

Introduction to Small Claims Court



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Learning Outcomes

After reading this chapter, you will understand:

- What type of action is heard in Small Claims Court.
- What the *Courts of Justice Act* is and what it does.
- Small Claims Court jurisdiction.
- Who may hear and decide Small Claims Court matters.
- The purpose of Small Claims Court.
- Who may represent a party in Small Claims Court.
- Orders for payment of money and costs in Small Claims Court.
- Appeals of Small Claims Court trial decisions.
- How to read the *Rules of the Small Claims Court*.

P1 Exam

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Watch for this icon in the margin, which appears wherever the competency is discussed.

P1 Exam

This chapter contains the following entry-level paralegal competencies that may be tested on the P1 exam:

B. Canadian Law

- Jurisdiction and Fundamentals
 - B. 56. Demonstrates an understanding of jurisdiction5
- Evidence
 - B. 66. Applies the appropriate statutory rules of evidence.10
 - B. 67. Applies the appropriate common law rules of evidence10
 - B. 68. Demonstrates an understanding of types of evidence and methods of presentation (e.g., testimony, documentary, photographic, video, audio)10
 - B. 70. Demonstrates an understanding of the exceptions to admissibility (e.g., hearsay, opinion, privilege, improperly obtained evidence, settlement discussions)10
 - B. 71. Demonstrates an understanding of different rules of evidence for various courts and tribunals10

What Is Small Claims Court?

Small Claims Court is a civil court. In Ontario, Small Claims Court is a division of the Superior Court of Justice. Unlike the Ontario Court of Justice and the Superior Court of Justice, Small Claims Court has no criminal or quasi-criminal jurisdiction. Jurisdiction is a court’s area of legal authority. Small Claims Court hears civil actions only—that is, matters in which one party commences an action against another party or parties for some form of private relief. In Small Claims Court, the relief sought is usually money. Small Claims Court also has jurisdiction to make orders for the return of property that is wrongfully withheld from its owner by another person.

The Ontario Small Claims Court was established on the principles of the Court of Requests, originating in England in the late 15th century. The Court of Requests’ primary function was to decide on civil petitions from poor people and King’s servants.

Shortly after Upper Canada was formed, the Court of Requests was established in 1791. By 1830, a more judicial structure was formed for small claims by having county or district court judges preside over the cases and occasionally lawyers. In 1970, by the enacted legislation, the Small Claims Court as we know it today was created, with the maximum amount a party could claim being \$1,000 or where the value of property sought to be returned would not exceed \$1,000.¹

The Toronto Small Claims Court became part of the Provincial Court, under the title “Provincial Court (Civil Division),” in 1979 on a three-year pilot project. The monetary jurisdiction was increased to \$3,000, while all other regions remained at \$1,000. As a result of major changes in 1990, the former Provincial Court (Civil Division) was changed to Small Claims Court, pursuant to the *Courts of Justice Act*.² The maximum

1 *Small Claims Court Act*, RSO 1970, c 439, s 55.

2 RSO 1990, c C.43 [CJA].

amount was subsequently increased to \$6,000 in September 1993; to \$10,000 in April 2002; to \$25,000 in January 2010; and to \$35,000 on January 1, 2020, where it remained until October 1, 2025, at which time it was increased to \$50,000.³

Annual reports from the court throughout the years demonstrate an average of 50,000 new Small Claims Court cases being filed throughout Ontario on an annual basis. The Ministry of the Attorney General estimates that approximately 45 percent of all civil cases heard in Ontario are commenced in Small Claims Court.⁴

The Small Claims Court's authority is not just limited to the quantum of damages but also to the nature of the suit, as established within section 23 of the CJA. All matters before the court are heard by a single judge of the Superior Court of Justice or a deputy judge as appointed.⁵

For legal purposes, an **action** is a proceeding brought in a court. The persons involved in the action or proceeding are called the **parties** to the action. Parties to a civil action are also known as **litigants** because they are engaged in civil litigation.

BOX 1.1

WHO ARE THE PARTIES IN SMALL CLAIMS COURT?

When we think of the word “person,” most of us think of an individual human being. However, for legal purposes, a corporation is a person and may be named as a party to an action along with individuals.

Other business entities, such as sole proprietorships, partnerships, and unincorporated organizations, may also be named as parties in an action.

In civil actions, the parties to the proceeding usually take the stand as witnesses at the trial of the matter. A sole proprietorship, partnership, or corporation cannot take the stand, so the owners, senior officers, or directors may give evidence on its behalf.

The party who commences the action is called the **plaintiff**. The party who defends the action is called the **defendant**. There may be multiple plaintiffs or co-plaintiffs in an action so long as the relief they are seeking from the defendant is based on a common set of facts or issues. There may be multiple defendants or co-defendants in an action if the plaintiff has reason to believe that one or more persons may be liable for the relief sought.

A Small Claims Court plaintiff may also be called a **claimant**. A claimant is a person who commences a claim. In Small Claims Court, claimants are charged filing fees according to the frequency with which the claimant advances proceedings before the court on an annual basis.⁶

action

a proceeding brought in a court

parties

persons who commence or defend an action or proceeding

litigants

a party to a civil action; someone engaged in civil litigation

plaintiff

a party who commences a civil action

defendant

the party who defends a civil action

claimant

another word for plaintiff; anyone who commences a claim

infrequent claimant

anyone who files fewer than ten Small Claims Court claims in a single Small Claims Court office on or after January 1 in any calendar year

3 *Small Claims Court Jurisdiction and Appeal Limit*, O Reg 626/00.

4 Ministry of the Attorney General, “Superior Court of Justice: Jurisdiction of the Court” (last visited 9 June 2025), online: <https://www.ontariocourts.ca/scj/about-the-court-2/jurisdiction/#Small_Claims_Court_Jurisdiction>.

5 CJA, s 24.

6 *Small Claims Court—Fees and Allowances*, O Reg 332/16.

frequent claimant

a person who files ten or more claims in a Small Claims Court office on or after January 1 in any calendar year

An **infrequent claimant** is anyone who files fewer than ten claims in a particular location of the Small Claims Court office on or after January 1 in any calendar year. Infrequent claimants are charged lower filing fees.

A **frequent claimant** is anyone who files ten or more claims in a particular location of the Small Claims Court office on or after January 1 in any calendar year. A frequent claimant is charged higher filing fees on the tenth and subsequent claims filed.

For example, if a plaintiff files 6 claims in the Toronto Small Claims Court and 7 claims in the Ottawa Small Claims Court on or after January 1 in a calendar year, by the end of that year the plaintiff will have filed a total of 13 claims. However, that does not make this party a frequent claimant, as neither one of the locations received ten or more claims in a single calendar year.

