

Defending against a lawsuit in Small Claims Court

IMPORTANT: The legal information contained in this sheet is intended to outline the procedure for defending a civil claim in Small Claims Court. It is not intended to serve as legal advice or to replace the guidance of a lawyer.

YOUR OPTIONS

Response (defendant's response)

If you are being sued in Small Claims Court, you will receive a **Form 7A – Plaintiff's claim** that will set out the reasons for the claim.

After you receive the copy of **Form 7A**, here are your choices:

- **Accept** all or part of the claim
- **Contest** all or part of the claim
- **Contest** all or part of the claim and make a **counterclaim**
- **Do nothing**

Note: You have **20 days** from the date you are served with **Form 7A** to respond to the plaintiff's claim and file your defence (**Form 9A – Defense**).

Option 1: Defence and Acceptance of the claim

Yes. In this case, you must give a copy of **Form 9A** to the plaintiff within **20 days** of receiving the claim.

Procedure for accepting part or all of the plaintiff's claim

- You must **file Form 9A** with the court and if you want to make an **offer** to the plaintiff, you can also fill out and file **Form 14A – Offer to Settle** or a **written letter** to the court and serve (deliver) the documents on the plaintiff.
- If the plaintiff **accepts your offer**, both parties sign a **settlement agreement** using **Form 14B – Acceptance of Offer to Settle** or a **written letter**.
- This may **end the proceeding**, or it may **continue only** for matters that are not resolved or that are not part of the agreement.

Representation: You can **represent yourself** in court or **hire a lawyer or paralegal**.

Limitation period: Generally, you have **two (2) years** after the incident to sue a person in court.

Claim amount: If your claim is more than **\$50,000**, you can make it to Small **Claims Court** only for the **portion up to \$50,000**. For the rest, you have to go to the **Superior Court of Justice**.

Parties: You are the **defendant**. The **plaintiff** is the person or company who are suing you.

Forms: The **forms** for the Court can be found [here](#).

You can use the [Guide to Small Claims Court Procedures](#) developed by the Ministry of the Attorney General to help with the process and fill out forms.

Court Address: The court's contact information is available [here](#).

Option 2: Defence and Contestation of the Claim and/or Counterclaim

Yes. In this case, you must give a copy of **Form 9A** to the plaintiff within **20 days** of receiving the claim.

Procedure for contesting the plaintiff's claim

- You must fill out **Form 9A**, file it with the court and then serve it on the plaintiff.

Procedure for contesting the plaintiff's claim with a counterclaim

- In addition to the defence, you can make a **counterclaim** against the plaintiff, i.e. sue him or her in turn for a matter related to the same case.
- You must fill out **Form 9A** and **Form 10A – Defendant's Claim**, serve both forms on the plaintiff **at the same time**, and then file them with the court **in person, online, or by mail**.

Option 3: No Defense

When you have not filed a defence within the **20-day period**.

- This will be considered an **admission that you accept the plaintiff's claim**.
- The plaintiff can then **ask the court for a default judgment** which means that the court can **rule in favor of the plaintiff without hearing your side of the story**, and you may be required to **pay the amount sought as well as court costs**.

You can refer to the [Guide to Small Claims Court Procedures](#) for information on how to ask the court to set aside the default judgment.

STEP 1

Complete the Defence

You must fill out **Form 9A – Defense** and add **Form 1A – Additional Parties** if there are more than one plaintiff or defendant. You must also fill out **Form 10A – Defendant's Claim** if you want to sue the plaintiff in turn.

STEP 2

File the Defence with the Court

Once **Form 9A**, with or without **Form 1A** and **Form 10A**, are completed, add all documents **that support your claim** and file them in the **court where the plaintiff's claim was originally filed**. You can do this **online, in person, or by mail**.

Please note: the information of the court where the plaintiff filed their claim is indicated on the first page of the Plaintiff's claim.

Online

Yes, through the [Small Claims Court Submissions Online portal](#). You will then receive a **stamped copy by email** that you must **serve (deliver) on each plaintiff**.

In person

Yes, **to the court clerk**. Bring **multiple copies** (one for the court and one or more for each of the plaintiff). The clerk will keep the original and **give you the other stamped and dated copies**. You must then **serve a copy on each of the plaintiffs**.

By mail

Yes, **to the court clerk**. Give **several copies** (one for the court and one or more for each of the plaintiff). The clerk will keep the original and **give you the other stamped and dated copies**. You must then **serve a copy on each of the plaintiffs**.

Note: There is a **fee to file Form 9A**, but you can **apply to have your [court fee waived](#)** if you can't afford to pay them.

STEP 4

File proof of service

You or the person who served the documents on each of the plaintiffs must **complete and file Form 8A – Affidavit of Service** with the Court, either **in person or online** through the e-filing portal. The same person who completed **Form 8A** must **swear or affirm** that the information provided is true.

Note: A **Form 8A** is required for each plaintiff served.

STEP 5

Settlement Conference

When the defendant contests your claim by filing a defence with **Form 9A**, with or without **Form 10A**, the next step is for both parties to attend a [settlement conference](#) before a judge.

What do the parties have to do for the settlement conference?

- Complete and file **Form 13A – List of Proposed Witnesses** if they plan to bring witnesses to trial, along with supporting documents to prove their case to the Court.

- Serve documents on the opposing party at least **14 days** prior to the conference.

Note: If you or the respondent cannot attend the conference, an order may be made.

The judge may make a **decision** at the conference for claims **under \$3,500** with the consent of both parties. Both parties must then complete and file **Form 13B – Consent with the Court**.

If there is an **agreement** between the two parties after the conference, the plaintiff or defendant can fill out **Form 14D – Conditions of Settlement** to avoid going to trial.

STEP 6

Trial

If **no agreement is reached** at the settlement conference, the case usually proceeds to a **trial**.

Each side tells their side of the story, calls witnesses, answers questions, presents documents and evidence to prove their case, and then the **judge makes a decision**.

The **Legal Information Centre of Ontario** offers free confidential legal information and referral services in English and French to anyone with a legal problem who is located in Ontario. **Book an appointment online** or **call us at 1 (844) 343-7462** (toll-free) for a 30-minute legal information meeting.



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