE NOTICE THAT I ❷ *{NAME OF PERSON FILING NOTICE OF DISPUTE}* (the “disputant”), oppose the taking of any action in relation to the estate of the deceased identified below who died on *{date of death-dd/mmm/yyyy}*.

Full legal name of deceased: ❸ *{FIRST NAME} {MIDDLE NAME} {LAST NAME}*

Other names in which the deceased held or may have held an interest in property:

1. ❸ *{other name of deceased}*
2. ❸ *{other name of deceased}*

❹ A court file has been opened in relation to the deceased’s estate under court file ❶ *{court file number}* at the ❶ *{registry location}* courthouse.

❹ The disputant does not know if a court file has been opened in relation to the deceased’s estate.

The disputant is a person referred to in Rule 25-2(2) ❺

The disputant is filing this notice of dispute because ❻

Address for service of the disputant: ❼

Street address for service:	<i>{Street and city address for service}</i>
Fax number address for service (if any):	<i>{Fax number address for service}</i>
E-mail address for service (if any):	<i>{E-mail address for service}</i>
Telephone number:	<i>{Telephone number}</i>

Date: *{dd/mmm/yyyy}*.

\_\_\_\_\_  
 Signature of  disputant  
 lawyer for disputants

*{type or print name}*.

**FORM P30**  
**(Rule 25-10(9))**  
**WITHDRAWAL OF NOTICE OF DISPUTE**

**General Notes**

*Form P30* is filed when the disputant (the person who filed the *Notice of Dispute* in the first place) wishes to withdraw the *Notice of Dispute*. This will render the *Notice of Dispute* of no further effect or, simply put, will cancel it.

**Preparation**

- ❶ Insert the number of the *Notice of Dispute* and the location of the court where the *Notice of Dispute* was filed.
- ❷ Copy the style of cause of the *Notice of Dispute*. Note: It may differ from the probate application.
- ❸ Insert the name of the disputant from *Form P29*.
- ❹ Insert the full legal name of the Deceased from *Form P29*.

**Processing**

To apply to withdraw a *Notice of Dispute*, file *Form P30 – Withdrawal of Notice of Dispute* with the probate registry where the original *Notice of Dispute* was filed.

## FORM P30 (RULE 25-10(9))

① No.  
 {Location} Registry

*In the Supreme Court of British Columbia*

② In the Matter of the Estate of  
 {LEGAL NAME OF THE DECEASED}, deceased ②

## WITHDRAWAL OF NOTICE OF DISPUTE

I, ③ {NAME OF PERSON FILING WITHDRAWAL OF NOTICE OF DISPUTE} withdraw the notice of dispute filed by me with this court registry on {dd/mmm/yyyy} in relation to the estate of ④ {LEGAL NAME OF DECEASED}, deceased, who died on {dd/mmm/yyyy}.

Date: {dd/mmm/yyyy}.

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Signature of

- person filing withdrawal of notice  
 lawyer for person filing withdrawal of notice

{type or print name}.

**FORM P31**  
**(Rule 25-10(11))**  
**ORDER FOR REMOVAL OF NOTICE OF DISPUTE**

**General Notes**

If the disputant refuses to withdraw the *Notice of Dispute*, a person who is interested in the estate in relation to which a *Notice of Dispute* has been filed (including the applicant for an estate grant or the resealing of a foreign grant but excluding the disputant) may, pursuant to Rule 25-10(1) of the Probate Rules, apply on notice to the disputant for an order removing the *Notice of Dispute*.

**Preparation**

- ❶ Insert the number and the location of the court if a court file has already been opened with respect to the Deceased's estate.
- ❷ Leave the date blank – it will be completed by the court.
- ❸ Select whichever one of ❹, ❺ or ❻ provisions is correct, and remove the provisions that have not been selected so that they do not appear in the form when it is filed.
- ❹ Insert this paragraph if there is an actual Chambers hearing and the Judge or Master has to make a decision.
- ❺ Insert this paragraph if there is only one side appearing and notice is not given to the other party. This is used in an urgent matter and for an emergency chamber application.
- ❻ Select this paragraph if there is no hearing and the application is for a desk order that is a result of reading the materials filed by the applicant's lawyer.

**Processing**

To apply to withdraw a *Notice of Dispute*, you have to give notice to the disputant pursuant to Rule 25-10(1) of the Probate Rules you have to use:

- ***Form P41 – Requisition*** (Rule 25-14(1)(h)); and
- ***Form P31 – Order of Removal of Notice of Dispute***.

At this time, the exact procedure to apply to withdraw the *Notice of Dispute* is beyond the scope of this *Guide*.

## FORM P31 (RULE 25-10(11))

No. ❶

❶ *{Location}* Registry*In the Supreme Court of British Columbia*In the Matter of the Estate of  
*{LEGAL NAME OF DECEASED}*, Deceased**ORDER FOR REMOVAL OF NOTICE OF DISPUTE**

BEFORE	)	THE HONOURABLE JUSTICE <i>{NAME}</i>	)
	)	or A JUDGE OF THE COURT	)
	)	MASTER <i>{NAME}</i>	) <i>{dd/mmm/yyyy}</i> ❷
	)	or A MASTER OF THE COURT	)
	)		)

❸

❹ **ON THE APPLICATION** of *{PERSON(S)}* coming on for hearing at \_\_\_\_\_ on *{dd/mmm/yyyy}* and on hearing *{NAME OF PERSON/LAWYER}* and *{NAME OF PERSON/LAWYER}*;

❺ **ON THE APPLICATION** of *{PERSON(S)}* without notice coming on for hearing at \_\_\_\_\_ on *{dd/mmm/yyyy}* and on hearing *{NAME OF PERSON/LAWYER}*;

❻ **ON THE APPLICATION** of *{PERSON(S)}* without a hearing and on reading the materials filed by *{NAME OF PERSON/LAWYER}* and *{NAME OF PERSON/LAWYER}*;

**THIS COURT ORDERS** that the notice of dispute filed in relation to the estate of *{LEGAL NAME OF DECEASED}*, deceased, by *{NAME OF DISPUTANT}* is removed.

**BY THE COURT**

Registrar