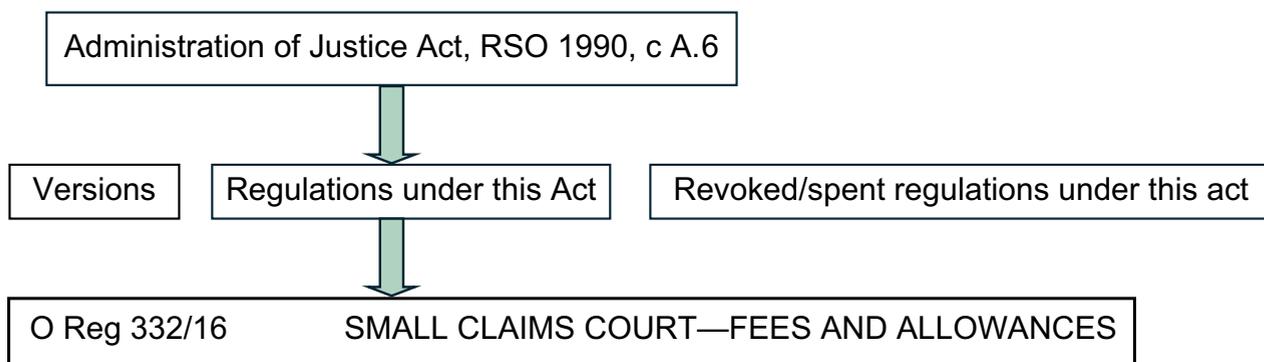
If a plaintiff files 13 claims in the Belleville Small Claims Court and 8 claims in the Cobourg Small Claims Court on or after January 1 in a calendar year, the plaintiff will be designated a frequent claimant in the Belleville Small Claims Court when they file the 10th claim, and they will be required to pay higher fees for all court services provided in claims 10 to 13 filed in that Court. However, they will still be considered an infrequent claimant who is entitled to pay regular fees for claims filed in Cobourg during that calendar year.

It should be noted that increased fees, due to the frequency of claims, do not extend to legal professionals, unless they are the claimants. Therefore, a **paralegal** may file as many claims as they wish in a single location of the Small Claims Court within a calendar year without having their clients pay higher filing fees, as the determination is based on the plaintiff’s number of claims.

paralegal

a non-lawyer who is licensed to provide legal services in permitted areas of practice to clients for a fee in Ontario

FIGURE 1.1 Finding Court Fees and Allowances on e-Laws



legal jurisdiction

the types of matters that a court may hear and the range of orders that a court may impose

Jurisdiction of Small Claims Court

Jurisdiction of a court speaks to its authority to hear various cases and make various orders. There are three general categories of jurisdiction: legal, monetary, and territorial. **Legal jurisdiction** speaks to the type of cases the court may hear.

Monetary jurisdiction is the maximum amount of money, in damages, the court may order one party to pay to another party, excluding interest, costs, and disbursements. **Territorial jurisdiction** is the geographical area over which the court has authority. This topic is further discussed in Chapter 3.

Costs are the amounts that the court may order one party to pay to another party as reimbursement of the **legal fees** the party may have spent pursuing litigation. The award costs usually provide for only partial reimbursement of legal expenses. Commonly, costs are awarded to the successful party; however, there are circumstances in which the unsuccessful party may be awarded costs to be paid by the successful party. Costs are further discussed in Chapter 9.

Disbursements are the out-of-pocket expenses a litigant incurs during a legal proceeding, such as court filing fees, process server, postage, photocopying, parking, courier charges, and so on.

The general principles governing Small Claims Court are set out in sections 22-33.1 of the CJA as well as in the *Rules of the Small Claims Court* (Rule 1.03).⁷ The intent of the court is to improve the public's access to justice by providing a judicial forum with relatively simple processes, reaching a decision on the merits of the claim on an expeditious and least expensive basis.

The CJA is the statute that establishes and governs the court system in Ontario, from the Ontario Court of Justice to the Court of Appeal for Ontario. The procedural rules for Ontario courts, as well as other matters such as the salaries of provincial court judges and the monetary jurisdiction of Small Claims Court, are contained within the regulations of the CJA.

The legal jurisdiction of Small Claims Court is not a full jurisdiction of a court, as it is a court of remedial jurisdiction. It can only hear cases of "in personam" nature, meaning legal cases against a person. These types of cases seek a determination that affects the personal rights and interests of the parties identified within the legal action. Small Claims Court does not have jurisdiction to hear cases and make decisions in relation to **declaratory relief**, which either confirms or denies the existence of a right. Nor does the Small Claims Court have jurisdiction to grant **injunctive relief**, also referred to as an injunction, which would restrict a party from doing something or require a party to do something. In addition, and as further discussed in Chapter 3, though a dispute may be "in personam," other adjudicative bodies, such as tribunals, may have exclusive jurisdiction over those disputes by virtue of their statutory authority.

The monetary jurisdiction of the Small Claims Court in Ontario is the maximum amount of damages that the court may award to a party in a single claim. As of October 1, 2025, the monetary jurisdiction of the Small Claims Court was increased from \$35,000 to \$50,000. This maximum does not include any pre- and post-judgment interest, disbursements, and costs.⁸ It should be noted that the maximum amount applies to a single plaintiff. Therefore, if two individuals advance a single claim against a defendant, the court may award the maximum monetary jurisdiction of the court in damages to each individual plaintiff.⁹

⁷ O Reg 258/98 [Rules].

⁸ *Small Claims Court Jurisdiction and Appeal Limit*.

⁹ *Kent v Conquest Vacations Co*, 2005 CanLII 2321 (ONSC (Div Ct)).

monetary jurisdiction

the amount of money that the court may order one party to pay another, not including interest and costs

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territorial jurisdiction

the geographical area over which a court has legal authority

costs

the expenses connected with a legal proceeding; costs include a party's disbursements, including court filing fees and, if the party is represented, legal fees

legal fees

fees charged by a lawyer or paralegal for legal representation and advice

disbursements

the out-of-pocket expenses of a legal proceeding; these include court filing fees, charges for service of documents, photocopying charges, postage, experts' reports, and so on

declaratory relief

also known as declaratory judgment, a binding decision that establishes the rights and other legal relations of the parties without providing for or ordering enforcement (*Black's Law Dictionary*, abridged 8th ed)

injunctive relief

also known as injunction, a court order commanding or preventing an action

Any claims exceeding the maximum monetary jurisdiction of the Small Claims Court must be advanced before the Superior Court of Justice, either through simplified procedures for cases up to \$200,000 or less, exclusive of interest and costs, or by ordinary procedures for cases of \$200,000 and above, which are not within the permitted scope of practice for paralegals in Ontario.¹⁰

If an action is commenced at the Superior Court of Justice, is within the monetary jurisdiction of the Small Claims Court, and does not seek injunctive or declaratory relief, the action can be transferred from the Superior Court of Justice to Small Claims Court. The transfer can only be requested at the Superior Court of Justice, which is not within the permitted scope of practice for paralegals in Ontario. The party seeking to transfer their case from Superior Court to Small Claims Court would require the services of a **lawyer** or proceed as a self-represented party.

lawyer

a person who has been called to the Bar of Ontario and who is licensed to practise law in Ontario

Once the case is transferred to Small Claims Court by way of an order from the Superior Court of Justice, the Small Claims Court adopts it as if it were commenced at the Small Claims Court and it proceeds through the regular process of the Small Claims Court. Paralegals, at that point, could become the legal representatives for the parties and provide the necessary legal services.

A claim cannot be divided into two or more actions for the purpose of bringing it within the court's jurisdiction (Rule 6.02). In other words, if a single plaintiff wishes to advance a claim for \$60,000, they may not advance two separate claims for \$30,000 each against the same defendant arising from the same cause of action, just to remain within the jurisdiction of the Small Claims Court.

Territorial jurisdiction, also known as geographical jurisdiction, is concerned with the location of the Small Claims Court in which the legal action is commenced. The procedural rules require the plaintiff to commence the action in the local court office in the area in which either (1) the events and transactions that caused the claim to be issued took place, or (2) the defendant or one of the multiple defendants resides or carries on business or at the court's place of sitting that is nearest to the place where the defendant or, if there are several defendants, where any one of them resides or carries on business (Rule 6.01).

Appeals

In the event a party disagrees with the decision made by the Small Claims Court, they may challenge the decision by way of an appeal to a higher court. Only final orders exceeding the prescribed amount can be appealed, and the appeal will be filed at the Divisional Court.¹¹ It should be noted that the prescribed appealable amount is in relation to the amount claimed by the party within the Plaintiff's Claim, not the amount awarded by the court, exclusive of interest, costs, and disbursements, regardless of the amount a party may claim.

