

Small Claims Court



A Guide for
**Claimants, Defendants
& Third Parties**



Public Legal Education
and Information Service
of New Brunswick

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Background Information



Background Information

What is a small claim?

It is a claim made through the court for money or personal property you believe someone owes you. A small claim can be for **debt, damages, or return of personal property** valued **up to \$12,500**. “Damages” means money paid to you to compensate for an injury you received, or for loss or damage to your property, or some other financial loss such as loss of income.

Your claim may be for a combination of debt, damages and return of personal property. However, the total amount claimed, including the value of the personal property, cannot be over \$12,500. You can also claim interest, but only if the amount of the interest and the claim is not more than \$12,500.

What if my claim is over \$12,500?

If your total claim for debt, damages or personal property is over \$12,500, you would have to start a civil action through the Court of Queen’s Bench. You could only use Small Claims Court if you decide to “give up” (abandon) the amount of your claim over the \$12,500 limit. If you do this in order to file your claim, you cannot ask for the rest of it at another time. In other words, you cannot split the amount into two or more claims. You must state on your claim form the amount you are abandoning. It is a good idea to talk to a lawyer before deciding what to do.

What are some examples of types of small claims?

Debt:

- Claims for a cheque that “bounced”
- Claims for money owed to you
- Claims for goods or services delivered, but not paid for

Damages:

- Claims against a business that won't exchange or repair damaged goods you bought
- Claims for personal injury caused by a car accident
- Claims for damage to your personal property
- Claims relating to breach of contract

Personal Property:

- Claims against someone who has property belonging to you and refuses to return it

Note: Claims may also be made by, or against, an estate of a deceased person for any of the above.

Does the Small Claims Court handle all claims for less than \$12,500?

No. The Small Claims Court does not have the authority to handle claims such as:

- Title to land (or interest in land)
- Entitlements under a will or from a person who died without a will
- Libel or slander
- Family matters dealt with by the Court of Queen's Bench, Family Division such as marital property division and claims for child and/or spousal support.

Who is involved in a small claim?

Those involved in a small claim are called the **parties**. They include some or all of the following:

- **Claimant(s)** (the person making the claim). Usually, any adult or business can make a claim.
- **Defendant(s)** (the person or business against whom a claim is made).
- **Third Parties** (people or businesses the Defendant claims are responsible for all or part of the claim).

- **Litigation Guardian** (an adult who has the court's permission to make or defend a claim on behalf of a person under 19 years of age or a person with a disability who cannot represent him/herself.)

The person who wishes to be the Litigation Guardian for a Claimant or Defendant, must complete a consent form (Form 21) and file it with the court. A litigation guardian could also represent someone who is disabled and cannot represent themselves, for example someone who is mentally incompetent.

Are there time limits for starting a small claims action?

Yes, there may be time limitations. Generally, you have two years to start a claim in Small Claims Court from the date that the debt, damages, or loss of personal property occurred. A good rule of thumb is to act quickly. For more information, see the fact sheet **Small Claims: Limitation Periods**. If you are not sure, you should consult a lawyer.

How much will it cost me to make or defend a claim in the Small Claims Court?

Whether you are making a claim or defending a claim in Small Claims Court, you will have to pay the required fees. There are also fees for other steps and related proceedings such as appealing an Adjudicator's decision or ruling, summoning witnesses for their attendance and travel to court, and enforcing a judgment. The number of steps and proceedings varies from case to case.

For more information
on the fees and
payment options, see
Section 4: What All
Parties Should Know

pg.27

If I win in Small Claims Court, how will I collect my money?

Getting a judgment in Small Claims Court to recover money from another person is not a guarantee of payment. If the unsuccessful party does not pay you right away or according to a payment agreement, you (the judgment creditor) must take legal action to collect the money. It is not the court's responsibility to collect the money. The more you know

about the judgment debtor's financial situation, the easier it is to pick an enforcement method that will be successful. In fact, you may wish to assess the other party's financial situation before starting your small claims action.

For more information on the different ways you can try to enforce a judgment, check out the PLEIS-NB publication called **Judgment Enforcement**.

Section 1: What Claimants Should Know



Section 1: What Claimants Should Know

A. Starting a Small Claim

Before making a claim, there are a number of things to consider. Do you have enough evidence to support your claim? How long ago did the dispute happen? If you do get a judgment in your favour, does the person or business you are suing have the ability to pay? In other words, do they have money or assets that can be sold? Do they have a bank account or employment income? Do they have personal property of value belonging to them (such as a car which is not subject to a lease agreement)? Have they declared bankruptcy? In light of this information, you can better decide whether it is worthwhile to start a small claims action keeping in mind that if the defendant(s) does not have money now, you may be able to collect your judgment in the future. If you decide to go ahead, you will have to follow the steps below.

Step 1: Complete the Claim Form

The first step in starting a small claim is completing a **Claim (Form 1)**. You can get the form from the Clerk's Office. There are offices in each of the eight Judicial Districts throughout New Brunswick. The back of this booklet lists the addresses and telephone numbers of these offices.

Tips on Completing a Claim Form

- Follow the directions on the Claim form.
- Type or clearly print the information.
- Put your full legal name, telephone numbers, complete mailing address, and home address, and if applicable, your email address and fax numbers.
- Include the name of the Defendant(s). Be sure to spell each Defendant's full name correctly and include a middle name or initial if possible.

- If you are suing an incorporated company, check the full legal name with Corporate Registry, Service New Brunswick, for a small fee



Service New Brunswick Corporate Registry
P. O. Box 1998, 432 Queen Street
Fredericton, NB E3B 5G4
Tel.: (506) 453-2703
www.snb.ca/e/6000/6600e.asp

- If you are suing more than one Defendant, include information on all of them.
- If you are not sure who to name as the Defendant(s) in your claim, you should seek a lawyer's advice.
- Fill in the address where the Defendant(s) lives, if known.
- Give the Defendant(s)'s mailing address (if different from the one above).
- State how much money you are claiming against the Defendant(s) for debt and/or damages. Describe the personal property you want returned and the estimated value of that property.
- If you are giving up (abandoning) some of the claim, you must state the amount over \$12,500 that you are giving up.
- Include in your claim any expenses you may be responsible for, but wish to get back such as expenses to repay Medicare, to cover the income you lost because of injuries or to rent a car while your car was being fixed.
- Prepare a short explanation (particulars) of your small claim.
- Let the Clerk's Office know if your address changes after you file your claim.

Step 2: File the Claim

To file your claim, take or send the **original** Claim, along with enough copies for each Claimant and each Defendant, and the **required filing fee**, to the Clerk's Office:

Filing Fees

Claims for \$3,000 or less: **\$50 fee**
Claims over \$3,000: **\$100 fee**

For more information

on fees and payment options, see
Section 4: What All Parties Should
Know (pg.27)

- In the Judicial District where the Defendant(s) lives; or
- In the Judicial District where the incident happened.

