

Instructions for Making a Motion in Small Claims Court

A motion is a request to a judge to make an order about a case. For example, a defendant could ask the court for more time to send in a defence or a defendant's claim. Or either party could ask for more time to serve documents.

Motions can help the parties in a case. They can also make the case take longer and cost more money. If the judge grants your motion, you can ask the judge to make the other party pay some of your costs. These costs can include court filing fees, lawyer or agent fees, and expenses for witnesses, photocopying, faxing and delivery of documents.

Step 1: EXPLAIN what you are asking the judge to do and why. This is done by filling out a **Notice of Motion and Supporting Affidavit** form. Contact the clerk of the court to choose a time and date when the court could hear the motion. The clerk of the court will provide a hearing date and time. Put the date and time on the form.

Step 2: SERVE. The form must then be served on the other parties at least 7 days before the hearing date. There are rules about how this must be done. See the Small Claims Court "**Guide to Serving Documents**" at the court office or online at www.attorneygeneral.jus.gov.on.ca. Copies of documents attached to the form must also be served.

Step 3: FILE the **Notice of Motion and Supporting Affidavit** form at the court at least 3 days before the hearing date. There is a filing fee. Also file an **Affidavit of Service** (Form 8A) proving that the other parties were served.

Motion in Writing for an Assessment of Damages

If all defendants have been noted in default after failing to file a defence, you can bring a motion in writing for an assessment of damages. You do not have to attend the motion. The judge will make a decision based on the documents that you filed. If the judge thinks the documents you filed are inadequate, the court may order you to provide a further affidavit or to attend an assessment hearing. You can also request an assessment hearing.

For more information, see the "**Guide to Motions and Clerk's Orders**" at the court office or online at www.attorneygeneral.jus.gov.on.ca

DO NOT FILE THIS PAGE.

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 formulaires 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.

Claim No. _____

THIS COURT WILL HEAR A MOTION on _____, 20____, at _____, (Time)

or as soon as possible after that time, at _____ (Address of court location and courtroom number)

Complete Part A or Part B below, then complete the affidavit in support of motion on page 3.

A. This motion will be made in person by _____ (Name of party)

for the following order:

- the court's permission to extend time to (Specify) _____
- set aside default judgment and noting in default.
- set aside noting in default.
- permission to file a Defence.
- permission to file a Defendant's Claim.
- set aside order dismissing claim as abandoned.
- terminate garnishment and/or withdraw writ(s).
- Other:

ADDITIONAL PAGES ARE ATTACHED BECAUSE MORE ROOM WAS NEEDED.

DOCUMENTS ARE ATTACHED.

NOTE: IF YOU FAIL TO ATTEND AN IN-PERSON MOTION, an order may be made against you, with costs, in your absence. If you want to attend the motion by telephone or video conference, complete and file a Request for Telephone or Video Conference (Form 1B). If the court permits it, the clerk will make the necessary arrangements and notify the parties [R. 1.07(5)].

B. This motion in writing for an assessment of damages is made by _____ (Name of plaintiff)

who asks the court for an order assessing damages against

_____ (Name of defendant(s))

who have/has been noted in default.

AFFIDAVIT IN SUPPORT OF MOTION

My name is _____
(Full name)

I live in _____
(Municipality & province)

I swear/affirm that the following is true:

Set out the facts in numbered paragraphs. If you learned a fact from someone else, you must give that person's name and state that you believe that fact to be true.

AFFIDAVIT IN SUPPORT OF MOTION, continued

If more space is required, attach and initial extra pages.

| | |
|---|---|
| <p>Sworn/Affirmed before me at _____ (Municipality)</p> <p>in _____ (Province, state or country)</p> <p>on _____, 20____ Commissioner for taking affidavits (Type or print name below if signature is illegible.)</p> | <p>_____ Signature (This form is to be signed in front of a lawyer, justice of the peace, notary public or commissioner for taking affidavits.)</p> |
|---|---|

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| <p>WARNING: IT IS AN OFFENCE UNDER THE <i>CRIMINAL CODE</i> TO KNOWINGLY SWEAR OR AFFIRM A FALSE AFFIDAVIT.</p> |
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For information on accessibility of court services for people with disability-related needs, contact:



Telephone: 416-326-2220 / 1-800-518-7901 TTY: 416-326-4012 / 1-877-425-0575