

Instructions for Getting Default Judgment

Step 1: NOTE the defendant in default. If you filed a claim and the defendant has not **served a defence and filed it with proof of service within 20 days after you served the claim**, ask the court clerk to find or “note” the defendant in default. You can do this by bringing or mailing a completed **Request to Clerk** form (Form 9B) to the court office.

If there is more than one plaintiff or defendant, complete an **Additional Parties** form (Form 1A) and put it right behind page one of your default judgment form. You can get the additional parties form from the court office or online at www.ontariocourtforms.on.ca.

Step 2: You can ask the court to order the defendant to pay money in one of two ways:

- if your claim is for a specified sum of money, ask the court clerk to sign a default judgment; or
- if your claim is for damages, ask a judge to make a judgment and assess your damages.

Court fees must be paid to take these steps.

How to ask a court clerk to sign default judgment

The court clerk can sign a default judgment in cases where the amount in dispute is stated under an agreement. The agreement does not have to be in writing. Examples include:

- unpaid accounts for goods or services sold and delivered
- unpaid loans
- back rent

To ask a clerk to sign a default judgment, you must fill out and file a **Default Judgment** form.

How to ask a judge to make a judgment and assess damages

A judge can make a judgment and assess damages in cases where the amount in dispute is not spelled out under an agreement. Examples include cases where your property has been damaged or you have been physically injured.

You can ask a judge to make a judgment and assess damages in one of two ways:

1. Make a written request, called a “motion in writing”. To do this, you file a **Notice of Motion and Supporting Affidavit** form (Form 15A). In the affidavit you state the reasons why the motion should be granted. Attach all relevant documents. You do not have to go to court to speak to the judge. The judge will read all the documents and then decide the case.
2. Ask for an **assessment hearing** before a judge. To do this, fill out a **Request to Clerk** form (Form 9B) and file it with the court. A hearing is like a trial, except that the defendant is not in court. You and your witnesses are the only people who will be present before the judge. You must prove the amount that the defendant should pay. You can call witnesses and present evidence such as photos of damaged goods and receipts for repairs. The judge will then make a decision about the case.

See the following **Small Claims Court guides** at the court office or online at www.attorneygeneral.jus.gov.on.ca:

- for default judgments, see the "**Guide to Making a Claim**"
- for a motion in writing, see the "**Guide to Motions and Clerk’s Orders**"
- for assessment hearings, see the "**Guide to Getting Ready for Court**"

DO NOT FILE THIS PAGE.

Seal

Small Claims Court

Claim No.

Address

Phone number

Plaintiff No. 1

Additional plaintiff(s) listed on attached Form 1A.

| | | |
|-------------------------------------|-------------|---------------|
| Last name, or name of company | | |
| First name | Second name | Also known as |
| Address (street number, apt., unit) | | |
| City/Town | Province | Phone no. |
| Postal code | Fax no. | |
| Representative | LSUC # | |
| Address (street number, apt., unit) | | |
| City/Town | Province | Phone no. |
| Postal code | Fax no. | |

Defendant No. 1

Additional defendant(s) listed on attached Form 1A.

| | | |
|-------------------------------------|-------------|---------------|
| Last name, or name of company | | |
| First name | Second name | Also known as |
| Address (street number, apt., unit) | | |
| City/Town | Province | Phone no. |
| Postal code | Fax no. | |
| Representative | LSUC # | |
| Address (street number, apt., unit) | | |
| City/Town | Province | Phone no. |
| Postal code | Fax no. | |

Les formules des tribunaux sont affichées en anglais et en français sur le site www.ontariocourtforms.on.ca. Visitez ce site pour des renseignements sur des formats accessibles.

NOTICE TO THE DEFENDANT(S):

(Check one box only.)

You have been noted in default according to Rule 11.01.

You have defaulted in your payment according to Rule 9.03(2)(b), pursuant to

_____ dated _____, 20 ____,
(Name of document)

and 15 days have passed since you were served with a Notice of Default of Payment (Form 20L).

DEFAULT JUDGMENT IS GIVEN against the following defendant(s):

| | | |
|-------------------------------|-------------|---------------|
| Last name, or name of company | | |
| First name | Second name | Also known as |

| | | |
|-------------------------------|-------------|---------------|
| Last name, or name of company | | |
| First name | Second name | Also known as |

| | | |
|-------------------------------|-------------|---------------|
| Last name, or name of company | | |
| First name | Second name | Also known as |

Additional defendant(s) listed on attached page (list in same format).

THE DEFENDANT(S) MUST PAY to the plaintiff(s) the following sums:

(A) **DEBT** (principal amount claimed minus any payments received since the plaintiff's claim was issued) \$ _____

(B) **PRE-JUDGMENT INTEREST** calculated
on the sum of \$ _____ at the rate of _____ %
per annum from _____, 20 ____, to _____, 20 ____,
being _____ days. \$ _____

(C) **COSTS** to date (including the cost of issuing this judgment) \$ _____

TOTAL \$ _____

This judgment bears post-judgment interest at _____ % per annum commencing this date.

_____, 20 ____
(Signature of clerk)

CAUTION TO DEFENDANT: YOU MUST PAY THE AMOUNT OF THIS JUDGMENT DIRECTLY TO THE PLAINTIFF(S) IMMEDIATELY. Failure to do so may result in additional post-judgment interest and enforcement costs.