There are some exceptions:

- In the case of a claim against a corporation, partnership or unincorporated association, you may file your claim with the Clerk's Office in any Judicial District in New Brunswick where the corporation carries on business;
- In the case where no Defendants live in New Brunswick, you may file your claim with the Clerk's Office in the Judicial District where you live.

Unsure? If you are not sure of the Judicial District of the Defendant, check with the Clerk's Office – the telephone numbers are at the back of this booklet.

When the Clerk's office receives the original Claim, a staff member will mark down a **small claim number** and date on the form. This shows that you have **filed your claim**. The Clerk's office will keep the original and return your stamped copy, along with enough stamped copies and blank **Response forms (Form 2)** for you to serve on each Defendant. If you send your Claim and required copies by mail, be sure to include a **self-addressed envelope** so the Clerk's office can return these documents to you.

Note: The number that the Clerk's office marks on your Claim form is important. You must refer to this number when you call or write the Clerk's Office for information about your claim.

Step 3: Serve the Claim

As the Claimant in a small claims action, you must serve each Defendant named in the Claim with a stamped **copy of the Claim** and a blank **Response (Form 2)**. These are documents that the Clerk's office returned and provided to you when you filed the claim. Service means giving the Defendant(s) a copy of these documents.

See **Section 4, What All Parties Should Know** for information on your options to serve the documents and to obtain proof of service (pg.29). Or, ask the Clerk's Office for the fact sheet on **Serving Documents**.

You must serve the Claim on the Defendant(s) **within one year after the date of filing it**.

Extension: If you cannot serve the documents within one year of the date you filed the Claim, you will have to ask the court for an extension for the time for service by completing and filing an **Application for Order by Small Claims Court (Form 23)**.

Step 4: Wait for the Defendant(s) to Respond

After serving the Claim on the Defendant(s), you must wait for the Defendant(s) to respond. A Defendant has **30 days to respond** to the Claim. During that time, the following could happen:

- **You and the other parties agree to a settlement:**

See page 33 for more information on settling a claim, counterclaim or third party claim before a hearing.

- **The Defendant admits the claim:**

If the Defendant admits the claim and pays you (the Claimant) and/or returns the personal property, within 30 days of being served, you should file a **Notice of Withdrawal by Claimant (Form 5A)** with the court **and** serve a copy of the notice on all the other parties.

Note: If the Defendant files a Response admitting to the claim in full, but does not pay it, you can file a **Request for Judgment (Form 6)** and the Clerk will enter a **Default Judgment**.

(See page 12 for more information on default judgments)

- **The Defendant admits the claim for debt and requests a payment hearing:**

Where a Defendant admits to the debt owing, and the Claimant

agrees to a payment hearing, the Clerk will let all parties know the time, date and location of the hearing.

Note: If you consent to the payment hearing, you cannot file a Request for Judgment until after the payment hearing is over. At the payment hearing the parties may sign a **Payment Agreement (Form 10)**. If the Defendant pays the claim according to the agreement, there will be no Judgment entered against him or her. However, if the Defendant does not make payments according to the agreement, you can then file a Request for Judgment and the Clerk may enter a **Default Judgment (Form 7)** against the Defendant for the amount of the claim not paid, as well as costs and interest, where applicable.

- **The Defendant files a Response denying all or part of the claim:**
If the Defendant files a Response denying all or part of the claim, the Clerk's Office will send a copy to the Claimant, schedule a hearing and notify all parties.
- **The Defendant files a Response that includes a claim against you:**
If the Defendant denies all or part of the Claim and also believes that you owe him or her for debt, damages or the return of personal property, the Defendant can file a claim against you. This is called a counterclaim and it is part of the Response form. If this happens, you can dispute the counterclaim at the hearing. The counterclaim can only be heard in Small Claims Court if it does not exceed \$12,500.

Step 5: Wait for the Clerk's Office to Notify you of the Hearing

When a claim is disputed and all of the parties named in the action have filed their respective claims or defences, or the time for filing any claims or defences has passed, the Clerk's Office will schedule a hearing. All parties will receive a **Notice of Hearing (Form 11)** telling them the date, time and place the hearing will take place.

Note: You and the other parties can settle any time before the hearing.

B. Getting a Default Judgment

If the Defendant does not settle the matter with you or file a Response within 30 days of being served with the Claim, you may be able to ask for a **default judgment**. However, requesting a default judgment depends on the type of claim and whether there was a counterclaim or claim against a third party.

- **Your Claim was for Debt and/or Return of Personal Property**

If the Defendant has not filed a Response within the required time, you can fill out and file a **Request for Judgment (Form 6)** with the Clerk's Office. Remember, you must provide proper proof of service of the Claim in order for the Clerk to enter a Default Judgment. If the Claim was for debt and/or return of personal property, the Clerk will include the cost of filing fees and reasonable costs of service. In addition to costs, a judgment for debt may also include interest due to the date of the judgment.

- **Your Claim was for Damages**

If your request for Judgment is on a claim that includes **damages**, the Clerk will enter an **Interim Judgment** on the claim and schedule a "damages hearing" before an Adjudicator. At this hearing you must prove the amount of damages you suffered. You should provide receipts, estimates, medical reports, or any documentation you have that helps show the damages you suffered. The Defendant may or may not be in attendance at the hearing.

NOTE: Where a Defendant did not respond within 30 days and a default or interim judgment was entered, a Defendant may make an Application to the Court to set aside the default or interim judgment and defend the claim.

See section 4: Setting Aside a Judgment - page 39

After the damages hearing the Adjudicator decides the amount of damages to which you are entitled, if any. The Adjudicator provides his or her decision to the Clerk on your damages and the costs awarded. The Clerk enters a Default Judgment.

- **On a Counterclaim or Third Party Claim**

You **cannot** ask for a default judgment on a counterclaim or a third party claim, except at trial or by applying to an Adjudicator using **Form 23**.

C. Other Important Information

You should read Section 4 carefully for more information on the following, including how to withdraw a claim and how to prepare for a hearing:

Fees and Payment Options

Serving Documents

Changing Your Mind or Correcting an Error after Filing Documents

Withdrawing the Claim after Filing Documents

Settling a Claim, Counterclaim or Third Party Claim Before a Hearing

Scheduling the Hearing

Preparing for the Hearing

Setting Aside a Judgment

Judgment Enforcement

Appeals

Satisfaction of Judgment

Section 2: What Defendants Should Know

Section 2: What Defendants Should Know

A. Responding to a Claim

If you are served with a Claim, you should read it carefully to decide how to proceed.

