

MEMO ON SMALL CLAIMS COURT

GENERAL

Small Claims Court is now called Ontario Court (General Division). The procedure is kept simple and you can appear without a lawyer if you prefer. The jurisdiction of the court has increased to \$ 10,000.

CLAIM

The first step in starting the action is preparing the Claim. It is on form provided by the court. Please check the information on this before you sign it and take it to the Small Claims Court. Attach to this invoices, if any, for the claim you are making. We will be pleased to assist you to prepare the claim in legal form.

NAMES

Please check the names of the parties carefully. Do not use nicknames. Find full names of the individuals. For companies use their full company and style name if any. If you are not sure of the name you should do a search at the company's branch at Company's Branch of the Ministry of Consumer and Commercial Relations at 393 University Avenue, Toronto. Tel. no. 416-314-8880.

DEFENCE

If you have been served with a claim you must file the defence within 20 days of the claim being served on you. We will be pleased to assist you with the drafting of the defence.

DEFAULT JUDGMENT

If the defendant does not file the defence within 20 days of service of the Claim, you can ask the court office to file a default judgement. This judgement allows you to start your collection procedures.

ISSUE OF CLAIM

Claim must be issued, which means that you should go to the nearest small claims court and ask them to open a court file. The present amount for doing this is \$ 50.

SERVICE

Claim must be served on the defendant, which means that you should give a copy of it to the defendant. Defence can be filed by giving a copy to the plaintiff at the address shown on the claim of the plaintiff.

COURT FEES

The filing fee for the claim to be stated is \$ 50 and if you are requesting a trial the cost is \$ 100.

ADR

Court office may send a Notice of Pre-trial hearing, which may be presided by a court clerk or a judge. At this meeting attempt will be made to resolve the case by discussion. If you need assistance we will be pleased to send a law clerk and quote a fee for it.

NEGOTIATING SETTLEMENT

At any stage of the proceedings you can ask the other party to resolve the dispute and agree on there solution. If the matter is resolved court office must be notified and a release should be prepared.

HEARING

If the matter is not resolved and if you are the plaintiff you should ask for a trial date and pay the fees to set the matter down for a hearing. A notice will be sent to both the parties by the court office and you should appear at the hearing prepared with your witnesses and documents. The date of trial is usually about 4 to 6 months after you commence the action if the court is not backlogged.

If you do not show up at trial judgement can be entered against you.

TRIAL

At the trial you should first present your evidence by the documents and the witnesses. Documents must be marked as exhibits. Plaintiff must present his case first and after each witness has narrated his facts the opposing party can ask questions to cross-examine. After the plaintiff's case the defendant must present his case. The judge will announce his judgement after hearing both parties.

TRIAL

At the trial you should first present your evidence by the documents and the witnesses. Oath will be administered, which means you will be asked to say the truth under oath. If you are not a Christian you can ask to be affirmed. After you have told your story in the witness box, the other party will be allowed to ask questions to you. At this time it is important that only questions are asked and not statement made of the defence.

You should bring to the trial all your witnesses one at a time. Witnesses should only tell what they have seen or heard personally. They cannot talk about what they heard from another party; that is called hearsay evidence.

The defence will then present their witnesses. You, as the plaintiff, can ask questions to each of the witnesses. It is very helpful if you have prepared the questions and your submission for this purpose.

Court Offices

Your claim should be issued in the Court nearest to you or where the defendant lives or does business or where the transaction took place.

Richmond Hill Small Claims Court
855 Major McKenzie Drive East
(at Bayview & Major McKenzie)
Richmond Hill, Ontario, L4C 4X7
Tel.737_4416

Etobicoke Small Claims Court
2265 Keele Street, Suite 209,
Toronto, Ontario, M6M 5B8
Tel. 249_8251

North York Small Claims Court
3rd Floor, 47 Sheppard Ave. E.
Willowdale, Ont. M2N 5X5
Attn. Mr. G.R. Beeby, Clerk
225_4846 Main no.
733_0963 Fax

SCARBOROUGH SMALL CLAIMS COURT
2130 Lawrence Av.E.
3rd Floor, Scarborough, M1R 5B9
Tel. 416-327-115

Trial Preparation

You should prepare your witnesses before trial. You should know what they are going to say. Discuss the evidence with them and advise them to attend the trial on the date of hearing. If you want to be sure that they attend you can issue a subpoena from the court office. The court office will advise you on how to serve the subpoena to the witness. If you need us to help you with the preparation of the trial we will be pleased to do it for a fee.

Judgment

The Judge will then give his judgement. After the case is over you can ask the court office to give you the decision of the judge; usually the following day. There are several collection procedures you can follow after you have obtained your judgment.

Execution

You can obtain a copy of the judgement from the court office and ask the Sheriff to enforce it against the defendant. You will need to pay him a deposit. He will go to the house or business of the defendant and ask the defendant to pay or take his goods.

Garnishee

Filing the garnishee documents against the bank where the defendant keeps his bank account can also enforce judgement.

Conflict of Interest

When I have prepared the claim I cannot hear it as a judge. I am a part time Judge in the Richmond Hill Small Claims Court. When you get a notice of trial please make sure with the court office that I am not presiding in that court on the date on which your case is being heard.

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