A Guide for Self-Represented Persons in Civil Cases

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Introduction

This guide is intended to provide self-represented persons with an overview of the court process. It sets out certain first principles to consider and practical tips to assist you with your matter. This guide does not anticipate every situation that may arise during the court process. Moreover, this guide does ***not*** provide legal advice nor should it be used as a substitute for hiring a legal professional.

Self-represented persons are encouraged, wherever possible, to seek independent legal advice and representation regarding their matter. Judges can provide some assistance to a self-represented person, but judges cannot become their lawyer. Judges must remain neutral and unbiased.

Finding a Lawyer

You can get a referral to a lawyer or paralegal, as follows:

Law Society Referral Service

The Law Society Referral Service can connect you with a lawyer. When you complete a referral online, and if a match is available, you will be provided the name of a lawyer or paralegal who will provide a free consultation of up to 30 minutes. The online request, the referral process, and your initial consultation of up to 30 minutes are free. The consultation is meant to help you determine your rights and options. You can start the online process of obtaining a lawyer referral or paralegal referral at www.findlegalhelp.ca.

Lawyer and Paralegal Directory

You can search online for lawyers and paralegals by name, city or postal code at: Lawyer and Paralegal Directory | Law Society of Ontario (lso.ca). You can also look for a lawyer or paralegal on the internet or in the telephone directory.

Representing yourself

You are generally allowed to represent yourself in court. Certain parties, however, must be represented by a lawyer, including:

- corporations (unless the court says otherwise)
- a minor (under age 18)
- an adult who is mentally incapable, whether or not a guardian has been appointed for the person. The definition of mental incapacity is set out in the *Substitute Decisions Act, 1992*
- an absentee, as defined in the *Absentee Act*
- a person who holds decision-making authority on behalf of a party, such as a trustee or guardian

If you do not fall into one of the categories listed above and you are attending court, you can represent yourself. Those who represent themselves are responsible for becoming informed about the law and the court's processes. Self-represented persons will be held to the same standard as people who are represented by a lawyer.

About Civil Proceedings in the Superior Court of Justice

The Superior Court of Justice hears all civil proceedings in Ontario, including commercial matters, personal injury, bankruptcy and insolvency cases, and litigation involving wills and estates. The court also has some appellate jurisdiction under various statutes.

Civil proceedings in the Superior Court of Justice are generally governed by the *Rules of Civil Procedure*; however, some matters may be governed by other procedures under particular legislation.

The Divisional Court, a branch of the Superior Court of Justice, is the principal forum for judicial review of government action, and also hears statutory and some civil appeals from a broad range of administrative tribunals in Ontario. The jurisdiction of civil appeals to the Divisional Court is $50,000.

A distinct branch of the Superior Court called the Small Claims Court hears civil matters for under $35,000.

To locate a court in your area, please see the List of Ontario Court Addresses on the Ministry of the Attorney General's website.

Court Forms and Practice Directions for Civil Matters

There are court forms that you may need to use as required by the *Rules of Civil Procedure*, which are referred to throughout this guide. These forms can be found on the Ontario Ministry of the Attorney General's website: Rules of Civil Procedure Forms.

The Superior Court of Justice has established practice directions and policies that govern how proceedings in the Superior Court of Justice are conducted. Some practice directions apply province-wide, while others are specific to a particular region or location. As you prepare your case, please consult the Provincial Practice Directions, as well the practice directions particular to your region by using following links:

- Provincial Practice Directions
- Regional Practice Directions and Notices

Role of the Judge

Judges ensure that every case is dealt with fairly and impartially, and that the law of evidence and procedures of the court are followed. Judges hear from witnesses, assess the credibility of witnesses' evidence, consider arguments and make decisions based on the law and facts.

A judge cannot provide you with legal advice. They cannot tell you how to protect your rights or how to run your case. They must remain neutral and unbiased. A judge may however provide you with information about the process and help clarify what is happening. If you do not understand what is happening in court or what you are being asked to do, be sure to ask the judge. If you need an interpreter, you must notify the judge as soon as possible so that arrangements can be made.

Juries are not common in civil cases in Ontario, but if there is a jury, the judge will not determine the case. In civil cases involving a jury, the judge instructs the jury on the law and the jury renders a verdict based on those instructions.

You are not permitted to communicate directly with judges outside of the courtroom. If you need to send correspondence to the court, it must be sent through the Trial Coordinator's Office. Make sure to copy all parties involved in your matter on everything you send the court.

Your Responsibilities

You are expected to prepare your own case. The information in this guide is intended to assist you with that process. You are responsible for learning about the court process, the *Rules of Civil Procedure*, the court's practice directions, and the law that relates to your case. The fact that you do not have a lawyer will not excuse you from having to follow court rules and processes.

What to Do if you Cannot Attend a Court Date

If you are scheduled to attend court, it is important that you let the court know in advance if you expect to be late or if you are unable to attend. You must contact the courthouse immediately as soon as you become aware of the situation. Call the courthouse telephone number to speak with someone or leave a message detailing the reason you are going to be late or unable to attend that day. It is expected that you will be in court on time, ready to proceed. If you do not attend court, the judge may proceed with the hearing and/or order costs against you.