If you decide to deny all or some of the claim, you must file the Response with the Clerk's Office, along with the required fee, within 30 days of receiving the Claim.

If you wish to dispute some, or all, of the claim, including making a counterclaim, **you must file a Response within 30 days of receiving the Claim. If you do not respond, a judgment may be entered against you without further notice to you.** If you had a good reason for not filing the Response, you may be able to apply to court to request that the judgment be set aside (**Application for Order by Small Claims Court -Form 23**). See Section 4 on page 39 for more details on setting aside a judgment.

Check Your Insurance!

Before you respond, check with your insurance company to see if you have insurance to cover the claim. Your insurer may want to have a copy of the Claim. Sometimes an insurer will take over the case on your behalf. The insurer, or their lawyer, will decide whether to pay the claim or to dispute it.

Consider Your Options:

▪ Admit the Claim

You can admit and pay the claim or return the personal property directly to the Claimant. If you do this within 30 days of being served with the claim, you do not have to file a Response with the Court. You should ask the Claimant to file a **Notice of Withdrawal by Claimant (Form 5A)** with the Court. You should get a signed receipt from the Claimant stating you paid the debt or returned the property. The receipt should state when and how much you paid, and for what debt (or what property was returned). The Claimant must serve you with a copy of the Notice of Withdrawal. You should check with the Clerk's Office if you do not receive one.

- **Settle the Claim**

If you and the Claimant reach an agreement for some or all of the claim, you should both complete and sign a **Settlement Agreement (Form 13)**. On this form you will clearly set out all the details of the settlement. If you are able to settle, even after filing a Response, a judgment will not be entered against you as long as you meet the terms of the Settlement Agreement. However, if you do not carry out the terms of the Agreement, then the Claimant can still apply to the Clerk for a judgment on the Agreement.

- **Admit all of the Claim and request a payment hearing**

If you admit the claim, but cannot pay it all at once, you can complete a Response form and request a payment hearing. You must file the Response with the Clerk's Office. There is no fee. The Clerk's Office will contact the Claimant with your request. If the Claimant agrees to a payment hearing, the Clerk's office will send the parties a **Notice of Payment Hearing (Form 9)** with the time, date and location of the payment hearing. The purpose of the hearing is to set a payment schedule acceptable to both parties. At the payment hearing, the Clerk will ask you about your income, assets and debts. You must bring any documents to the hearing that relate to your ability to pay, including the previous year's income tax return and a statement of current earnings.

If you and the Claimant reach an agreement during this hearing, you both sign and file a **Payment Agreement (Form 10)** with the Clerk. If you pay the claim according to the agreement you can avoid a Judgment against you. However, if you do not make payments according to the agreement, the Clerk may still enter a **Default Judgment (Form 7)** against you for the amount of the claim not paid. The judgment may also require you to cover the Claimant's filing fees, costs of service and interest, where applicable.

- **Admit some of the Claim**

You can dispute some of the claim by completing the Response form and stating where you agree and disagree with the claim and why. You must file the Response with the Clerk's Office within 30 days of receiving it, along with the **\$25 filing fee**.

The Claimant may agree to settle for the amount admitted in your Response. If this is the case, you would both complete and file a Settlement Agreement - see on page 33. However, if the Claimant does not agree to settle for the amount which you admit, he or she may continue the small claims action.

- **Deny the Claim**

You can deny the claim. To deny the claim you must set out the reasons on the Response form and file it with the court along with a **\$25 fee**. See page 18 on **Defending a Claim**.

- **Deny the Claim and make a Counterclaim**

If you deny all or part of the claim **and** you also believe the Claimant owes you money or has personal property belonging to you, you can file a claim against the Claimant. **This is called a Counterclaim**. A Counterclaim in Small Claims Court may be for an amount of money and/or personal property with a combined value of **up to \$12,500**. See page 18 on **Defending a Claim**.

If the amount of the Counterclaim is **\$3,000 or less**, the filing fee is \$50. If the amount of the Counterclaim is **over \$3,000**, the filing fee is **\$100**. [Note: This is the maximum charge for filing a Response and Counterclaim]

Fees & Payment Options

See **Section 4: What All Parties Should Know (page 27)** for more

detailed information on fees and other expenses you may encounter, such as witness allowances.

You will also find information on the various methods for payment.

What if my counterclaim is over \$12,500?

If the amount you wish to claim in your Counterclaim is over \$12,500, you can:

- Apply for a transfer of the claim to the Court of Queen's Bench (Form 22); or,
- Give up the amount of your claim over \$12,500 in which case, the Counterclaim would be heard in Small Claims Court.

- **Deny the Claim and make a Third Party Claim**

If you think someone else is responsible for all, or part of the claim, you can file a Response that shows you disagree with the claim and you can file a claim against the person you think is responsible. This is called a Third Party Claim. See page 19 on Making a Third Party Claim.

You should discuss these options with a lawyer

B. Defending the Claim

If you deny responsibility for all, or part, of the claim, and you decide to defend the claim, you would follow these steps:

Step 1: Complete a Response

To defend a claim, you must fill out the **Response (Form 2)** which was served on you with the Claim. The Response provides a space for you to explain what happened and why you are not responsible for the claim. If you admit some parts of the claim, but dispute other parts, you should explain where you agree and where you disagree. You should indicate on the form whether you wish to proceed in English or French. Be sure to fill out your complete contact information. If your contact information changes after you file your Response let the Clerk's office know.

If you wish also to make a claim against the Claimant, you must fill out the **Counterclaim** which you will find in Section B of the Response. For information on making a third party claim, see page 19.

Step 2: File a Response (including a Counterclaim if appropriate)

Note: If you do not file a Response within 30 days of receiving the claim, the Claimant can ask the Clerk to enter a judgment against you without further notice to you.

To file a Response, you must take or send the completed **Response Form (Form 2)** to the Clerk's Office in the Judicial District where the Claimant filed the Claim. The judicial district is noted at the top of the Claim. When filing the Response, you must **attach copies of the Response for each Claimant** and include a **\$25 fee**. To file a Counterclaim, you must write down the details of your Counterclaim in **Section B** of the **Response Form**. You must file the Response, accompanied by the appropriate fee, within **30 days** of receiving the Claim.

Step 3: Wait for the Clerk's Office to Notify you of the Hearing

You do not have to serve the Response or Counterclaim on the Claimant. Once you have filed the Response, the Clerk's Office will send the Claimant a stamped copy of the Response which includes the Counterclaim. Unless you settle with the Claimant before the hearing, the Clerk's office will set a date, time, and place for the hearing of the original Claim and notify all of the parties by sending them a **Notice of Hearing (Form 11)**. Generally, the Adjudicator will deal with the Counterclaim, if there is one, at the hearing of the original claim.

Note: You and the other parties can settle any time before the hearing.

