

October 29, 2020

Expansion of Small Claims Court Operations: What litigants need to know

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On January 1, 2020, the jurisdiction of the Ontario Small Claims Court increased from \$25,000 to \$35,000. Since then the COVID-19 pandemic has caused a temporary reduction in services. Here is what litigants need to know about how the Court is adapting during the ongoing pandemic.

Electronic Filing

One of the positive changes brought about by the pandemic is an expansion of the [Small Claims Court online filing service](#).

As of October 28, 2020, the Small Claims eFiling platform can be used to:

- Issue and amend a Plaintiff's Claim;
- File an affidavit of service;
- File a request to note defendant(s) in default;
- File a request for default judgment; and
- File a notice of discontinued claim.

Parties who have not filed Defences can be noted in default. Plaintiffs can submit a request to note defendants in default through the Small Claims eFiling platform.

At this time, it is not possible to file a Defence or issue a Defendant's Claim using the eFiling platform. These documents, and most other Small Claims Court documents, may now be filed by email.¹ One exception is enforcement

¹ Parties submitting documents by email must provide an undertaking to file hardcopies of the materials and pay the applicable court filing fee; see <https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/suspension-small-claims-ops/>

documents. Writs and notices of garnishment can be filed by mail or by attending the courthouse in person.²

Motions

Prior to October 28, 2020, the Small Claims Court was hearing urgent motions and urgent garnishment hearings. The Court is now also accepting requests to hear certain non-urgent matters via Zoom or in writing. This includes motions to set aside a noting in default or default judgment.

Motions in writing for an assessment of damages and *ex parte* motions in writing are also being heard but only if the motions were filed prior to March 16, 2020.

Settlement Conferences

Settlement conferences continue to be conducted via teleconference and videoconference but only for matters in which each defendant has filed a defence or been noted in default prior to March 16, 2020.

A party seeking to schedule a settlement conference without the consent of the other parties may only do so if a settlement conference had been previously scheduled and then suspended due to the pandemic.

Trials

Small Claims Court trials have not been resumed. The Consolidated Notice to the Profession and Public Regarding the Small Claims Court amended October 28, 2020 does not address whether trials will eventually be heard remotely or in person.

If you have any questions about the status of the Ontario Small Claims Court, please reach out to our law clerk and licensed paralegal Michelle Alonso de Mesa at malonso@dmgadvocates.com or 416-238-1409.

² While counter services at Small Claims Court locations have now been reopened, attendance at the courthouse is still discouraged.