Court Decorum

Every court participant must respect the dignity of the court and its processes. There are certain rules for how to act in a courtroom. You should familiarize yourself with the guidance for attending Court in person or virtually by reviewing the information here **(this should take you to the court decorum page of our site)**

You have the right to be in the courtroom throughout your hearing or trial. However, that right is not absolute: if you disrupt the hearing, the judge can require you to leave the courtroom. If you do not follow the judge's orders, you can be found in contempt of court. The penalty for contempt of court may include a fine and/or jail.

Unless authorized by the judge, you shall not make any recording of the proceedings or take photos or screen captures of the proceedings. It is an offence under section 136 of the *Courts of Justice Act* and may constitute contempt of court to record, photograph, publish or broadcast court proceedings without express permission of the presiding judicial official. Some proceedings may

also have publication bans in effect, which make it a criminal offence to publish or broadcast certain information that may be referred to during a court hearing.

Attending Remote Hearings

Most court appearances in the Superior Court of Justice will be in-person. However, if you are appearing remotely in a virtual courtroom there are rules of etiquette you should keep in mind. For example:

- Sign-in to the meeting using your own name (or a professional name)
- Wear clothing that is appropriate for a court appearance
- If possible, find seating in a quiet space with a neutral background
- Keep your microphone muted when you are not speaking
- If possible, use headphones with a microphone or a headset
- Do not move away from the screen or camera without permission from the court
- Do not eat during the hearing

It is your responsibility to make sure that your technology is working properly. Wherever possible, use a wired connection rather than wireless internet. If at any point you experience technical difficulties that do not resolve themselves, let court staff know immediately. Please be mindful that court staff is unable to provide technical support.

You have the right to be in the courtroom throughout your hearing or trial. However, that right is not absolute: if you disrupt the hearing, the judge can require you to leave the courtroom. If you do not follow the judge's orders, you can be found in contempt of court. The penalty for contempt of court may include a fine and/or jail.

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Additional information on best practices and etiquette for virtual hearings can be found on the Superior Court's Best Practices for Remote Hearings website.

Starting a Civil Claim

A civil case is a lawsuit that occurs between two or more parties when there is a disagreement on a legal matter. The parties can be people, groups of people, businesses or other organizations. The person starting the lawsuit is the plaintiff. The defendant is the person, business or organization being sued.

You can start a civil case by preparing and filing a Statement of Claim that describes the facts and legal reasons you are entitled to compensation. This is called an "action."

You can also start a civil case by preparing and filing a Notice of Application that describes the order you want the court or judge to make. This is called an "Application." A proceeding can be commenced by Application if it is authorized by a specific statute (see Rule 14.05(2) of the *Rules of Civil Procedure*), or if it satisfies the requirements under Rule 14.05(3).

Choosing the Right Court

Ontario's court system is comprised of various levels of courts.

(a) Small Claims Court

If you are suing for $35,000 or less or for the return of personal property valued at $35,000 or less, not including interest and costs, you can start your action in Small Claims Court.

For more information about suing or being sued in Small Claims Court, refer to Small claims court: suing someone | ontario.ca. For guidance on process and procedure in the Small Claims Court, refer to the Rules of the Small Claims Court.

(b) Superior Court of Justice

You should start your case in the Superior Court of Justice if you are suing for more than $35,000; or seeking a specific type of order that only a Superior Court judge can make.

Cases involving certain areas of law are dealt with by specialized bodies (i.e., boards or tribunals) or are governed by specialized procedures.

The Superior Court of Justice does not deal with matters where the Federal Court has exclusive jurisdiction, such as federal tax and immigration matters.

Factors to Consider Before Starting a Claim

Before starting a claim, some factors to consider are:

- the options available to resolving your dispute without going to court
- what, if any, time limit exists on how long you can wait before starting an action (see the *Limitations Act, 2002* for more information on the time limit within which a party must commence a civil action)
- the full legal name and address of the person or business you are suing
- the facts about the case because you will need to start the action by writing a short, clear summary of what happened and why you think you are entitled to the relief you are seeking and provide evidence to support this at trial

Court fees

You will need to pay fees when filing a claim and for most steps in the court process. You can pay these fees, either:

- at the court counter
- by mail
- online (where available)

The judge might order the person you are suing to pay some of the costs if you win the case. If you lose, you might have to pay your own costs and some of the defendant's costs.

Even if you win, the person or business you sued may not pay you or return your property. If this happens, you can try to collect by enforcing the judgment, which also involves fees.

You may also need to pay other costs related to your case, including:

- lawyer fees and disbursements
- copy fees
- mediator fees
- witness attendance money

If you think you cannot afford to pay court fees

You can request a fee waiver if you cannot afford to pay court fees. Learn more about fee waivers here.

Filling a Claim

As a plaintiff, you can start your action by:

(a) preparing a Statement of Claim (also referred to as a "claim" or "pleading") (Form 14A or 14B);
(b) paying the applicable court fees (learn more about court fees here); and
(c) having the court issue the Statement of Claim

Your Statement of Claim should include a short summary of the key facts that support your case. See Rule 14.03 and Rule 25 of the *Rules of Civil Procedure* to learn more about the legal requirements of a pleading.