C. Making a Third Party Claim

If you have filed a Response and you believe someone else is responsible for all or part of the claim, you can file a claim against that third party by taking the following steps.

Step 1: Complete a Third Party Claim

You must get a **Third Party Claim (Form 3)** from the Clerk's Office. Fill in this form and set out your reasons for making a claim against the Third Party.

Step 2: File a Third Party Claim

You must file a Third Party Claim with the Clerk's Office within **30 days** of receiving the original Claim, along with a **\$50 fee**.

Example of a Third Party Claim

Someone is suing you because you hit their car and caused damage. The accident happened because someone else's car hit yours. You think that the person who hit you should have to pay for the damages to the Claimant's car. You can make a Third Party Claim against that person.

For more information on fees and payment options, see **Section 4: What All Parties Should Know** (page 27).

Include enough copies for each Third Party. The Clerk's Office will return enough stamped copies for you to serve on each of the third parties along with blank **Third Party Response** forms.

Step 3: Serve a Third Party Claim

Once you have filed the Third Party Claim, you have only **15 days to serve** the Third Party with

- a copy of the original Claim,
- a copy of the Response,
- a copy of the Third Party Claim, and
- blank copies of the **Third Party Response (Form 4)**.

For more information about how to serve documents, see Section 4: What All Parties Should Know, page 28, Note: Do not serve the original Claimant with the Third Party Claim. The Clerk's Office will send a copy to the Claimant.

Step 4: Wait for the Third Party to Respond

The Third Party has 30 days to file a Third Party Response in which he or she would defend the Third Party Claim and/or dispute the Claimant's original claim against the Defendant.

Step 5: Wait for the Clerk's Office to Notify you of the Hearing

Unless you settle with the Third Party before the hearing, the Clerk's office will set a date, time, and place for the hearing of the original Claim and notify all of the parties by sending them a **Notice of Hearing (Form 11)**.

Generally, the Adjudicator will deal with the Third Party Claim at the hearing of the original Claim. If this cannot be done, the Adjudicator may decide to hear the Third Party Claim at a later date. If the hearing of the Third Party Claim will cause unreasonable delay, the Adjudicator may order that it proceed as a separate action.

Note: You and the other parties can settle any time before the hearing.

D. Other Important Information

You should read Section 4 carefully for more information on the following, including how to withdraw a claim and how to prepare for a hearing:

Fees and Payment Options

Serving Documents

Changing Your Mind or Correcting an Error after Filing Documents

Withdrawing the Claim after Filing Documents

Settling a Claim, Counterclaim or Third Party Claim Before a Hearing

Scheduling the Hearing

Preparing for the Hearing

Setting Aside a Judgment

Judgment Enforcement

Appeals

Satisfaction of Judgment

Section 3: What Third Parties Should Know



Section 3: What Third Parties Should Know

A. Responding to a Third Party Claim

If you are served with a Third Party Claim, you should read it carefully to decide how to respond.

Consider Your Options:

- **Settle before the hearing:**

A third party may settle a Third Party Claim at any time before the hearing (See page 33). If a settlement is not reached, the Adjudicator will generally deal with the Third Party Claim at the hearing of the original Claim.

or

- **Dispute the original Claim against the Defendant:**

To dispute the Claimant's original claim against the Defendant, you must complete the **Third Party Response (Form 4)**.

and/or

- **Defend the Third Party Claim Against You:**

To defend the Third Party Claim, and/or dispute the Claimant's original claim against the Defendant, you must complete the **Third Party Response**.

B. Defending a Third Party Claim

Step 1: Complete the Third Party Response

If you wish to defend the Third Party Claim against you, or dispute the Claimant's original Claim against the Defendant, you must complete the **Third Party Response (Form 4)** that was served on you. On this form you can explain what happened and why you are not responsible for the amount being claimed.

Step 2: File the Third Party Response

Note: You must file a Third Party Response within 30 days of receiving it. If you do not, a judgment may be entered against you without further notice to you.

To file the completed Third Party Response form, take or send it to the Clerk's Office, along with a filing fee of **\$25**. You must also include enough copies for the other parties. You must file the Third Party Response within 30 days of receiving it.

Fees & Payment Options

See **Section 4: What All Parties Should Know (page 27)** for more detailed information on fees and other expenses you may encounter, such as witness allowances.

You will also find information on the various methods for payment.

Step 3: Wait for the Clerk's Office to Notify you of the Hearing

You do not have to serve the Third Party Response on the other parties. The Clerk's Office will send a stamped copy of the Third Party Response to the Claimant(s) and the Defendant(s) who filed the Third Party Claim. Once all the parties named in the action have filed their respective claims or defences, or the time for filing any claims or defences has passed, the Clerk's Office will schedule a hearing. All parties will receive a **Notice of Hearing (Form 11)** telling them the date, time and place that the hearing will take place.

If you and the other parties do not reach a settlement before the hearing, the Adjudicator generally will deal with the Third Party Claim at the hearing of the original Claim. If this cannot be done, the Adjudicator may decide to hear the Third Party Claim at a later date. If the hearing of the Third Party Claim will cause unreasonable delay, the Adjudicator may order that it go ahead as a separate action.

Note: You and the other parties can settle any time before the hearing.

D. Other Important Information

You should read Section 4 carefully for more information on the following, including how to withdraw a claim and how to prepare for a hearing:

Fees and Payment Options

Serving Documents

Changing Your Mind or Correcting an Error after Filing Documents

Withdrawing the Claim after Filing Documents

Settling a Claim, Counterclaim or Third Party Claim Before a Hearing

Scheduling the Hearing

Preparing for the Hearing

Setting Aside a Judgment

Judgment Enforcement

Appeals

Satisfaction of Judgment

Section 4: What all the Parties Should Know

Section 4: What all the Parties Should Know

This section offers general information and explains procedures that may be relevant to the Claimant, Defendant and Third party, including information on preparing for a hearing.

A. Fees and Payment Options

Action *	Filing Fee
Claim where total amount is \$3000 or less.	\$50
Claim where total amount is over \$3000	\$100
Response (by Defendant or Third Party) admitting the entire claim	\$0
Response (by Defendant or Third Party) denying all or part of a claim	\$25
Response including Counterclaim where total amount is \$3000 or less	\$50
Response including Counterclaim where total amount is over \$3000	\$100
Third Party Claim	\$50
Appeal in Court of Queen's Bench (of an Adjudicator's ruling)	\$75
Appeal in the Court of Queen's Bench (of the Adjudicator's decision) - Form 16	\$75
Appeal in the Court of Appeal (of a decision of the Court of Queen's Bench)	\$50

Payment Options

You can pay the filing fees by certified cheque or money order (payable to the Minister of Finance).