Appeals to the Divisional Court, which is the appellate branch of the Superior Court of Justice, are governed by the *Rules of Civil Procedure*.¹² Such appeals are not currently within the permitted scope of practice for paralegals, so paralegals may not provide any services, including any legal opinions on the topic of appeals, to their

¹⁰ By-Law 4, *infra* note 16.

¹¹ CJA, s 31 and *Small Claims Court Jurisdiction and Appeal Limit*.

¹² RRO 1990, Reg 194.

clients. A party may proceed to Divisional Court as a self-represented party or as a party represented by a lawyer. In rare circumstances, the Divisional Court may permit a non-lawyer to represent a party before the Divisional Court; however, such permission must be sought by the party subject to the appeal by way of a motion, during which the party must be self-represented or represented by a lawyer. As of May 2025, the Law Society of Ontario (specifically the Paralegal Standing Committee) is considering recommendations to potentially expand the permitted scope of practice for paralegals in Ontario to include certain types of appeals and judicial reviews before the Divisional Court. The potential expansion under consideration will include all appeals and judicial reviews arising from matters that are currently within the paralegal scope of practice, such as tribunals and Small Claims Court.¹³

Who May Hear and Determine a Small Claims Court Proceeding?

As a branch of the Superior Court of Justice, the Small Claims Court is established by the CJA, and therefore justices of the Superior Court of Justice may preside as judges over Small Claims Court matters. A **justice** is the same as a judge. In addition, a provincial judge, a deputy judge, or a person appointed as a Small Claims Court administrative judge may hear and determine Small Claims Court cases.¹⁴

Usually deputy judges preside in Small Claims Court proceedings, who are senior lawyers appointed by the regional senior judge with the approval of the attorney general. Some of the hearings, such as settlement conferences (further discussed in Chapter 7), may be conducted by a **referee**, who is neither a judge, a deputy judge, nor a lawyer.

Referees in Small Claims Court are individuals who are assigned powers and duties and are directed by the regional senior judge to hear specific types of hearings. However, with one exception, the referee cannot make a final decision (Rule 21.01). Rather, they report their findings and make recommendations to the court, from which a final decision is made by a judge.

justice

in Small Claims Court, a justice is the same as a judge; “justice,” “judge,” and “Court” are often used interchangeably in reported decisions

referee

a non-judge who is authorized by the Rules to preside at terms of payment hearings

General Mandate of Small Claims Court (Rule 1.03)

The primary objective of Small Claims Court is to hear and determine all questions of fact and law in a summary way and to make orders the court considers just and agreeable to good conscience, as prescribed within section 25 of the CJA. The court’s primary objective is also outlined within the Rules, wherein the court aims to “secure the just, most expeditious and least expensive determination of every proceeding on its merits” (Rule 1.03). The court is required to apply the Rules liberally to promote the primary objective. The parties and their legal representatives are required to assist the court with promoting the primary objective (Rule 1.03(2)).

¹³ Paralegal Standing Committee of the Law Society of Ontario, *Increasing Access to Justice Options for Appeals and Judicial Reviews: Consultation Report* (Toronto: LSO, 27 February 2025), online (pdf): <<https://lawsocietyontario-dwd0dscmayfwh7bj.a01.azurefd.net/media/lso/media/about/convocation/2025/convocation-february-2025-paralegal-standing-committee-report.pdf>>.

¹⁴ CJA, ss 22(1), (2), (3), 24(2), 87.2.

In other words, the parties to a Small Claims Court action are entitled to have a matter resolved in a fair and reasonable way without undue delay and without being hindered or prejudiced by complex, expensive, and time-consuming procedures.

Like all procedural rules for Ontario courts, the *Rules of the Small Claims Court* are published as a regulation to the CJA. The Rules implement the mandate set out in section 25 of the CJA by establishing a simplified (or summary) procedure that is designed to be user friendly for self-represented or unsophisticated users while preserving and protecting the rights of the parties. The basic steps in a Small Claims Court proceeding are the same as those in the Superior Court of Justice (Civil Division), but the Small Claims Court forms and procedures have been simplified and streamlined at every stage.

The Rules consist of 22 rules. Rules 1 to 20 govern all aspects of procedure, from commencement of an action to enforcement of orders. Rule 21 sets out the role of referees in Small Claims Court matters. Rule 22 sets out procedures for money paid into or out of court pursuant to a court order or a statutory provision or rule, or where the payment is made pursuant to a court order under Rule 4.08.

For an overview of Small Claims Court procedure, along with timelines for each step, see Appendix 1.1 to this chapter.

BOX 1.2

WHAT ARE QUESTIONS OF LAW AND QUESTIONS OF FACT?

A **question of law** is an issue that requires the application or interpretation of a law or legal principle. In both jury and non-jury trials, questions of law are determined by judges.

A **question of fact** is a factual dispute. Not all actions involve factual disputes, as parties may agree on the facts but disagree on how the law is applied to those facts. In a factual dispute, the plaintiff makes a series of assertions, or **allegations**, that tell their version of the story. The defendant then makes a series of allegations that tell their version of the story. Both parties and their witnesses give evidence at trial, and, based on that evidence, the finder of fact decides which allegations to accept as facts, on a balance of probabilities, and which allegations to reject as untrue.

In jury trials, the finder of fact is the jury. Being a court of summary procedure, Small Claims Court does not have jury trials. The judge determines all questions of fact and law.

question of law

an issue that requires the application or interpretation of a law or legal principle; in both jury and non-jury trials, questions of law are determined by judges

question of fact

a factual dispute, to be determined based on the evidence at trial; in jury trials, questions of fact are determined by the jury; in non-jury trials, questions of fact are determined by the trial judge

allegations

an assertion made in a pleading by a party to an action, setting out what they hope to prove

Who May Represent a Party in Small Claims Court?

Any party appearing before the Small Claims Court may do so on its own behalf, as a self-represented party. Alternatively, a party may be represented by any person who is authorized under the *Law Society Act*,¹⁵ such as a lawyer or a licensed paralegal.

¹⁵ CJA, s 26; *Law Society Act*, RSO 1990, c L.8 [LSA].

The exemptions listed in By-Law 4¹⁶ also permit a non-licensuree to represent a party before the court. If the person does not qualify under the exemptions listed in By-Law 4, the representative must be a licensee of the Law Society of Ontario—who is in good standing—to provide legal services. Legal services are defined as any conduct that involves the application of legal principles and legal judgment with regard to circumstance or objections of a person.¹⁷

Unlike the Superior Court of Justice, corporations appearing as a party before the Small Claims Court do not require legal representation, nor do they require permission from the court to be represented by a non-lawyer or a non-paralegal person. However, the court may exclude such a person from a hearing if the court determines that the person is not competent to represent the party or does not understand or fails to comply with their duties and responsibilities as an advocate.

Paralegals are reminded of their obligations under the professional rules to act with integrity, civility, and competence toward not only their clients but all other individuals with whom they have dealings throughout a Small Claims Court matter, as stated in Rule 2.01 of the *Paralegal Rules of Conduct*.¹⁸ Paralegals also owe a duty to their clients in delivering services in a courteous, thorough, and prompt manner, as well as in a candid and honest manner when advising their clients (Rules 3.01 and 3.02). In addition, the professional rules that speak to advocacy are relevant to all proceedings before the Small Claims Court, as are the rules that require paralegals to abide by their duties owed to other licensees (Rules 4.01, 7.01, and 7.02).