If you need more time to file a Statement of Claim, you can file a Notice of Action (Form 14C). This will provide you with thirty more days to file your Statement of Claim (Form 14D). A Notice of Action alerts the person you are suing that you are commencing a legal proceeding against them. If you do not file a Statement of Claim within thirty days after the Notice of Action is issued, no claim may be filed except with the written consent of the person you are suing or with leave of the court.

To have your Statement of Claim issued by the court, you must file it with a completed Form 14F (Information for Court Use) through one of the following methods:

- online (see here for more information)
- in-person
- by mail

Serving a Claim

The court will stamp and date your Statement of Claim. Once the court "issues" your Statement of Claim, you must personally give a copy to each named defendant within six months. This is called serving your claim. There are very specific rules about how you can serve your claim (refer to Rule 16 and Rule 17 of the *Rules of Civil Procedure* to learn more about how to serve your document). All parties must be served in accordance with the appropriate *Rules of Civil Procedure* to ensure notice is properly received. The way you serve a document will depend on the type of form you use.

Once you have served your Statement of Claim, you must complete an Affidavit of Service (Form 16B) for each defendant served and have it filed with the court.

Defending a Claim

If you are being sued, you will have been served with a Statement of Claim. You must:

(a) prepare a Statement of Defence (Form 18A) and serve it on everyone else in the matter (such as the plaintiff and any other defendant who is named);
(b) complete an Affidavit of Service (Form 16B) for each party served; and
(c) file your Statement of Defence and proof of service with the court

The Statement of Defence (also referred to as a "pleading") tells the court and the plaintiff which of the facts and claims you agree with and which you disagree with. See Rule 25.07 of the *Rules of Civil Procedure* for guidance regarding the rules of pleading applicable to defences.

You must serve your defence within a specific number of days, depending on the specific matter. See Rule 18 of the *Rules of Civil Procedure* for more information about when to serve your Statement of Defence.

If you cannot serve your Statement of Defence within the required time limits, you can serve and file a Notice of Intent to Defend (Form 18B). This will give you ten more days to serve and file your Statement of Defence.

As a defendant, you may do the following:

- Try to settle the case with the plaintiff at any step in the court case.

- Where you believe the plaintiff owes you money, you can start a Counterclaim (Form 27A or 27B). This is similar to a Statement of Claim (for example, you will need to write a short, clear summary of why you think you are entitled to certain relief from the plaintiff). The plaintiff is entitled to file a Statement of Defence to your Counterclaim. Refer to Rule 27 of the *Rules of Civil Procedure* for more information about Counterclaims.

- Disagree with the Statement of Claim and start a Crossclaim (Form 28A) against another defendant if you believe the other defendant is responsible for the plaintiff's damages or owes you money or property in this case. This is similar to a Statement of Claim (for

example, you will need to write a short, clear summary of why you think you are entitled to certain relief from the other defendant). The other defendant is entitled to file a Statement of Defence to your Crossclaim. Refer to Rule 28 of the *Rules of Civil Procedure* for more information about Crossclaims.

Transferring a Claim to the Small Claims Court

If your claim is $35,000 or less and was started in the Superior Court of Justice, it will not automatically transfer to Small Claims Court.

There are two ways you can ask to have your case transferred.

(a) If all parties agree to the transfer

If your trial has not started and all parties agree to the transfer, you can ask the local Superior Court registrar to transfer the case.

To ask the court registrar, you must:

- get written consent of the transfer from all parties
- complete a Requisition (Form 4E)
- file the requisition and written consent from all parties with the Superior Court of Justice
- pay the fee to transfer the court file

(b) If all parties do not agree to the transfer

If the parties in your case do not agree to the transfer, you can bring a motion in the Superior Court of Justice to ask the court for permission to do so. To bring a motion orally, you must ask for a hearing date at the Superior Court of Justice court office where you started your case. You must also prepare and file the following:

- a Notice of Motion (Form 37A)
- motion record which includes:
    - your Notice of Motion

    - a copy of all the materials you intend to rely on for the motion, including any documentary evidence that may need to be sworn or affirmed in the form of an affidavit
- Confirmation of Motion (Form 37B)

You can also bring a motion in writing. Important details about the procedure and evidence for a motion are set out in Rule 37 and Rule 39 of the *Rules of Civil Procedure*. You should read the rules carefully before you make a motion.

Once you have filed all your documents and paid the fee, you must attend your motion hearing where the judge will make their decision on whether to transfer your case to the Small Claims Court.

If you receive a transfer order, you must ask the court registrar to transfer your case by:

- completing a Requisition (Form 4E)
- filing the requisition and a copy of the transfer order with the Superior Court of Justice
- paying a fee to transfer the court file

There are different steps to bringing a motion if your case is under the Simplified Procedure.

Being Noted in Default

You should never ignore a Statement of Claim. If you do not file a Statement of Defence, you may be noted in default and you may not receive any further notice about other steps taken in the case.