You can pay in cash, or by VISA, Mastercard or Interac, if you file your documents in person at the Clerk's Office.

Personal cheques will NOT be accepted.

***waiver** – Where a claimant obtains a **default judgment** in the Small Claims Court for the return of personal property, but is unable to recover the personal property and subsequently brings an action for damages for the loss of that property, the filing fee will be waived

Other Matters

Commissioner of Oaths

Photocopy of a document

Certified copy of a document

Witness allowances
(the person calling the witness must pay a witness allowance to each witness they summon at the time the Summons is served.)

Service of documents

Costs

Check cost with a lawyer or other Commissioner of Oaths in your area

at Clerk's Office \$0.50 per page
Check costs for private copying (library, SNB, Office Supply Store, etc.)

\$10

\$35 for each full day
\$18 for each half day.
20¢ per kilometre to and from the hearing, \$30 overnight accommodations (if necessary).

Check with Sheriff's Office or private process serving company. Check with Canada Post or a private courier for costs for prepaid registered mail or prepaid courier

B. Serving Documents

Sometimes a person involved in a small claims action must serve documents on another party. The other party could be, for example, the Defendant(s), Third Parties or witnesses. Serving documents simply means giving them to the other party - but you must follow the rules that are set out in the Regulations (Section 50) under the **Small Claims Court Act**. You can view these Regulations free of charge online at www.gnb.ca. Click on "**Acts and Regulations**" at the bottom of the page. The following information should help you get started.

Step 1: Decide How to Serve

If you are required to serve documents on another party, you may consider the following options:

Personal Service: This means that someone, who is referred to as the server, gives the documents **in person** to the other party. There are various ways that you can do this:

- Contact the **Sheriff's Office** to serve the documents for a fee.
- Hire a company that serves documents. Looking under "**Process Servers**" in the yellow pages.
- Ask a **friend or family member** to do it.
- Serve the documents **yourself**.

Prepaid registered mail or prepaid courier: You may decide to use prepaid registered mail or prepaid courier to serve documents on the other party. When you use the Registered Mail service at Canada Post, they can provide confirmation that the item arrived at its destination. Insist that the only person who can sign for it is the person being served.

Step 2: Get Proof of Service

Whichever method you choose, you **MUST** provide proof of service to show that the party actually received the documents. Proof of service that is acceptable to the Court depends on which method you chose.

Personal Service: To prove personal service, the server must swear or affirm and sign an **Affidavit of Service (Form 20)** in front of a **Commissioner of Oaths**. The affidavit states that the server gave the documents to the party to be served. After the server has signed it, the Commissioner of Oaths will then sign and date the form.

If the party to be served is not at home when the server attempts service, the server may leave a copy of the documents with a person in the home who appears to be an adult who lives with the party, and then mail a copy to the person to be served by ordinary mail the same or next day.

What happens if I don't have proof of service?

If you cannot prove service on a party, then you will not be able to get a judgment.

If you cannot prove service of a Summons on a witness and the witness does not show up, the Adjudicator may continue the hearing without your witness.

Prepaid Registered Mail or Prepaid Courier:

To prove service by prepaid registered mail or prepaid courier, you must swear and sign an Affidavit of Service, accompanied by any one of the following documents which have been returned to you:

- **Original Acknowledgment of Receipt card** or any other acknowledgement of receipt in writing or a copy of it, signed by the person being served.
- **A post office or courier receipt** or a copy of it showing the signature of the person who was served;
- **Confirmation of delivery in writing from the courier.** This could include written confirmation printed from the Internet Web site of the courier that the document was delivered, the date and the name of the person who signed for it.

Tip for getting confirmation

When you send your package by prepaid registered mail by Canada Post, you can get a copy of the signature and the date of delivery by calling 1-888-550-6333, though some restrictions may apply.

Canada Post can fax the signature to you or you can view the signature online at:

www.canadapost.ca

It is also possible to get a hardcopy of the signature from Canada Post, if it becomes necessary, for a fee.

Step 3: File the Affidavit of Service

Once you complete your **Affidavit of Service**, you must sign and swear/affirm to its truthfulness in front of a **Commissioner of Oaths**. You may be able to find a Commissioner of Oaths at:

- your workplace
- Court Services
- Lawyer's Office
- Service NB Centres or Revenue Offices

The next step is to file the Affidavit of Service at the Clerk's Office. You must also attach copies of the document that were served.

What is a Commissioner of Oaths?

Someone who has the power to witness a sworn statement. All lawyers are Commissioners of Oaths. A number of other people may also be Commissioners of Oaths.

The Clerk's office will put these documents in your file to prove that the other parties involved in your case received the documents you filed.

C. Making Corrections after Filing Documents

Any of the parties to the action may make corrections to their forms after filing them. To do this, they must amend their Claim, Response, Counterclaim, Third Party Claim, or Third Party Response. However, if you amend your form, you **MUST** file and serve the "Amended" documents at least **14 days before the scheduled hearing**, unless the Court allows you a shorter period.

To amend your form, you must:

- clearly underline any additions;
- identify any other changes by crossing out words you wish to delete;
- write "Amended" on the form;
- file the amended copy of the form with the Clerk's office at least 14 days before the hearing;
- serve copies of the amended document on all the other parties, including anyone noted in default.

Once you have served the other parties, they are not required to amend their documents.

D. Withdrawing the Claim after Filing Documents

There are a number of situations where a party may wish to withdraw his or her Claim, Counterclaim or Third Party Claim. For example, the Defendant may admit and pay the claim prior to the hearing, or the parties may settle their dispute and draft a **Settlement Agreement**.

Withdrawing a claim BEFORE a Response or Third Party Response has been filed:

You can withdraw all or part of your Claim, Counterclaim or Third Party Claim against any party at any time as long as no Response or Third Party Response has been filed.

- **To withdraw the Claim:** The Claimant would fill out a **Notice of Withdrawal by Claimant (Form 5A)**, file it with the Clerk's Office and serve a copy of it on the other parties.
- **To withdraw a Counterclaim or a Third Party Claim:** The Defendant would fill out a **Notice of Withdrawal by Defendant (Form 5B)**, file it with the Clerk's Office and serve a copy of it on the other parties.

Withdrawing a claim AFTER a Response or Third Party Response has been filed:

After the Defendant or Third Party has filed a response, you can only withdraw all or part of your claim with the written consent of all the parties. The **Notice of Withdrawal by Claimant** and **Notice of Withdrawal by Defendant** both include sections that the parties would complete to show consent. Or, you may apply to the Court for permission to withdraw the claim.

No Further Action: The written consent of the parties or the permission granted by the Court may state that no further action can be brought on the Claim, Counterclaim or Third Party Claim. However, if it does not state this, then it would be possible for a party to take action at a later date.