Many of the parties appearing before the Small Claims Court do so as self-represented parties, so paralegals are reminded of their professional obligations in dealing with unrepresented parties. Specifically, to take care in ensuring the unrepresented party is not under an impression that the paralegal is representing them, providing any services to them, or protecting their interests while representing their own client(s) (Paralegal Rule 4.05).

Paralegals as Officers of the Court

An officer of the court is defined as a “person who is charged with upholding the law and administering the judicial system.”¹⁹ Paralegals owe certain duties to the administration of justice, which includes the courts, tribunals, and judges (Paralegal Rule 6). Judges may show special deference to someone who is an officer of the court, such as by accepting their unsworn statements as evidence in certain exceptional situations.²⁰ Being an officer of the court also carries with it higher expectations than one might otherwise be held to by the justice system. For example, legal professionals may also have cost orders made against them personally, rather than against their clients, when they assist in litigation where the goal is clearly unattainable or are otherwise derelict in their duties as officers of the court.²¹

16 Law Society of Ontario, By-Law 4 (amendments current to 27 May 2021), online: <<https://www.lso.ca/about-lso/legislation-rules/by-laws>>.

17 LSA, ss 1(5), (6), (7), (8).

18 Law Society of Ontario, *Paralegal Rules of Conduct* (1 October 2014; amendments current to 24 February 2022), online: <<https://lso.ca/about-lso/legislation-rules/paralegal-rules-of-conduct>> [Paralegal Rules].

19 *Black's Law Dictionary*, 8th ed, sub verbo “officer of the court.”

20 *R v Denis*, 2014 ONSC 5987 at paras 6, 7, 18-20.

21 *Galganov v Russell (Township)*, 2012 ONCA 410 at para 18.

After the provincial legislature decided to grant the Law Society of Ontario (then the Law Society of Upper Canada) the power to regulate the paralegal profession, individuals licensed to practise law in Ontario as a barrister and solicitor continued to be defined under section 26 of the LSA as an officer of every court of record in Ontario, but licensed paralegals were not.

For the most part, this distinction has no practical consequences for licensed paralegals. However, under section 3(1)6 of the *Juries Act*,²² officers of a court of justice are unable to sit as jurors. But unlike lawyers, no statute provided that licensed paralegals were officers of any court of record. In practice, this meant that paralegals were required to attend the Superior Court of Justice when summoned for jury duty but were inevitably excused as jurors because of their close connection to the legal system—the same reason lawyers were presumably included among the list of professions ineligible to serve as jurors.²³

On July 31, 2017, a licensed paralegal who had received a jury notice had an application issued in the Superior Court of Justice seeking a declaration that paralegals were officers of a court of justice within the meaning of section 3(1)6 of the *Juries Act* and were thus ineligible to serve as jurors, along with requesting an order quashing the jury notice. In response to the application, the December 2017 **Convocation** of the Law Society alluded to the court proceeding as a basis for requesting, on behalf of the Law Society, that the provincial legislature amend the LSA to include paralegal members under the statutory definition of an officer of the court.²⁴

Ultimately, the court application was not granted. On April 13, 2018, in dismissing the application, Salmers J stated that “there may be good arguments as to why licensed paralegals should not serve as jurors” and that “it is for the legislature to determine if policy considerations warrant legislation clarifying whether licensed paralegals are officers of the court.”²⁵

On May 8, 2018, an amendment to the LSA provided that licensed paralegals are now officers of any court of record in Ontario in which they are authorized to represent a party to a proceeding.²⁶ So, for example, a licensed paralegal is an officer of the court in the Ontario Court of Justice, where they may act in relation to provincial offences and certain criminal summary offence matters, but not in the Court of Appeal. As a result, licensed paralegals in good standing and whose licence status permits them to represent a party to a proceeding no longer need to set aside time to attend jury duty and can indicate on jury questionnaires that they are ineligible to serve as jurors so that they do not receive future summons requiring them to appear for jury duty.

Convocation

monthly meeting of the Law Society benchers, the directors who govern the Law Society of Ontario

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Evidence

In order to reach a decision, the court must hear evidence from the parties. **Viva voce** evidence is tendered orally by the witnesses as well as the parties under oath or

viva voce
Latin phrase meaning “with living voice,” by word of mouth, orally; refers to an oral testimony of a witness in a proceeding, rather than written testimony

²² RSO 1990, c J.3.

²³ *Juries Act*, s 3(1)4.

²⁴ Transcripts of the proceedings of Convocation in Public Session, Law Society of Upper Canada (1 December 2017) at 88, lines 23-25.

²⁵ *Gobin v Sheriff of the Regional Municipality of Durham*, 2018 ONSC 1255 at paras 10-11.

²⁶ *Plan for Care and Opportunity Act (Budget Measures)*, 2018, SO 2018, c 8, Schedule 15, s 3.

an affirmation. Documentary evidence is presented through various documents and forms part of the physical evidence, which includes any tangible items such as audio recordings, video recordings, photographs, or items.

The court is permitted to consider any evidence, including **hearsay** evidence, so long as it is relevant and not unduly repetitious, regardless of whether such hearsay evidence would be admissible in any other court.²⁷ In addition, the court may accept unsworn documents and copies of documents, instead of original documents, so long as the court is satisfied that the copy is a true copy of the original.

It has been long established that hearsay evidence is a verbal statement uttered by a witness about an out-of-court statement tendered for the truth of its contents. Other courts treat hearsay evidence as inadmissible, with some exceptions such as requirements of necessity and reliability, which is assessed on a case-by-case examination.²⁸

While flexible on the type of evidence it admits, the Small Claims Court remains bound by exclusion of evidence requirements such as privilege or any statutory rules (e.g., as set out in the *Ontario Evidence Act*).²⁹ The judge hearing the evidence will decide how much weight or credibility they will give to the hearsay evidence.

hearsay

unverified, unofficial information gained from a third party rather than from direct knowledge; inadmissible as evidence in most courts, but permissible in Small Claims Court

The Rules of Small Claims Court

What Are They?

As discussed above, the CJA establishes the court structure for all courts in Ontario. The rules of the various courts are published as regulations to the CJA.

The rules of each court establish its procedural requirements. Paralegals must be thoroughly familiar with the processes of the courts and tribunals before which they appear, as failure to comply with procedural requirements may result in prejudice to the client.

The most important thing to remember about the rules of procedure is this: no matter how familiar one may think they are with a court's process, no one can remember everything all the time. Furthermore, periodic changes do occur to the procedural law, and if a paralegal is contemplating a particular procedure, it is advisable to carefully review the most current procedural rules for that court.

If a paralegal cannot remember the rule number for a particular rule they wish to review, think about the underlying issue. Is it commencement of an action? Proper service of a particular document? Whether Remembrance Day is a holiday for purposes of the *Rules of the Small Claims Court*? Timelines for service of written statements and documents prior to trial?

Having determined the issue, viewing the table of contents for the *Rules of the Small Claims Court* will assist in locating the appropriate rule. Often, the applicable rule can be located simply by looking at its title within the table of contents.

Whenever a paralegal is appearing for a client in Small Claims Court, they should have a copy of the Rules with them so they can refer to them if the need arises. Paralegals should not assume that the presiding judge has committed all of the rules to

²⁷ CJA, s 27.

²⁸ *R v Youvarajah*, 2013 SCC 41 at paras 18, 21.

²⁹ RSO 1990, c E.23.

their memory and remember that the job of persuading the decision-maker is that of the advocate.