Being noted in default has serious consequences, including that the court will assume you admit the claims made against you and the plaintiff can ask the court to order that you pay the claim. This is called a “default judgment”, which can be enforced against your property and assets. Refer to Rule 19 of the *Rules of Civil Procedure* for more information about default proceedings.

Obtaining a Default Judgement

If the defendant in your case has not filed a Statement of Defence within the specified time limit, you can get a default judgment. There are two steps you must take to get the default judgment.

Step 1: Note the defendant in default

To have the defendant noted in default, you must:

(a) prepare an Affidavit of Service (Form 16B) for your Statement of Claim (Form 14A or 14D)

(b) prepare a Requisition for Default Judgment (Form 19D)

(c) file your affidavit and requisition with the court registrar

Step 2: Move to obtain the default judgment

You will need to either:

- request the court registrar sign default judgment if your claim is for a fixed amount of money (for example, an unpaid debt) pursuant to Rule 19.04 of the *Rules of Civil Procedure*; or
- bring a motion to the judge if your claim is for damages that needs an assessment of how much you should be owed (for example, a personal injury), pursuant to Rule 19.05.

For the court registrar to sign default judgment you must file a Requisition for Default Judgment (Form 19D). The court registrar may decline to sign if they are unsure whether the claim can properly be signed in default or they are unsure if the rate claimed is recoverable for prejudgment or postjudgment interest. If the registrar declines to sign default judgment, you can bring a motion to the judge.

You can bring your motion for judgment to the judge either:

- in writing; or
- orally by attending a motion hearing

To bring your motion in writing you must prepare and file the following documents:

- Notice of Motion (Form 37A)

- motion record which includes:
    - your Notice of Motion
    - an affidavit (Form 4D)
- Confirmation of Motion (Form 37B)
- draft default judgment (Form 19A, 19B or 19C)

Once you have filed all your documents and paid the fee, the court will let you know whether the default judgment is granted.

To bring your motion orally, you must ask for a motion date by contacting the motions office in the courthouse where your claim was started. You must also prepare and file the following:

- Notice of Motion (Form 37A)
- motion record which includes:
    - your Notice of Motion
    - an affidavit (Form 4D)
- Confirmation of Motion (Form 37B)
- draft default judgment (Form 19A, 19B or 19C)

Once you have filed all your documents and paid the fee, you must attend your motion hearing where the judge will make their decision on whether to grant default judgment.

See Rule 19 of the *Rules of Civil Procedure* for more information on default proceedings.

The Discovery Process

In a process called “discovery”, the parties can exchange relevant information about their evidence before going to trial. The basic rule is that you have to let each other know about all the relevant documents, and other records and information you have that are related to any of the claims either of you has made. This means that if you have a document that is unfavorable, but related to your claim, you must still let the other person know about it. If you do not share the

documents you have, the consequences can be serious. For example, the lawsuit could be resolved against you, the court may order costs against you, or you might not be able to use the document(s) in court.

There are three main components to the disclosure and discovery process:

1. prepare a Discovery Plan that outlines how the parties will conduct the discovery process;
2. exchange of an affidavit of documents by the parties to make documentary disclosure; and
3. the scheduling and conduct of examinations for discovery

See Rules 29.1 to 35 of the *Rules of Civil Procedure* for the rules governing the documentary disclosure and discovery process.

The Discovery Plan

Before proceeding to discovery, you and the other parties must agree on a discovery plan within 60 days of the close of pleadings, unless you agree to a longer period (Rule 29.1).

The discovery plan must include:

- the types of documents you and the other parties will provide one another in documentary disclosure
- the dates by which you and the other parties will each serve your Affidavit of Documents (Form 30A or 30B)
- information about the timing, costs and way in which the documents will be produced
- the names of each person being examined in the discovery and information about the timing and length of the examinations
- any other information to ensure a quick and cost-effective discovery process

Documentary Disclosure

Rule 30 is very important to the understanding of what is required for a party to make documentary disclosure in an action. Rule 30.01 defines a “document” to include a sound recording, video tape, film, photograph, chart, graph, map, plan, and survey, book of account, and data and information in an electronic form.

The scope of documents to be included in discovery is outlined in Rule 30.02. Every document relevant to any matter in issue in an action that is or has been in the possession, control, or power of a party to the action must be disclosed. Rule 30.02(1) states that this is required whether or not privilege is claimed with respect to the document.

Rule 30.02(3) also provides that a party shall disclose and, if requested, produce for inspection any insurance policy under which an insurer may be liable to satisfy all or part of a judgment, or to indemnify or reimburse a party for money paid in satisfaction of all or part of a judgment. However, no information concerning the insurance policy is admissible in evidence unless it is relevant to an issue in the action.

Affidavit of Documents

Rule 30.03 imposes the obligation of a party to serve on every other party an affidavit of documents (Form 30A or 30B), to disclose the full extent of that party's knowledge, information, and belief all documents relevant to any matter in issue in the action that are or that have been in that party's possession, control, or power.