Note: If the Claimant withdraws the Claim after a Response has been filed that included a Counterclaim, the Defendant has the right to proceed against the Claimant with the Counterclaim.

E. Settling the Claim, Counterclaim or Third Party Claim Before a Hearing

Many small claims, counterclaims and third party claims are settled before a hearing. Parties to a dispute can and should try to settle before the hearing. This can happen any time before a hearing begins.


Some Advantages to Settling

- Both parties can avoid the time and money spent on a hearing.
- The settlement agreement is binding on both parties.
- The parties can file the agreement with the Court if they wish.
- If the Defendant admits to part of the Claim, the parties may agree on this amount as payment for the whole Claim.
- The parties can negotiate a payment schedule that is agreeable to all.
- A judgment will not be entered against the Defendant.

Remember: Write down the terms of any agreement you make. Be sure to date the agreement and have each party sign it.

Options for Settling:

- **Parties agree on a settlement:** If the parties can reach an agreement for some, or all, of the claim, they can complete and sign a **Settlement Agreement (Form 13)** which includes the date and sets out the details of the settlement. When the terms of the Agreement have been met, a **Notice of Withdrawal (Form 5A or 5B)** can be filed with the Court and served on the parties.
- **Mediation:** Mediation may also be a way that parties can get help to settle a claim. A mediator is a person whose job it is to help people settle disputes. The parties would be responsible to pay their own expenses for mediation. Look in the yellow pages for a list of private mediators. Again, any agreement reached should be set out in a **Settlement Agreement (Form 13)** and signed by all parties. The agreement may be filed with the Clerk's Office.

- 
- **Settlement before the hearing:** Before starting the hearing, the Adjudicator will ask the parties if they have tried to settle. If they have not, the Adjudicator will give them an opportunity to settle before starting the hearing. If a settlement is reached at that time, the parties could do any, or all, of the following:
 - Ask the Adjudicator to help them prepare a **Settlement Agreement (Form 13)** with details of the settlement. Both parties would sign it.
 - Ask the Adjudicator to direct the Clerk to enter **Judgment (Form 14)** reflecting the settlement agreement
 - File the Settlement Agreement with the Court, if the parties wish.
 - File notices of withdrawal, as appropriate.

If parties cannot reach an agreement, the Adjudicator will hear their case.

F. Scheduling the Hearing

If the Defendant filed a Response denying all or some of the claim, and the parties have been unable to reach a settlement, the Clerk's office will schedule a hearing. The hearing is only scheduled after all of the parties named in the action have filed their respective claims or defences, or the time for filing any claims or defences has passed.

The Clerk's office will send all the parties a **Notice of Hearing (Form 11)** at least 20 days in advance telling them the date, time and place that the hearing will take place. An experienced lawyer called an Adjudicator will hear the evidence and decide the case.

It is important to attend the hearing. If you have a good reason why you cannot attend, contact the Clerk's office as soon as possible to discuss the matter.

G. Preparing for the Hearing


It is important to prepare for the hearing whether you are the Claimant, Defendant or a Third Party. You must gather your evidence, decide whether to call witnesses, and so on. Here are some tips for preparing for the hearing.

Tips on Preparing for the Hearing

- **Gather all documents concerning your case.** These could include receipts, contracts, estimates of damages, medical reports, photographs, cancelled cheques, and I.O.U.s.
- **Organize your thoughts** by jotting down what happened and when it happened. This will help you present your side of the story clearly at the hearing. Prepare a detailed outline of what you think the Adjudicator needs to know and the facts that back it up. This will help you decide how to present those facts at the hearing.
- **Consider using witnesses** to help prove your case. A witness is anyone with firsthand knowledge or information about the case. Any party can have witnesses.
- **Contact any witnesses** you want to give evidence to support your case. If you do call witnesses, talk to them beforehand. Decide what you will ask them at the hearing. You should have a good idea what your witnesses will answer, otherwise their answers may not help you. It is your responsibility to let each witness know the time and place of the hearing in advance. Tell them if you want them to bring anything to the hearing with them.
- **Summon witnesses** if you are worried they will not show up for the hearing.

Do the parties need a lawyer?

It is always a good idea to get legal advice about your case. You can have a lawyer or an articulated student at law represent you at the hearing. If you wish, you can present your own case. Or, you may ask the Adjudicator's permission to have an unpaid agent (such as a friend or relative) assist you. An officer, partner or employee may represent a corporation or a partnership.



A **Summons to Witness (Form 12)** requires a witness to come to the hearing. The summons will tell the witness when and where to appear and what, if anything, they need to bring with them. Fill out this form, have the Clerk sign it. You must then serve it on the witness. (See on page 28 for a reminder on how to serve someone). The person calling the witness must pay a **witness allowance** to each witness they summon at the time the Summons is served. The amount payable is \$35 for each day or \$18 for a half day. You also have to pay for any travel costs, at a rate of 20¢ per kilometre to and from the hearing, and \$30 for overnight accommodations (if necessary).

H. At the Hearing

The small claims hearing is informal, but similar to a court proceeding. The Adjudicator hearing the case may examine witnesses, ask questions, hear and receive evidence, award costs, decide disputes, and so on. The Adjudicator will start by asking the parties if they tried to settle the claim. If appropriate, the Adjudicator can give the parties time to reach an agreement before conducting the hearing. If the parties reach an agreement, the case ends without a hearing. If the parties cannot reach an agreement, the Adjudicator will hear their case. (See page 33 for details about settlement agreements.)

At the hearing, all parties will present the evidence that supports their claim or defence. The Adjudicator will decide the case (immediately or at a later date) and the successful party may recover costs.

Presenting Evidence...

At the hearing, the Adjudicator will hear evidence from the Claimant(s), Defendant(s), and Third Parties. This could include a change to the Claim, Response, Counterclaim, Third Party Claim or Third Party Response. The Adjudicator may allow any party to change their claims at the hearing. The evidence is usually given in person, under oath.

Evidence might include witnesses or any documentation, photographs, receipts, contracts, estimates of damages, cancelled cheques, and I.O.U.s, that are relevant to the case. Each party has a turn presenting their evidence and witnesses. Here is an overview of what happens:

- **Claimant(s) presents case first...**

First the Claimant presents his or her evidence. Afterwards, the Defendant(s) can ask questions of each witness if they want. Next a Third Party who is disputing the original Claim can ask questions.

If a witness cannot come to the hearing, the Adjudicator may allow the evidence in a sworn written statement.

- **Defendant(s) presents case next...**

Once the Claimant finishes presenting evidence, the Defendant can present his or her case. Afterwards, the other parties have a chance to ask questions. Finally, the Third Party (if there is one) can present evidence and the Defendant and Claimant can ask questions.