Rule 1 deals with general matters that are not specifically covered by other rules. It includes a list of definitions to be used when interpreting and applying the Rules. For example, to understand Rule 4—Parties Under Disability—the reader must know what “disability” means in the context of a Small Claims Court proceeding. The definition of “disability” can be found in Rule 1.02(1).

For most procedural steps taken in a Small Claims Court proceeding, a party must give the other parties **notice** that a step is being taken. Notice is usually given by service of documents on other parties for the procedural step that is being contemplated to make them aware that a procedural step is about to take place. The **notice period** is the minimum amount of time a party has to serve the documents on other parties, as prescribed by the Rules. When calculating a notice period, the first day is excluded and the last day of the period is included (Rule 3.01). The ordinary operation of addition and subtraction will take care of this when calculating the time period. If the last day of the notice period falls on a holiday, the period ends on the next business day that is not a holiday. To determine whether or not the day is a holiday, reference to the definition outlined in Rule 1.02 can be made.

notice

making a party aware of a pending procedural step or other matter; usually done by service of documents on other parties

notice period

the period of time established by the Rules for serving documents on other parties to give them notice of a pending procedural step or other matter

default judgment

a judgment obtained by a plaintiff against a defendant who has been properly served with a Plaintiff’s Claim but fails to file a defence within the required time

BOX 1.3

CONSULTING THE RULES OF THE SMALL CLAIMS COURT

Rupert Burdock has been retained to act for the defendant in a Small Claims Court action for recovery of an unpaid debt of \$15,000 plus interest and costs. Rupert’s client was served with the Plaintiff’s Claim on September 1, and they came to Rupert’s office to discuss the matter on September 10. The client insists that they have a good defence to most of the claim and produces several documents that suggest a substantial portion of the debt has been paid.

September is a busy month for Rupert, a sole practitioner whose focus is residential tenancy law. He puts the copy of the Plaintiff’s Claim with the supporting documentation into his inbox, where it slowly gets buried under a stack of paper.

A **default judgment** is obtained by a plaintiff against a defendant who has been properly served with a Plaintiff’s Claim but fails to file a defence within the required time. Early in October, Rupert’s client phones to say that they just received a default judgment against them in the mail. The client wants to know what is going on. Rupert assures them that he will get back to them right away. He digs the Plaintiff’s Claim out of his inbox and picks up his copy of the *Rules of the Small Claims Court*.

What does Rupert learn? For each of the following issues, provide the rule number and a brief comment on its content.

1. What is the time for service of a defence to a Plaintiff’s Claim?
2. What are the consequences for the defendant of Rupert’s failure to serve the defence within that time period?
3. What is the procedure for correcting Rupert’s error?

(Continued on next page.)

This series of errors could have been prevented by reviewing the applicable Rules when Rupert was first consulted in the matter and then by noting the approaching deadline for service and filing of the defence in the **tickler system**.

A tickler system is a list of tasks with deadlines for their completion. The deadline for a task may be a statutory limitation period or a procedural deadline set by the rules of a tribunal. A tickler system also contains “tickle” or bring-forward dates notifying a paralegal that a deadline is approaching and that they should start working on a task to get it completed before the deadline.

As it is, Rupert’s mistake has caused procedural delay and possible prejudice to the client by way of a costs award. Arguably, he is also in breach of Rule 3.01(4) of the *Paralegal Rules of Conduct* because he failed to represent the client in a conscientious, diligent, and cost-effective manner and because he failed to ensure that all applicable deadlines were met.

tickler system

a list of tasks with deadlines for their completion

BOX 1.4

HOW TO READ THE RULES

When taking any procedural step, legal professionals must be careful to look at all the relevant rules. This may seem slightly confusing at first, but it gets easier as they become more familiar with Small Claims Court procedures. Continuing with the example from Box 1.3, let’s look at some rules and subrules that are relevant when making arrangements for the set-aside motion.

As already discussed, Rules 11.05 and 11.06 permit Rupert to bring a motion for an order setting aside the noting in default and default judgment against his client. Because he missed the deadline for filing a defence, another thing Rupert will request from the court on the motion is an order extending the time for filing a defence. Rule 3.02(1) authorizes the court to make this kind of order.

If Rupert is not sure what forms to use on the motion, he will need to consult Rule 15, which governs motions. He will find the name and number of the form to use at Rule 15.01(1).

Rule 15.01(2) tells Rupert that he must obtain a hearing date for the motion before serving the notice of motion on the other party. Rule 15.01(3) tells him the minimum number of days before the hearing date that the motion must be served on the other party. If he is not sure how to calculate the notice period, he must read Rule 15.01(3) together with Rule 3.01—Computation. He may also wish to clarify the definition of “holiday” in the list of definitions at Rule 1.02. Finally, he must check Rule 8—Service—to find out how a motion may be served on another party, what document he must use to prove service, and how much time he has to file that document with the court.

How many rules and subrules did you count?

Interpretation of the Rules (Rule 1.03)

Rule 1.03(1) states the general principle that governs application of the *Rules of the Small Claims Court*, which adheres to section 25 of the CJA. Specifically, the rule

construe requires the court and the parties to liberally **construe** the Rules to ensure that the most just, expeditious, and least expensive determination of every legal action is reached on the merits of the case. In the event the Small Claims Court rules do not adequately cover a particular issue or situation, the court itself may instruct the parties how to proceed and may make any order that it considers just. Such liberty is guided by the analogy of the rules and by referencing the CJA, any act that may govern the action itself, and the *Rules of Civil Procedure*. On June 1, 2025, the *Rules of the Small Claims Court* were amended to provide clarity of the primary objective of the court:

interpret

1.03(1) The primary objective of these rules is to enable the court to secure the just, most expeditious and least expensive determination of every proceeding on its merits in accordance with section 25 of the *Courts of Justice Act*. O. Reg. 3/25, s. 1.

Duty to Promote Primary Objective

(2) The court is required to apply these rules liberally to promote the primary objective, and parties and their representatives are required to help the court to promote the primary objective. O. Reg. 3/25, s. 1.

Examples

(3) Promoting the primary objective may include,

- (a) ensuring that the procedure is fair to all parties;
- (b) saving expense and time;
- (c) dealing with a proceeding in ways that are appropriate to its complexity; and
- (d) giving appropriate court resources to a proceeding while taking account of the need to give resources to other proceedings. O. Reg. 3/25, s. 1.

The *Rules of Civil Procedure* govern all civil cases that proceed before the Superior Court of Justice, including the Divisional Court, and the Court of Appeal. As such, they are usually not considered in relation to cases that proceed before the Small Claims Court. However, the *Rules of the Small Claims Court* may not have foreseen every circumstance, and, at times, referring to how Superior Court matters are addressed through the *Rules of Civil Procedure* provides assistance to the parties and the judge.

Paralegals should be mindful that, having its own set of procedural rules, the Small Claims Court draws a clear distinction between the *Rules of the Small Claims Court* and the *Rules of Civil Procedure* and sees such distinction as intentional. As such, for the analogy rule to apply, the *Rules of the Small Claims Court* must clearly fail to cover a particular matter adequately and the analogy rule cannot create a step or a procedure in Small Claims Court that would otherwise not be applicable in that court.³⁰

The Court of Appeal for Ontario further addressed this issue in *Riddell v Apple Canada Inc*, on the topic of a pre-trial inspection of property. The issue before the court was whether or not the Small Claims Court had jurisdiction to order a pre-trial inspection of property and, if so, whether such jurisdiction was property exercised

³⁰ *Garg v Raywall Limited*, 2014 CanLII 45320 at paras 17, 34 (ON Sm Cl Ct).

by the deputy judge. The Divisional Court, on appeal, answered both questions in the affirmative, and the Court of Appeal for Ontario agreed. The appellate court held that

where trial fairness and the interests of justice, including the expeditious and least expensive determination of a case on the merits, so require, Deputy Court Judges of the Small Claims Court have jurisdiction under r. 1.03(2) of the Rules to order the pre-trial inspection for property by reference to r. 32.01 of the *Rules of Civil Procedure*.³¹

“**Liberally construed**” means that the court may apply the Rules in a way that is not strictly provided for in the language of the rule itself but that is in keeping with the court’s mandate under section 25 of the CJA to hear and decide matters without needless procedural delay and with a view to bringing about a fair and just resolution within a reasonable time.