If you find new relevant documents after you serve your affidavit of documents, you must disclose them by serving a supplementary Affidavit (Form 4D).

Rule 30.02 requires that every document relevant to any matter in issue in an action that is in the possession, control, or power of a party to the action shall be produced for inspection if requested, as provided in Rules 30.03 - 30.10. There are some documents that you do not have to share; for example, "privileged" documents. In general, a document is privileged if it contains legal advice from a lawyer you have consulted for the lawsuit. There are other documents that may be privileged. You should speak to a lawyer to see if any of your documents are privileged and do not need to be disclosed.

Under Rule 30.08, where a party fails to disclose a document in an affidavit of documents or a supplementary affidavit, or fails to produce a document for inspection to comply with the *Rules of Civil Procedure*, an order of the court or an undertaking, a party may not use that document at trial if the document is favourable to his or her case, except with leave of the trial judge. If the document is not favourable to that party's case, the court may make such order as is just.

Examinations for Discovery

During the examination for discovery phase of the proceedings, the parties can make an appointment to ask each other questions under oath or affirmation. Examinations for discovery are not open to the public, and usually take place at the office of a court reporter or the office of a lawyer for one of the parties. A court reporter has special training and is certified by the court or government agency. The court reporter keeps an exact written record of all that is said during the discovery. They do not make decisions about your case. The court reporter will ask the party who is being questioned to swear to tell the truth, and the party who is asking the questions will begin.

When being discovered, you can refuse to answer questions that do not relate to a claim in the lawsuit. You can also refuse to answer questions that would require you to give privileged information. Be aware that the legal basis for any refusals made at an examination for discovery may be challenged by the opposing party in what is commonly referred to as a "refusals motion."

The purpose of an examination for discovery is to find out what the other party will say at trial and what evidence they will present to the judge. Examinations for discovery can also be helpful to find out areas of agreement, so the trial can be shorter and focus only on the facts and claims that are in which are in dispute.

A few additional points on what you can expect during this phase of the proceedings:

- examinations for discovery often have a time limit by law or by agreement. In Ontario, you can examine the other party or parties for up to seven hours, or you can agree to different time limits. This timeline applies regardless of the number of parties you are examining
- when you examine the other side, you are responsible for making arrangements (room, booking the court reporter, paying the court reporter and the witness fee)
- you can ask questions about anything relevant to your case
- the person you are examining is required to bring all of their relevant documents with them to the questioning
- you can ask questions about documents you present to the other side, or about documents they have included in their list of documents
- If they cannot answer a question during the discovery, you can ask them to send you the answer by letter (often called an "undertaking")

If you want to examine an opposing party in your case, you must serve a Notice of Examination (Form 34A) which tells them how to attend the examination by providing either:

- a time and place
- telephone conference details
- video conference details

Benefits of Discovery

The discovery process can help the parties:

- **Assess the strengths and weaknesses of each side's case before trial.** Each party can use the documents and information they received from another party at trial as evidence. This includes the documents from each party's list of documents.

- **Reach a settlement**. You may gain information about the case the other side will present/answer, and insight about your own case, which will help you to decide what a fair settlement might be. Settlement is always a good option, so you should consider settlement possibilities after receiving disclosure or conducting discovery or at any other step in the case.

Mandatory Mediation

Mediation is one way for you and the other parties to try and reach a settlement without having to go to court. In mediation, a neutral third party (called the "mediator") helps the parties look for a solution that works for everyone. The mediator guides a conversation between the parties in hopes of reaching a settlement of the case that is agreeable to all parties. Mediations are important because they allow parties to participate in the resolution of their dispute without the need for a trial. At a trial, a judge or a jury will decide the outcome of the case, and this is risky for all parties. Parties are encouraged to attempt mediation voluntarily at any stage in the court process.

Rule 24.1 of the *Rules of Civil Procedure* deals with the mandatory mediation of certain cases in Toronto, Ottawa and Windsor. Specifically, Rule 24.1.04 provides important details on the types of cases that are exempt from mandatory mediation.

The mandatory mediation session is conducted by a private sector mediator. Parties can agree to select a mediator from the Mandatory Mediation Program's roster or choose a mediator who is not on the roster.

Either the parties can agree on a mediation date or the court may order the date. The mediation must take place within 180 days after the first defence, or answer to the complaint, is filed unless the parties agree otherwise and file a consent with the local mediation coordinator within 180 days after the first defence, or answer to the complaint, is filed with the court. The court has the discretion to order time extensions.

A local mediation coordinator may assign a mediator from the roster if:

- the parties cannot agree on a mediator within 180 days after the first defence is filed
- the mediation has not happened by the deadline agreed upon by the parties or ordered by the court and the parties agree to take the matter to trial
- the local mediation coordinator has not received one of the following documents within 180 days of the first defence being filed:
    - a mediator's report that says the mediation has finished
    - a written consent showing the parties agree to postpone the mediation date
    - a court order postponing the mediation date
    - a Notice of Name of Mediator and Date of Session (Form 24.1A)
    - a written document giving notice that the action has been settled by the parties involved

When a mediator is assigned by the local mediation coordinator, the parties will receive a Notice by Assigned Mediator (Form 24.1B) to let them know which mediator has been assigned to them and the date and time of the mediation.