- **Counterclaim heard after Claim...**

After hearing the evidence in the Claim, the Adjudicator generally will hear the Counterclaim (if there is one). In this case, the Defendant in the original Claim presents evidence first and then the Claimant can ask questions. The Claimant then presents his or her evidence and the Defendant can ask questions.

Hearing Third Party Claims

The Adjudicator will generally deal with the Third Party Claim at the hearing. However, if this cannot be done, the Adjudicator may decide to hear the Third Party Claim at a later date. If the hearing of the Third Party Claim will cause unreasonable delay, the Adjudicator may order that it proceed as a separate action.

Consequences of failing to appear at a hearing

If any party does not show up for the hearing:

- The Adjudicator may hear and decide the case without hearing that party's side of the story.
- A Claimant may have his or her case dismissed, lose the case, or have a judgment made against him or her on a Counterclaim.
- A Defendant may have a judgment made against him or her. If there was a Counterclaim or Third Party Claim, it may be dismissed.
- A Third Party may have a judgment made against him or her.
- The Adjudicator could adjourn the hearing and set another date to hear the case.

If the Adjudicator sets another date for the hearing, any party that does not show up will have his or her claim dismissed. The Adjudicator would then hear the claims of the parties in attendance.

▪ The Adjudicator's Decision

Based on the evidence presented at the hearing, the Adjudicator will decide the case. When the Adjudicator has reached a decision, he or she will file the written decision with the Clerk's office who will enter the judgment. The Clerk will send copies of the decision to all parties, no later than six months after the hearing.

The judgment is effective on the date the Adjudicator files the written decision with the Clerk.

▪ Recovering Costs

The successful party may recover costs from the other party. These costs may include:

- filing fees, service fees, witness allowance fees paid to witnesses,
- fees resulting from the adjudicator setting aside a default judgment,
- fees for a transcript (if there is an appeal).

Note: The Adjudicator can award costs (up to \$500) against a party who unreasonably brings or defends a claim. The successful party is also entitled to interest on the judgment beginning the day after the Adjudicator files the judgment. The rate of interest is set as 7% per year.

I. Setting Aside a Judgment

There are some cases where a party can apply to the Court to set aside a judgment. In such cases, there must be a good reason to do so. In the following circumstances you may apply to have a judgment set aside.

Where a Defendant did not file a Response within 30 days

A Defendant who did not file a Response within 30 days of receiving the Claim may have a Default or Interim Judgment entered against him or her. If the Defendant had good reason for not filing a Response, he or she can apply to ask the Adjudicator to set aside the judgment. To do this, the Defendant must:

- Complete the **Application for Order by Small Claims Court (Form 23)**. On this form the Defendant tells the Court what kind of order he or she is requesting;
- Complete an **Affidavit to Set Aside a Default or Interim Judgment (Form 8)**. On this form the Defendant must state the date that he or she received the claim (if they got it) and the date he or she found out about the Judgment. The Defendant must also explain the reasons why he or she did not defend the claim within the 30 day time limit. The form also asks the Defendant to set out the basis for defending the claim. **NOTE: The Defendant must take the Affidavit to a Commissioner of Oaths to witness his or her signature;** and
- Complete the **Response (Form 2)** and attach it to the Affidavit;

- File these forms (the Application, the Affidavit, and the Response) with the Clerk's Office;
- Serve copies of all these forms, on the other parties at least 10 days before the scheduled hearing of the application; and
- Provide the court with proof of service.
(See page 28 for information on Serving Documents)

If the Adjudicator accepts the reasons and believes the Defendant may have a defence, the Adjudicator can set aside the judgment and schedule a hearing of the claim. The Clerk's office would tell the parties of the date, time and place of this hearing.

or

If all the parties consent, a Clerk may set aside a default or interim judgment and schedule a new hearing of the claim.

Where a party did not go to the hearing

A party may have good reasons for not going to the hearing. An adjudicator will schedule a hearing to decide if the reasons are good enough to have the judgment set aside. To apply to have a judgment set aside in this case, a party must:

- Complete the Application for **Order by Small Claims Court (Form 23)** in which you must tell the Court the kind of order you are applying for;
- Complete the **Affidavit to Set Aside a Judgment after a Hearing (Form 15)** explaining why you did not go to the hearing;
- File both these forms with the Clerk's office; and
- Serve the Application and Affidavit on all parties **at least 10 days** before the scheduled hearing of the application.

The Adjudicator can set aside the judgment if satisfied with the reasons of the applicant and restore any dismissed claims. If this happens, the Adjudicator will order a new hearing. If a new hearing is ordered, the Adjudicator would file the order with the Clerk's office who would schedule a new hearing and notify the parties of the date, time and place of this hearing.

J. Judgment Enforcement

If you receive a monetary judgment:

- The court will send each party in the action a copy of the formal **Judgment (Form 14)** which sets out any monetary amount that is owed.
- The judgment may include written direction of the Adjudicator about the return of personal property.

The party who gets a monetary judgment is now called the **judgment creditor**.
The unsuccessful party is called the **judgment debtor**.

While the judgment is an order of the court, it is not a guarantee of payment. It is not the court's responsibility to collect the money or return the property. The judgment creditor is responsible for collecting the amount of the judgment. Often the judgment debtor will voluntarily pay the amount owing or return the property.

In some cases, the successful party will have to use further legal methods to collect the judgment such as registering the judgment with the Personal Property Registry System. There are fees for these services.

For more information on collecting a judgment, see the booklet *Judgment Enforcement*, available from Court Services or Public Legal Education and Information Service of New Brunswick (www.legal-info-legale.nb.ca).



K. Appeals

- **To appeal a ruling of the Adjudicator**

If one of the parties to a small claims action is not satisfied with a ruling made by an Adjudicator on an application, such as a request for an extension of time or setting aside a default judgment, he or she can appeal. The party who wishes to appeal a ruling of the Adjudicator must do so by completing and filing with the Court of Queen's Bench, a **Notice of Appeal by Application (Form 17)**.

You must file the Application **within 10 days of the date that the Adjudicator filed the decision**. On this form you must state what ruling you are appealing and the reasons. There is a **\$75 filing fee** for this appeal.

- **To appeal the decision of the Adjudicator**

To appeal the decision of the Adjudicator, you must apply to the Court. An appeal of the Adjudicator's decision is by a new hearing at the Court of Queen's Bench: Trial Division. You will have to fill out the **Request for Appeal by Way of New Hearing (Form 16)**. You must file it with the Clerk's office **within 30 days of the date that the Adjudicator filed the decision**.

The Clerk of the Court of Queen's Bench will get any documents needed, set a date for the appeal and tell the parties the date, time and place of the hearing. At the new hearing the parties will present all documents and witnesses to a Judge of the Court of Queen's Bench who will listen to all the evidence and make a decision. If appropriate, the Clerk will enter a judgment. There is a **\$75 fee for this appeal**.