In keeping with the spirit of the Small Claims Court, its purpose, and section 25 of the CJA, the Rules further specify that in the event a party to a proceeding fails to comply with any of the procedural rules, such failure is not detrimental. Specifically, Rule 2.01 states that such failure is an “irregularity” and “does not render a proceeding or a step, a document or an order in a proceeding a nullity.” In fact, the Rules provide the court with substantial power and legal jurisdiction to grant any and all necessary changes or any other type of relief, on such terms as the court deems to be just, for the purpose of securing the just determination of the real matters in dispute. The court may even, in the interest of justice, dispense with compliance with any rule at any time (Rule 2.02). This was the finding in *Vallières v Samson*,³² where the Divisional Court agreed with the deputy judge that Rule 2.02 provides a broad discretion to the court to resolve the matter in a fair and reasonable way.

In other words, if a party makes a mistake, the court may rectify the mistake or allow the party to rectify the mistake, with or without conditions imposed. This authority is granted to ensure that justice is not disposed of on a technicality but is delivered after the court hears the issues in dispute. In addition, the Rules also provide authority to the Small Claims Court judge to impose terms and give directions to the parties, when making an order, so long as the terms and directions are just (Rule 1.04).

liberally construed
interpreted without undue emphasis on strict compliance with all procedural requirements and technicalities of the Rules, with a view to bringing about a resolution that is just and fair to all parties within a reasonable time

Electronic Court Documents, Communications, and Signatures (Rule 1.05.1)

As of May 2016, all types of claims, including unliquidated claims and claims for return of personal property, are permitted to be filed electronically.³³

If the *Rules of the Small Claims Court* permit or require a document to be filed or issued electronically, the document may be issued by the clerk dating, signing, and sealing it with an electronic version of the seal of the court or by using the software authorized by the Ministry of the Attorney General (Rules 1.05.1(1), (2)).

³¹ 2017 ONCA 590 at para 3.

³² 2009 CanLII 92132 at para 11 (ONSC (Div Ct)).

³³ Ministry of the Attorney General (Ontario), News Release, “Ontario Expands Small Claims Court Online Service” (5 May 2016), online: <<https://news.ontario.ca/mag/en/2016/05/ontario-expands-small-claims-court-online-service.html>>.

Where a document is filed or issued electronically by using the authorized software, the requirement for a signature is satisfied by an indication on the document by the software that the document has been electronically filed or issued or both, as the case may be (Rule 1.05.1(4)).

For any electronically filed document, by the party or their legal representative, that is either an affidavit or other signed or certified document, the filing individual is required to:

- keep the original of the document for three years, until the clerk requests that the original be filed or until the Rules require that the original document be filed, whichever is earliest; and
- file the original document on the clerk's request.

In the event of an inconsistency between a document filed electronically by a person using the authorized software and any other information provided by the same person using the authorized software:

- the electronically filed document prevails (Rule 1.05.1 (9)(a)); and
- the clerk may request written clarification of the inconsistency from the person (Rule 1.05.1(9)(b)).

The court or clerk may send any document in electronic format by email to the most recent email address indicated for the person in the applicable court file or, in the case of a lawyer or paralegal whose email is not indicated in the court file, the email address as published on the Law Society of Ontario's website (Rule 1.05.2).

All documents can be filed electronically with the Small Claims Court.³⁴ On July 10, 2025, the Rules were amended to reflect the decommissioning of the Small Claims Court E-Filing Service Portal.³⁵ The Small Claims Court Submissions Online Portal (SCCSO Portal) was expanded to include all documents that a party to a Small Claims Court proceeding may be required to file with the court.

The SCCSO Portal can be used to commence the proceeding by a plaintiff for automatic filing and issuance of the Plaintiff's Claim. Once filed, the court will email the plaintiff a copy of the issued claim for the purpose of effecting service. A Plaintiff's Claim can only be filed electronically if the interest claimed (pre- or post-judgment) does not exceed 35 percent per year (Rule 1.05.3(3)) and none of the defendants are persons with a disability (Rule 1.02(1)). Proof of service, by way of an affidavit of service, can also be filed through this portal.

At the time of filing the Plaintiff's Claim via SCCSO Portal, the user must select whether they wish to start a new court file or continue with an existing court file. By selecting "New court filing," the user will be asked if they are seeking to issue and file a Plaintiff's Claim (Form 7A) through the SCCSO Portal; if so, the applicable filing fee will apply.

As of October 3, 2025, Justice Services Online (JSO) was decommissioned for Toronto court filings. The Toronto Small Claims Court transitioned to a new Ontario

³⁴ ServiceOntario, "File Small Claims Court Documents Online" (last modified 28 July 2025), online: <<https://www.ontario.ca/page/file-small-claims-court-documents-online>>.

³⁵ *Rules of the Small Claims Court*, O Reg 153/25, amending O Reg 258/98.

Courts Public Portal (OCPP), where all electronic filings for Toronto courts must be submitted, replacing JSO.

Users can complete electronic filings, conduct court record searches, make online payments, see hearing information in relation to and access documents for a particular case. Most civil enforcement activities for Toronto can also be filed through OCPP. As the Ministry of the Attorney General continues to develop JSO, additional services and filing opportunities may become available. The OCPP will gradually apply to additional regions of Ontario and will ultimately replace the JSO platform.

To submit documents through the JSO platform, a user must create a My Ontario Account (available at <https://signin.ontario.ca/signin/register>). Once registered and logged in, a licensed representative, such as a paralegal or a lawyer, must indicate the type of user they are by selecting “Licensed Representative” and provide their contact information, including the province for their license and their Law Society license number. The licensee will be required to upload a clear image of themselves holding a valid piece of government-issued photo identification, such as a passport, a driver’s license, or a Ontario photo card, and submit the request to gain a licensed representative access.

Electronic filings can be made on existing cases, or a new case filing can be made. The Ministry of the Attorney General provides step-by-step guides (available at <https://www.ontariocourts.ca/ocpp/e-filing-quick-guide.pdf>) to assist the users. Users must submit a single document corresponding with the File Entry type selected at the time of filing. For each additional document to be submitted within the same filing process, selecting “Add File Entry” before uploading is necessary.

To search case information, users can select the “Case Search” function on the left-hand side menu, upon logging into OCPP.

All documents filed online require the user to adhere to document naming protocols as follows:

1. File names may only contain letters and numbers.
2. The file name, including the extension (.pdf or .jpg), must be 30 characters or less.
3. The document must indicate the document type, the name of the party submitting it, and the date on which the document was created or signed (in the format DDMMYYYY).

Examples: PlaintiffsClaim-Johnson-13MAR2028 or AffidavitOfService-Johnson-13MAR2028

It should be noted that any documents being filed for a deadline that is five or fewer days away from the date of filing, as well as any documents for urgent matters, cannot be filed through the SCCSO Portal and must be either filed through email, mail, or in-person.

It is advisable that the documents submitted through the Filing Portal are submitted in a searchable PDF format to permit the court staff and the judge to easily locate information within the document. In addition, paralegals can connect their Landlord and Tenant Board (TOP) portal to “My Ontario Account,” making it easier to electronically file documents.