At least seven days before the mediation, the parties must give their mediator a Statement of Issues (Form 24.1C) that contains:

- the issues of the case
- the parties' positions, interests and pleas
- any other important documents

If a party does not give the mediator a Statement of Issues or go to mediation within the first 30 minutes of the session, the mediator can cancel the session and file a Certificate of Non-Compliance. The party responsible will have to pay any cancellation fees and could face penalties from the court.

Conferences

Pre-trial Conference

A pre-trial conference is a meeting between you, the other parties, and a judge. All parties must attend a pre-trial conference before the trial can be held. If a mediation has not occurred, the pre-trial conference may be the first time the parties engage in settlement discussions that are facilitated by the judge. The pre-trial is an opportunity for the parties to explore the possible settlement of the case and decide the outcome of the case for themselves rather than having an outcome imposed on them through a trial. Rule 50.02 of the *Rules of Civil Procedure* dictates the procedure for pre-trial conferences.

Even if the case does not settle, a great benefit of a pre-trial conference is that it provides an opportunity to receive the views of a judge on the strengths and weaknesses of each parties' case. The purpose of these conferences might be to:

- see if the matter is ready to proceed to trial
- review the proceedings that have taken place to date, such as pleadings, exchange of documents, discoveries, motions
- discuss what steps need to be taken in order to move the case ahead to trial and who will take those steps and when
- discuss evidence including whether there can be an agreed statement of facts, exhibits, witnesses, and expert witnesses
- expected duration of the trial, and time required for each party (including argument after the evidence is presented)
- what, if any, orders are required before trial

The judge who conducts the pre-trial conference cannot preside at the trial unless all parties consent. To schedule the pre-trial, you must contact the court registrar within 180 days of the case being set down for trial. If you do not schedule it, the court registrar will set the date.

Case Conferences

Case conferences are meetings with a judge or judicial officer aimed at removing any procedural roadblocks that may have arisen between the parties in a case without the need for a formal motion. Generally, these conferences help to resolve disputes or deal with procedural issues, such as scheduling, timelines and making sure parties are ready for trial or that documents have

been disclosed. In some cases, there will be an opportunity to exchange settlement offers at a case management conference.

Before you attend a case conference or pre-trial conference, be sure to do your research so you are prepared for the meeting. You can prepare by doing the following:

- be sure proper court forms have been used to start the case
- be ready to tell the judge what order you are seeking or opposing
- understand your case (your rights and responsibilities)
- make sure you have given copies of all relevant documents and other evidence to the other parties before the conference
- consider any procedural matters that still need to be dealt with (such as documentary disclosure you have not received yet or a request to be referred to mediation)

See also:

- Rules 50.02 and 50.03 of the *Rules of Civil Procedure* for more information on pre-trial conferences for actions and applications; and

- Rule 50.13 for more information on case conferences.

Case Management Conference

Case management is governed by Rule 77 of the *Rules of Civil Procedure*. It is a special system designed to bring certain civil cases to a timely conclusion by early and active intervention of the court. It is only available in Toronto, Ottawa, and Windsor.

Under case management, a judge or associate judge may:

- extend or shorten a deadline imposed by an order or by the rules;
- adjourn (delay) a case conference
- set aside an order made by the registrar
- establish or amend a timetable
- make orders, impose terms, give directions and award costs as necessary to carry out case management
- arrange a case conference under Rule 50.13

If a civil case is unusually complex but it is not assigned to formal case management under Rule 77, it may be subject to a different but similar form of management under Rule 37.15 of the *Rules of Civil Procedure*. The judge or associate judge may make procedural orders and give directions as necessary to facilitate the fastest and least expensive determination of the case. Rule 37.15 applies everywhere in Ontario.

Pre-trial Motions

Rule 37 of the *Rules of Civil Procedure* sets out the requirements and procedures for motions. Before a lawsuit goes to trial, issues may come up that require the court to decide. These issues are handled through motions. A motion is a request to the court for an order to deal with one or more issues in advance of a trial.

(a) Procedure

To bring a motion, a Notice of Motion (Form 37A) must be prepared notifying the other parties that you are bringing a motion, the relief you are seeking from the court, and the legal grounds/basis for the relief you seek. The Notice of Motion must be served on any party who will be affected by the order sought and filed with the court in accordance with the timeframe set out in the rules (Rule 37.08(1)).

To avoid delay, it is a good idea to discuss the date of the hearing with the other party to choose a date when you are both available and the court has an opening hearings date and time. Of course, if you cannot agree on a date, you can unilaterally choose a date for the hearing, but the judge may adjourn it so the other side can attend. In the Practice Directions of certain regions, motion dates for a particular court location in that region can only be booked by the parties through the Calendly application.

Some motions are about procedural issues that must be resolved so the trial can proceed, like the exchange of documents or whether someone must be examined by a doctor. Other motions seek interim (temporary) orders if something needs to be arranged until it can be dealt with at trial. For example, if there is a dispute over property, but until the date of the trial, the utility bills need to be paid. If you cannot agree with the other party about something that needs to be done before the trial, you can apply for an interim court order about how to deal with things until the matter is dealt with at trial.