- **To appeal the decision of the Court of Queen's Bench**

A party may appeal a decision made at a new hearing at the Court of Queen's Bench to the Court of Appeal. A party must base this appeal on an error of law and have the court's permission to appeal.

An appeal to the Court of Appeal is complicated and expensive. Talk to a lawyer to make sure there is reason to appeal. See the fact sheet: **Appealing a Decision of the Court of Queen's Bench**. It is available at the Clerk's Office or from Public Legal Education and Information Service (www.legal-info-legale.nb.ca).

L. Satisfaction of Judgment

If the terms of the judgment have been met, for example, the debt has been paid in full, a **Memorandum of Satisfaction of Judgment (Form 26A) or (Form 26B)** may be filed with the Court to prove that this is the case.

- If the person entitled to the benefit of the judgment files the Memorandum, he or she must also file the affidavit swearing to the contents and signature in Form 26A.
- If the Defendant makes an application for **Order by Small Claims Court (Form 23)** certifying a judgment, the Defendant must show that he or she has satisfied the terms of the judgment. The application must also be accompanied by proof of service on the person entitled to the benefit of the judgment.
- Where the Adjudicator certifies that the judgment is satisfied, he or she will file a Memorandum (Form 26B) with the Clerk.
- The Clerk's office will enter a Satisfaction of Judgment in the records of the Court.

Getting More Information

Booklets and Fact Sheets

Public Legal Education and Information Service of New Brunswick (PLEIS-NB) has created other resources that provide more details on the following related topics:

- Service of Documents
- Limitation Periods
- Actions Against the Crown
- Appeals
- Judgment Enforcement

You can get copies of these resources at the Clerk's Office or by contacting PLEIS-NB at pleisnb@web.ca. They are also available online on the PLEIS-NB website at www.legal-info-legale.nb.ca or at libraries across the province.

Legislation

You can review the full details of the small claims procedures in the Small Claims Act and Regulations. Legislation is available free-of-charge on the government of New Brunswick website at www.gnb.ca. Click on Acts and Regulations at the bottom of the Home Page.

Clerk's Offices

Judicial District of Bathurst (County of Gloucester) Clerk's Office (QBNB)

P.O. Box 5001
254 St. Patrick Street
Bathurst, NB E2A 3Z9
(506-547-2150)

Judicial District of Campbellton (County of Restigouche) Clerk's Office (QBNB)

P.O. Box 5001
157 Water Street City Centre Building, Suite 202
Campbellton, NB E3N 3H5
(506-789-2364)

Judicial District of Edmundston (County of Madawaska)

Clerk's Office (QBNS)

P.O. Box 5001
121 Church Street
Edmundston, NB E3V 1J9
(506-735-2029)

Judicial District of Fredericton (Counties of York, Sunbury & Queens)

Clerk's Office (QBNS)

P.O. Box 6000
427 Queen Street Room 207, Justice Building
Fredericton, NB E3B 5H1
(506-453-2015)

Judicial District of Miramichi (County of Northumberland)

Clerk's Office (QBNS)

The Miramichi Law Courts
673 King George Highway Court House
Miramichi, NB E1V 1N6
(506-627-4023)

Judicial District of Moncton (Counties of Westmorland, Kent & Albert)

Clerk's Office (QBNS)

P.O. Box 5001
Palais de Justice Moncton Law Courts
145 Assumption Blvd.
Moncton, NB E1C 8R3
(506-856-2304)

Judicial District of Saint John (Counties of Saint John, Kings & Charlotte)

Clerk's Office (QBNS)

P.O. Box 5001
Palais de Justice Saint John Law Courts
10 Peel Plaza
Saint John, NB E2L 3G6
(506-658-2560)

Judicial District of Woodstock (Counties of Carleton & Victoria)

Clerk's Office (QBNS)

P.O. Box 5001
689 Main Street
Woodstock, NB E7M 5C6
(506-325-4414)



List of Forms

All forms mentioned in this booklet are available from the Clerk's Office upon request.

Form 1: Claim (to make your claim)

Form 2: Response (to defend or admit the claim)

Form 3: Third Party Claim (to include a party the Defendant feels is responsible for the claim)

Form 4: Third Party Response (to defend or admit the third party claim)

Form 5A: Notice of Withdrawal by Claimant

Form 5B: Notice of Withdrawal by Defendant

Form 6: Request for Judgment (to proceed with claim if no Response or if claim is admitted)

Form 7: Default Judgment (to record a judgment where no response, where claim is admitted, or where terms of payment agreement not met)

Form 8: Affidavit to Set Aside a Default or Interim Judgment (request a judgment be set aside when you didn't file a Response)

Form 9: Notice of Payment Hearing (to tell you when the payment hearing is)

Form 10: Payment Agreement (to write down the agreement made at a payment hearing)

Form 11: Notice of Hearing (to tell you when and where the hearing is)

Form 12: Summons to Witness (to require a person to attend a hearing as a witness)

Form 13: Settlement Agreement (to write down any agreement the parties make)

Form 14: Judgment (to record the Adjudicator's decision when a party's claim is successful)

Form 15: Affidavit to set aside a Judgment After a Hearing (to request a judgment be set aside when you didn't attend a hearing)

Form 16: Request for Appeal by Way of a New Hearing (to appeal a decision of the Adjudicator)

Form 16A: Notice of New Hearing (to tell you when and where the new hearing is)

Form 17: Notice of Appeal by Application (to appeal anything other than a decision)

Form 18: Request for Leave to Appeal (to ask for permission to appeal to Court of Appeal)

Form 19: Notice of Appeal (to tell the parties there is an appeal to the Court of Appeal)

Form 20: Affidavit of Service (to prove you served documents to parties or witnesses)

Form 21: Consent to Act as a Litigation Guardian (to apply to make or defend a claim on behalf of someone under 19 or disabled)

Form 22: Application to Transfer Small Claim to the Court of Queen's Bench (to move your case to the Court of Queen's Bench so you can claim a higher amount or for other stated reasons)

Form 23: Application for Order by Small Claims Court (to apply for an order of the Court)

Form 24: Warrant to Apprehend (to request a sheriff's officer or the police bring a witness to the hearing)

Form 25A: Certificate of Adjudicator (certifying a witness failed to attend a hearing or remain in attendance as required)

Form 25B: Certificate of Adjudicator (certifying a witness refused to do something at the hearing that the witness was required to do)

Form 26A: Memorandum of Satisfaction of Judgment (signed by the person entitled to the benefit of the judgment)

Form 26B: Memorandum of Satisfaction of Judgment (By Application) (signed by the Adjudicator once he or she has received sufficient evidence on an application that the judgment has been paid)



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