For documents that are being filed for hearings or deadlines that are five business days away or less, the user should file the documents through the appropriate platform and email the appropriate court location, providing the filing confirmation number. Each court location has a specific email address for filing documents.³⁶ Emailed documents must be submitted in a searchable PDF format, with each document as a separate attachment. Each email, including attachments, cannot exceed 35 megabytes, and unless the matter is proceeding on an *ex parte* (without notice to the other party) basis, the materials submitted via email must also include proof of service.

When emailing the court staff, to ensure expedited service, the subject line of the email must include the following information:

1. level of court (“SCC”);
2. type of matter;
3. file number (if none exists, indicate “NEW”); and
4. type of document (e.g., Notice of Motion).

In the body of the email, the sender must include the following information:

1. court file number (if it is not a new filing);
2. short title of the proceeding (e.g., *Thomas v Parker*);
3. list of documents attached;
4. type of request (filing or hearing);
5. name and role of the sender (i.e., paralegal, lawyer, or party); and
6. contact information of all parties to the proceeding.

The timing of the filing is important if the documents being filed are subject to any statutory or procedural deadline, such as a limitations period. While electronic filing is available to users 24/7, if the documents are filed on a weekday between 8:30 a.m. and 5:00 p.m. (excluding holidays), then the documents are considered filed at that time. If the documents are being filed outside of those hours, they are considered filed on the next business day. At the time of filing, the user will receive a confirmation of filing, which should be retained for their records as it contains a confirmation number. Within five days, and often sooner, court staff will review the submitted documents. If they are accepted, the user will receive an email confirming the filing or issuance of the documents. If the documents are rejected by the court staff, the user will receive an email advising of the rejection and providing a reason. Once the documents are rejected, the payment provided (if any) during the submission is not processed, and the user can resubmit the corrected documents without having to pay the relevant fee twice.

The documents submitted through the particular platform are not considered to be filed or issued unless the user receives a confirmation from the clerk of the court stating that the documents are filed and/or issued.

Case Center is an online platform used by Ontario courts that allows judges, parties, and court staff to view electronic court documents before and during hearings. This process differs from filing documents on the SCCSO portal. Documents uploaded to Case Center must already have been filed on the portal or at the local court office. See more at <<https://www.ontariocourts.ca/scj/areas-of-law/small-claims-court/toronto-small-claims-court-case-center>>.

³⁶ Ontario Superior Court of Justice, “Court Locations & Scheduling” (last visited 12 July 2025), online: <<https://www.ontariocourts.ca/scj/court-locations/all-court-locations>>.

Electronic Signatures

Documents may be signed with an electronic signature (Rule 1.05.2(4)). An electronic signature is electronic information that a person creates or adopts to sign a document that is attached to or associated with the document (Rule 1.05(5)).³⁷ In 2022, the Ministry of the Attorney General, in collaboration with the Officers of the Chief Justice of the Superior Court of Justice and Ontario Court of Justice, developed standardized electronic filing processes and identified acceptable formats for electronic signatures on electronic court forms.³⁸

The following is a list of acceptable formats, unless a document is subject to an exception or prohibited by a court order or legislation, of electronic signature formats:

1. A certificate-based digital signature on a digital court form.
2. A scan of a wet handwritten signature on a digital court form.
3. A non-wet handwritten signature on a digital court form.
4. A typed name without encryption on a digital court form, with or without a font change.

The exceptions to the aforementioned formats apply to such documents as affidavits, certificates, sworn/affirmed documents, and consents, all of which require encryption if the name is typed. Affidavits and other sworn/affirmed documents can be signed by the first three options above.

Time Computation (Rule 3.01)

Notwithstanding the liberal interpretation of the Rules and the court's discretion to dispense with compliance of the Rules, parties are expected to adhere to the procedural deadlines in delivering and filing their documents. In determining whether a particular deadline has passed, the Rules require a party to count the time by excluding the first day and including the last day of the period. If the last day of the period falls on a holiday, the period ends on the next day that is not a holiday.

Computation

3.01 If these rules or an order of the court prescribe a period of time for the taking of a step in a proceeding, the time shall be counted by excluding the first day and including the last day of the period; if the last day of the period of time falls on a holiday, the period ends on the next day that is not a holiday. O. Reg. 258/98, r. 3.01.

If a table of days (see Table 5.2 on page 192) is used to calculate time periods, the ordinary operation of arithmetic (addition or subtraction) has the effect of eliminating the first day and including the last day.

If unsure whether the time period ends on a day that is a holiday, refer to the definition of "holiday" in Rule 1.02(1). The court has discretion to lengthen or shorten the time prescribed by the Rules for doing anything, on such terms as are just (Rule

³⁷ *Electronic Commerce Act, 2000*, SO 2000, c 17, s 1.

³⁸ Ministry of the Attorney General (Ontario), "Electronic Court Documents: Electronic Signatures and Submission Through Online Filing Portals" (last modified 27 April 2022), online (pdf): <[https://ontariocourtforms.on.ca/static/media/uploads/courtforms/civil/notices/csd_notice_to_public_and_profession_regarding_e-signatures_and_submissions_through_the_online_filing_portals_\(april_27_2022\).pdf](https://ontariocourtforms.on.ca/static/media/uploads/courtforms/civil/notices/csd_notice_to_public_and_profession_regarding_e-signatures_and_submissions_through_the_online_filing_portals_(april_27_2022).pdf)>.

3.02(1)). The time prescribed by the Rules for serving or filing a document may be lengthened or shortened by filing the consent of the parties (Rule 3.02(2)).

Example: Plaintiff's Claim is served on the defendant on December 5, 2028. The Rules require the defendant to serve and file their defence within 20 calendar days from the time the claim was served. In calculating the 20 calendar days, the day on which the claim was received is not considered, and the count commences on December 6. As such, the 20th day would fall on December 25. Since December 25 is Christmas Day, it is a "holiday" as defined by the Rules. Therefore, the deadline (20th day) would be the next day that is not a holiday. Since December 26 is Boxing Day, which is also a "holiday" under the Rules, the deadline would further extend to December 27, 2028.

Not all celebrated holidays are considered a "holiday" for the purpose of the procedural rules, and the list of holidays may change if the governor general or the lieutenant governor proclaims a special holiday. It is also imperative to remember that if New Year's Day, Canada Day, or Remembrance Day falls on a Saturday or a Sunday, then the following Monday becomes a holiday. If Christmas Day falls on a Saturday or a Sunday, the following Monday and Tuesday are holidays. If Christmas Day falls on a Friday, the following Monday is a holiday (Rule 1.02(1)).

File Organization

There are no particular rules that require a party or their legal representative to maintain their file for the Small Claims Court proceeding in a particular manner. Lawyers and paralegals will often develop a personal preference for organizing the documents relevant to a Small Claims Court case. Some legal professionals continue to maintain both physical and digital files, while others have switched their practice entirely to a digital format. Whatever the preference is, the best approach is to ensure that all documents prepared for the particular matter are (1) easily retrievable, (2) safe and protected from any breaches of confidentiality or loss of information, and (3) current and legible.

Many legal professionals separate their digital documents, within the client's file, in the following format:

1. Accounting
 - a. Identification
 - b. Retainer agreement
2. Correspondence
 - a. Client
 - b. Court
 - c. Internal
 - d. Opposing
3. Court documents
 - a. Drafts
 - b. Proof of service
4. Evidence
 - a. Client
 - b. Opposing
5. Reference (contains legal authorities to support client's position)

CHAPTER SUMMARY

Small Claims Court is a division of the Ontario Superior Court of Justice. It is a civil court with jurisdiction to hear actions for money in amounts of \$50,000 or less, excluding interest and costs, or for recovery of personal property with a value of \$50,000 or less, as of October 1, 2025.