(b) Hearings

For most motions you and the other party must attend a hearing. A hearing is often before a judge or court officer who will decide whether to grant the order you are requesting. Some motions can be heard in writing and do not require the parties to attend court to have them argued (see Rule 37.12.1 of the *Rules of Civil Procedure*).

On a motion, the parties will be able to argue why the order should or should not be made. For most hearings, you can only provide evidence through affidavits (sworn written statements), whereas, in some limited cases, you may be able to call witnesses to give evidence in person at the hearing. Rule 39 of the *Rules of Civil Procedure* explains the procedure concerning evidence on a motion (or application).

The party that filed the motion will need to first explain what order they are seeking and why the judge should make them. Then the responding party will have the opportunity to reply by explaining what order they think the judge should make instead.

(c) Adjournment

If you need to have the hearing adjourned (i.e., postponed) to a later date, you can ask the judge for an adjournment. Before granting an adjournment, the judge must be satisfied that there is a good reason to do so. If an adjournment is granted, costs may be assigned against you or conditions set on the adjournment.

In cases where both parties consent to an adjournment, they can make a very quick appearance or often just file a form and not have to make an appearance at all. This might happen if one party is not available or if the evidence required is not yet available.

(d) Decision

Once the judge has all the evidence and everyone has explained their position on the issues raised, the judge will decide. They may either dismiss the motion or make all or some of the orders requested. In some cases, the judge may render a decision and give oral reasons immediately following the hearing. In others, the judge will “reserve” and provide written reasons later. Following a ruling, one of the parties (usually the successful party) will need to prepare a written order of the judge’s decision, for the judge to sign.

(e) Costs

Following the hearing, a judge will also determine whether and how much the unsuccessful party should be ordered to pay the successful party to compensate them for the cost of bringing the motion or responding to it. This is called a “costs order.” Where costs are ordered, the amount will depend on the judge’s assessment of the factors listed in Rule 57.01 of the *Rules of Civil*

Procedure. The court has discretion to award costs as a percentage, a fixed amount, or no costs at all.

If the person who is required to pay costs does not pay, a judge may, on application:

- Dismiss or put on hold that person's case in the lawsuit
- Require the person to pay security into court
- Make some other appropriate order

The issue of costs of proceedings is generally governed by Rule 57 of the *Rules of Civil Procedure.*

Alternatives to trial

Going to trial takes time and costs money. You should also consider the possibility that you might lose the case and be ordered to pay the other party's costs.

Before starting a court case, you may want to consider other dispute resolution options available to you.

(a) Negotiation

Negotiation is a form of dispute resolution where you and the other party try to reach an agreement without going to court. Communication can occur either:

- directly with the other person
- through representatives (such as a lawyer or paralegal)

Before you decide to start a case, you could send a letter or talk to the person you are suing and explain the situation and why you think you are entitled to the outcome you want.

(b) Mediation

A mediator is a neutral third party who can help you and another person reach an agreement. A mediator can help improve communication and encourage compromise, which could help you avoid going to court altogether.

Mediation is voluntary if it occurs before the court case starts. You and the other person must both be willing to work out a solution and agree to the mediation. After a court case starts, mediation is mandatory in most civil court cases in Toronto, Windsor and Ottawa. Learn more about Ontario's Mandatory Mediation Program.

The mediator does not take the place of a lawyer. Each party is encouraged to get independent legal advice before and throughout the mediation process. Private practice mediators offer civil mediation services. You can find a professional mediator through the following organizations:

- Alternative Dispute Resolution (ADR) Institute of Ontario
- Alternative Dispute Resolution (ADR) Institute of Canada

(c) Arbitration

An arbitrator is a neutral third party who can help you resolve a case without going to court.

Parties who arbitrate a case must agree to be bound by any decision made by the arbitrator. A decision made by an arbitrator is legally binding and enforceable against the parties. Arbitration is less formal than a court trial and many people find it to be a more comfortable process than going to court.

An arbitrator considers the evidence presented to them by the parties. The arbitrator cannot exclude evidence that a court would otherwise admit. Arbitration is governed by the *Arbitration Act*.

The arbitration process may be more complicated and expensive than mediation, but arbitration can be faster than suing in court.

You can find a professional arbitrator through the following organizations:

- Alternative Dispute Resolution (ADR) Institute of Ontario
- Alternative Dispute Resolution (ADR) Institute of Canada

Setting the Action down for Trial

Once defences are filed and discovery is completed (including any discovery-related motions), you or any party to the action can ask for a trial date. This is called “setting the action down” for trial.

If you are the plaintiff, you can have your case set down for trial by:

- serving your trial record on the other parties;
- filing it with the court with proof of service; and
- paying any fees

You will need to prepare and file your trial record. The trial record contains, among other things:

- a table of contents;
- a copy of any jury notice;
- a copy of all pleadings (for example, claims, counterclaims, crossclaims or third-party claims);
- orders made in your case; and
- a certificate signed by the lawyer setting the action down for trial

See Rule 48.03 of the *Rules of Civil Procedure* for a complete list of the items that should be included in a trial record. See Rule 48 for more general information on the process for listing your matter for trial.

