

## Starting a lawsuit in Small Claims Court (claim of \$50,000 or less)

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

### OPTIONAL STEP

#### Demand letter

Before you start a civil claim, you can send a **demand letter** to the party you are claiming against. This letter explains the problem and gives the other person a **chance to fix the matter** without going to court.

You can try other ways to resolve your situation such as **mediation, arbitration, negotiation**, etc.

### STEP 1

#### Complete the Plaintiff's claim

Complete **Form 7A – Plaintiff's Claim** and add **Form 1A – Additional Parties** if there are multiple plaintiffs or defendants.

### STEP 2

#### File the Plaintiff's claim with the court

Once you have completed **Form 7A**, with or without **Form 1A**, add all the documents that support **your claim** and file it with the court **in person, online or by mail**.

The claim must be filed **in the court** in the city where the defendant **resides or carries on business**, the court **closest to that location**, or the court in the city where **the events occurred**.

**Note:** There is a **fee to file Form 7A**, but you can **apply to have your court fee waived** if you can't afford to pay them.

#### 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 defendant.

**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 **plaintiff**. The **defendant** is the person or company you are suing.

**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](#).

## In person

Yes, **to the court clerk**. Bring **multiple copies** (one for the court, one for you, and one or more for each of the defendants). 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 defendants**.

## By mail

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

## STEP 3

### Serve the Plaintiff's claim to the defendant

You or another person of your choice must **serve (deliver)** a stamped copy of **Form 7A**, with or without **Form 1A** and all supporting documents received from the court to each of the defendants within **6 months** after the claim is issued.

You can do this either **in person, by mail, by registered mail or by process server**.

All **the ways of service** and their **specific rules** are described [here](#).

## STEP

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### File proof of service

You or the person who served the documents on each of the defendants 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 defendant served.

## STEP

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### After the Plaintiff's claim is served

After being served, the defendant has **20 days** to file their **defense**, explaining why they are contesting your claim.

**No response:** If the defendant **does not respond**, you can ask the court to **note the defendant in default** by filling out **Form 9B – Request to Clerk** and then giving it to the clerk. Also add a completed

**Form 8A – Affidavit of Service** for each defendant to prove to the court that the claim was properly served on them.

1. The court can then decide the claim, order payment or schedule a hearing to assess the amount claimed. The defendant can still file a defence before you file this application.

**Response:** The defendant can **challenge** all or part of the claim by filing a **defence to the Plaintiff's Claim (Form 9A– Defence)**. They must serve it on you and file it with the court within **20 days** of being served with the claim. After this period, the court registry will only accept the defence if the defendant has not yet been found in default.

The defendant can make a **counterclaim** against you at the same time in addition to their defence with **Form 10A – Defendant's Claim** and serve it on you and file it in court **in person, online, or by mail**.

## STEP 6

### 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?**

1. 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.
1. 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 7

### 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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