Small Claims Court is intended to improve the public's access to justice by providing a forum with simplified rules and procedures where claimants may have their matters resolved in a just, speedy, inexpensive, and simple manner.

The CJA sets up the court system in Ontario. Sections 22 to 33.1 of the CJA set out the general principles governing Small Claims Court, including who may be a judge of Small Claims Court (s 24), monetary jurisdiction (s 23 and O Reg 626/00), the general mandate or purpose of Small Claims Court (s 25), legal representation (s 26),

evidence (s 27), installment orders for payment of money (s 28), costs (s 29), and appeals (s 31).

The *Rules of the Small Claims Court* are published as a regulation to the CJA. The Rules are designed to implement the court's mandate to determine in a summary way all questions of law and fact and make such order as is considered just and agreeable to good conscience, as set out in section 25 of the CJA. The court requires litigants to use the various prescribed forms and to submit the documents in a particular format, if they are being submitted electronically.

A licensee appearing before the Small Claims Court should be familiar with its procedural rules and know where to quickly locate them, should the need arise.

KEY TERMS

action, 3	hearsay, 11	notice period, 12
allegations, 8	infrequent claimant, 3	paralegal, 4
claimant, 3	injunctive relief, 5	parties, 3
construe, 14	justice, 7	plaintiff, 3
Convocation, 10	lawyer, 6	question of fact, 8
costs, 5	legal fees, 5	question of law, 8
declaratory relief, 5	legal jurisdiction, 4	referee, 7
default judgment, 12	liberally construed, 15	territorial jurisdiction, 5
defendant, 3	litigants, 3	tickler system, 13
disbursements, 5	monetary jurisdiction, 5	viva voce, 10
frequent claimant, 4	notice, 12	

REVIEW QUESTIONS

1. What is jurisdiction?
2. What is an action? What types of actions does Small Claims Court hear?
3. What is the CJA? What is its purpose?
4. What is the monetary jurisdiction of Small Claims Court? Does the maximum amount that can be claimed include interest and costs?
5. What is the difference between costs, legal fees, and disbursements?
6. What is the primary objective of Small Claims Court? Please provide the statutory authority.
7. Who may appear as a representative of a party in Small Claims Court? Please refer to the *Rules of the Small Claims Court*, the CJA, and By-Law 4 of the LSA when answering this question.
- 8 a. What is hearsay evidence?
- b. What is the general rule with respect to hearsay evidence?
- c. What is the general rule with respect to hearsay evidence in Small Claims Court? Please provide the statutory authority.
9. What is the general principle governing interpretation of the *Rules of the Small Claims Court*? Please provide the number of any rule(s) you are relying on in support of your answer.
10. Cassandra Fox received a Plaintiff's Claim by registered mail on February 14, 2028, requiring her to serve and file her defence within 20 calendar days. On which date is her defence due? Include the specific rule number you are relying on in support of your answer.

APPENDIX 1.1 OVERVIEW OF SMALL CLAIMS COURT PROCEDURE AND TIMELINES

Procedural step	Time period	Start date	Authority
Issue Plaintiff's Claim	2 years* *Several statutes require that an injured party give notice to the alleged defendant(s) before commencement of a claim	The day the claim is discovered	<i>Limitations Act, 2002, SO 2002, c 24, as amended, ss 4, 5</i>
		"Claim" is defined as "a claim to remedy an injury, loss or damage that occurred as a result of an act or omission"	<i>Limitations Act, 2002, s 1</i>
		In debt collections, the date of default If the debtor acknowledges liability in respect of a claim for payment of a liquidated sum, the act or omission on which the claim is based shall be deemed to have taken place on the day on which the acknowledgment was made	<i>Limitations Act, 2002, s 13(1)</i>
Serve Plaintiff's Claim	6 months Court may extend time for service before or after the 6 month period ends	The day the claim is issued	R 8.01(2)*
Serve and file defence to Plaintiff's Claim	Personal service: 20 days from service of claim	The day personal service takes place	R 9.01
	Alternative to personal service: 20 days from day service becomes effective	Depends on method of service	
	Substituted service: By court order	By court order	R 8.04
Issue Defendant's Claim	20 days	The day the defence is filed	R 10.01(2)(a)
	After 20 days have expired but before trial or default judgment, with leave of the court	By court order	R 10.01(2)(b)
Right to amend a pleading	At least 30 days	Before the originally scheduled trial date, unless court permits otherwise	R 12.01(3)

* All Rules are from the *Rules of the Small Claims Court* unless otherwise noted.

Procedural step	Time period	Start date	Authority
Serve Defendant's Claim	6 months Court may extend time for service before or after the 6 month period ends	The day the Defendant's Claim is issued	R 8.01(2)
Serve and file defence to Defendant's Claim	20 days	The day service of Defendant's Claim becomes effective	R 10.03
Default proceedings	Noting in default: Immediately after the time for filing a defence has expired if no defence to a Plaintiff's Claim or a Defendant's Claim has been filed		R 11.01(1)
	Default judgment, debt, or liquidated demand: In a Plaintiff's Claim, if a defendant has been noted in default the clerk may sign a default judgment for all or part of the amount claimed if such amount is a liquidated debt, including interest if claimed		R 11.02(1)
Settlement conference <i>Note: This date is set by the clerk</i>	90 days	The day the first defence is filed	R 13.01(3)
List of proposed witnesses and documents to be relied on at trial	14 days	Before the date on which the settlement conference is scheduled	R 13.03(2)
Offer to settle	May be made any time up until the court makes a final order; may be accepted any time up until the offer is withdrawn or expires or the court makes a final order		R 14.02, 14.03(3)
Offer to settle for the purpose of seeking double costs at trial	At least 7 days before trial, in writing; offer cannot expire and cannot be withdrawn prior to trial; success by the offeror must be the same or better than the offer to seek double cost recovery at trial		R 14.07
Motions before trial	Notice of motion to be served at least 7 days before the motion hearing date; filed with the court with proof of service at least 3 days before the motion hearing date		R 15.01(3)(a)(b)
Response to a motion before trial	If a responding party to a motion wishes to respond, the response must be served on opposing party(ies) and filed with the court at least 2 days before the motion hearing date		R 15.01(4)
Response to the response to a motion before trial	If the moving party wishes to file supplementary materials in response to the response to a motion, the moving party may serve and file such supplementary materials at least 2 days before the motion hearing date		R 15.01(5)

Varying an order obtained on a motion advanced without notice	A party affected by an order obtained on a motion without notice may make a motion to set aside or change the order within 30 days of receiving the order that affects them		R 15.03(3)
Motion for new trial	Within 30 days from the date the final order is made		R 17.04
Request a trial date	If the claim is not settled within 30 days after the settlement conference, one of the parties must request a trial date and pay the required fee		R 13.07
Summoning a witness to trial	Summons to witness must be served, together with the attendance fee, on a witness no later than 10 days before the trial date		R 8.01(7)
Notice of debtor examination	Notice of examination, together with the financial information form, must be served on the debtor at least 30 days before the examination date; proof of service must be filed with the court at least 3 days before the examination hearing date		R 8.01(11)(12)
Appeal to Divisional Court <i>Note: The Divisional Court is the appellate branch of the Superior Court of Justice</i>	30 days	The day the order appealed from is made	<i>Courts of Justice Act, s 31</i> <i>Rules of Civil Procedure, r 61.04(1)</i>