

**SAMPLE AFFIDAVIT OF DOCUMENTS**

Court File No: 3251/year -1

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**CENTRAL WIDGET CORPORATION**

Plaintiff

- and -

**FLYING MACHINES INC.**

Defendant

**AFFIDAVIT OF DOCUMENTS**

**I, EDGAR J. IRWIN**, of the City of Barrie in the County of Simcoe,  
MAKE OATH AND SAY:

1. I am the Secretary of the plaintiff, which is a corporation.
2. I have conducted a diligent search of the corporation's records and made appropriate enquiries of others to inform myself in order to make this affidavit. This affidavit discloses, to the full extent of my knowledge, information and belief, all documents relating to any matter in issue in this action that are or have been in the possession, control or power of the corporation.
3. I have listed in Schedule "A", those documents that are in the possession, control or power of the corporation and that it does not object to producing for inspection.
4. I have listed in Schedule "B", those documents that are or were in the possession, control or power of the corporation and that it objects to producing because it claims they are privileged, and I have stated in Schedule "B", the grounds for each such claim.
5. I have listed in Schedule "C", those documents that were formerly in the possession, control or power of the corporation but are no longer in its possession, control or power and I have stated in Schedule "C", when and how it lost possession or control of or power over them and their present location.

[Add the following, in actions proceeding under the simplified procedure:

6. I have listed in Schedule "D", the names and addresses of persons who might reasonably be expected to have knowledge of transactions or occurrences in issue. ]

7. The corporation has never had in its possession, control of power any documents relating to any matter in issue in this action other than those listed in Schedules "A", "B", and "C".

**SWORN BEFORE ME** at the )  
County of Simcoe on )  
15 August, year 0 )

\_\_\_\_\_  
Edgar J. Irwin

\_\_\_\_\_  
Commissioner for taking affidavits

**CERTIFICATE OF SOLICITOR**

**I CERTIFY** that I have explained to the deponent the necessity of making full disclosure of all relevant documents, and where the action is brought under the simplified procedure, of providing the list required under rule 76.04.

Date: 29 August, Year 0

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Heather T. Solway

## SCHEDULE A

Documents in the possession, control or power of the corporation that it does not object to producing for inspection.

<b>No.</b>	<b>Document</b>	<b>Date</b>
1.	Handwritten notes of D.T. King	5 Apr. year-4
2.	Memorandum From: E.J. Brown To: D.T. King	15 July year-4
3.	Memorandum From: E.J. Brown To: D.T. King	11 Aug. year-4
4.	Memorandum From: E.J. Brown To: D.T. King	9 Sept. year-4
5.	Handwritten notes of E.C. Peters	12 Sept. year-4
6.	Letter From: D.K. Meyer To: D.T. King (to which is attached 1984 budget)	16 Sept. year-4
7.	Memorandum From: Paul Gross To: Corporate Officers	28 Sept. year-4
8.	Letter From: M.R. Johnson To: D.K. Meyer (with attached schedules)	11 Oct. year-4
9.	Handwritten notes of D.T. King	12 Oct. year-4
10.	Memorandum From: M.R. Johnson To: D.K. Meyer (with attached schedules)	17 Oct. year-4

11. Memorandum 20 Oct. year-4  
From: W.G. Brown  
To: D.T. King  
(4 copies)
12. Letter 24 Oct. year-4  
From: M.R. Johnson  
To: D.K. Meyer  
(with attached schedules)
13. Letter 26 Oct. year-4  
From: Paul Gross  
To: D.K. Meyer  
(with attached information on capital expenditures)
14. Report on Project Bright 16 Nov. year-4
15. Draft year-3 Budget 23 Nov. year-4
16. Directors' Report and Accounts 30 Nov. year-4

## **SCHEDULE B**

1. In this Schedule to the affidavit of documents:
  - (a) “solicitor-client privilege” means the privilege attaching to documents that constitute, contain, record or reflect confidential communications passing between a client, or an expert retained on behalf of a client, and the client’s solicitors, where the communications were made in the course of the obtaining or providing of legal advice, and the solicitors were acting in a professional capacity as solicitors;
  - (b) “litigation privilege” means the privilege attaching to documents that were created or came into existence for the dominant purpose of assisting a party or its solicitors in the conduct of pending or reasonably anticipated litigation; and
  - (c) “without prejudice privilege” means the privilege attached to documents constituting communications between the parties or their solicitors made for the purpose of attempting to compromise or settle the litigation or the issues between them, or expressing opinions or views on the merits of the litigation.
2. The following are documents that are or were in the corporation’s possession, control or power that it objects to producing on the ground of privilege:

<b>No.</b>	<b>Document</b>	<b>Date</b>	<b>Ground of Privilege</b>
17.	Letter From: E.J. Irwin of Central Wiget Corporation ("CWC") To: D.R. Stone of Stone & Stone, Solicitors (S&S)	27 Aug. year-3	solicitor-client
18.	Memorandum From: M.R. Johnson of S&S To: E.J. Irwin of CWC (3 copies)	5 Sept. year-3	solicitor-client
19.	Draft Letter From: M.R. Johnson of S&S To: W.G. Brown of Flying Machines Inc. ("FMI") (3 copies)	6 Sept. year-3	without prejudice
20.	Letter From: E.J. Irwin of CWC To: D.R. Stone of S&S	6 Sept. year-3	solicitor-client
21.	Memorandum From: T E.J. Irwin of CWC To: P. Gross of FMI	7 Sept. year-3	without prejudice
22.	Letter From: M.R. Johnson of S&S To: W.G. Brown of FMI (9copies)	12 Sept. year-3	without prejudice
23.	Telephone message From: A.D. Martin of FMI To: M.R. Johnson of S&S	17 Sept. year-3	without prejudice
24.	Handwritten notes of M.R. Johnson of S&S	25 Sept. year-3	without prejudice
25.	Handwritten notes of M.R. Johnson of S&S	undated	litigation
26.	Handwritten solicitors' notes and solicitors' memos to file	various	litigation and solicitor-client

27.	Various letters passing between the plaintiff and its solicitor subsequent to the commencement of this proceeding for purposes of reporting on the status of the matter and seeking and receiving instructions	various	litigation and solicitor-client
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## **SCHEDULE C**

Documents that were formerly in the corporation's possession, control or power but are no longer in its possession, control or power.

28. the originals of letters emanating from the plaintiff, copies of which are listed in Schedule "A"; such documents are believed to be in the possession of the addressees, who received possession of them from the plaintiff on or about their respective dates.

29. Various handwritten notes of E. J. Brown: These notes were contained in a file folder kept by Mr. Brown, but which was misplaced some time in the year -1, and cannot be located.

[ADD SCHEDULE "D" IN ACTIONS PROCEEDING UNDER THE SIMPLIFIED  
PROCEDURE]

## **SCHEDULE D**

Names and addresses of persons who might reasonably be expected to have knowledge of transactions or occurrences in issue:

- |    |                 |                       |                  |
|----|-----------------|-----------------------|------------------|
| 1. | E. J. Brown     | 229 Mill Street       | Barrie, Ontario  |
| 2. | A. D. Martin    | 101-225 Harrow Avenue | Orillia, Ontario |
| 3. | Marlene Johnson | 2200 Arnprior Road    | Pittsburgh,      |
|    | Pennsylvania    |                       |                  |

[etc.]

**[standard form backsheet as per Form 4C]**