Dismissed Actions

The court can dismiss your action if:

- it was not set down for trial or settled within five years of the start date, unless the court ordered otherwise;
- it was taken off the trial list and not put back on the list within two years, unless the court ordered otherwise; or
- it was started before January 1, 2015 (see Rule 48 *Rules of Civil Procedure* for more information)

You will not get any notice that your action is being dismissed. Once it is dismissed, you will receive an Order Dismissing Action for Delay (Form 48D).

To keep your action from being dismissed if you cannot set it down for trial within five years of the start date, you must either:

- have consent of all the parties; or
- bring a motion for a status hearing

If you have the consent of all parties, you must draft a timetable that shows the court:

- the steps you need to complete before the action can be set down for trial or restored to the trial list;
- the date(s) the steps need to be completed by; and
- a date the action must be set down for trial or placed back on the trial list. The date cannot be more than seven years after the claim

Timetables and draft orders must be filed with the court at least 30 days before the five or two year deadlines.

If the parties do not consent to the timetable, you can bring a motion for a status hearing to ask for a court order allowing the action to move forward. You can do this at any time before the five- or two-year deadlines.

The Trial

Your trial may be decided by either a:

- judge; or
- judge and jury

Your case will be heard by a judge alone unless you request a judge and jury to hear your case. Juries are rare in civil cases and are not available in certain cases. If you require a jury, you will need to file a Jury Notice (Form 47A).

During the trial, you and the other parties will present your evidence by calling witnesses and entering your documents or objects as exhibits.

You will need to tell your witnesses when to attend court. If any of your witnesses are reluctant or unwilling to attend the trial, you can require them to do so by serving them with a Summons to Witness (Form 53A) along with their attendance money. This is money witnesses are entitled to receive to cover their expenses for attending court. You may file an affidavit to prove that you served the summons and delivered the attendance money to the witness.

Receiving the Judge's Decision

A judge may make their decision at the end of the trial, immediately after all parties have presented their case. The judge is also allowed to release their decision later. This is called "reserving judgment."

You can get a copy of the judge's decision, which is set out in a judgment, order or endorsement, from your lawyer or the court office.

If you request a copy of the judgment, order or endorsement from the court file, you will need to pay a copy fee.

Trial Procedure

This section briefly summarizes procedures to be followed for ordinary procedural trials. There are additional procedures for Simplified Procedure trials under Rule 76, and procedures that only apply to jury trials, neither of which are described in this guide.

The trial judge must be neutral and fair to both sides and cannot give legal advice. The judge can explain the procedure and will answer questions about the way the trial will be conducted, but you must determine how to present your case.

In every civil case, the plaintiff has the burden of proof to establish on a balance of probabilities the allegations contained in the Statement of Claim. This means that the plaintiff must present evidence that will convince the judge that, more likely than not (i.e., greater than a 50% chance), it would be correct to rule in favour of the plaintiff.

Phases of the Trial

(a) Opening statement

The plaintiff may begin with an opening statement, which gives an overview of the plaintiff's case, including what judgment or order the plaintiff wants the judge to make. What the plaintiff says in an opening statement is not itself evidence and cannot be relied upon to prove any of the facts that must be established in the action.

After the plaintiff's opening statement, the defendant will have an opportunity to make an opening statement. The defendant may choose to do so at that time or may decide to wait until the plaintiff's case is complete and give an opening statement at the beginning of the defendant's own case.

(b) Evidence (or Information) Phase

During this stage of the trial, the parties may call witnesses to give evidence and present documents to establish the facts they feel the trial judge needs to know in order to decide the case.

The plaintiff will call witnesses first. The defendant may cross-examine each of the plaintiff's witnesses.

After the plaintiff's witnesses have testified, the defendant (may make an opening statement and) will call their witnesses.

Following presentation of the defendant's evidence, the plaintiff has the right to call reply evidence to respond to any new matters which arise in the defendant's case. However, the plaintiff should not "save" witnesses to testify in reply after the defendant's evidence – the right to call a witness in reply is limited, and only occurs if the defendant raises something which was not addressed by the plaintiff's witness.

You decide who will take the witness stand and testify in support of your own case. You may testify yourself and may also have other persons give evidence on your behalf. You must have your witnesses available at the courthouse and ready to proceed.

While you are a witness, you will be testifying just like any other person and you will not be allowed to argue your case. This means that while you are the witness you will only be able to provide factual information, and cannot interpret the evidence, explain the legal issues or indicate why you feel the court should make a decision in your favour. That type of presentation is "legal argument" and comes later during the "submissions phase" of the trial.

The parties may also "read in" evidence given by the opposite party at an examination for discovery.

(c) Submissions (Concluding Arguments) Phase

After all evidence has been presented, the plaintiff and defendant will have the opportunity to present concluding arguments. This is the time when you make submissions to the trial judge about the conclusions you believe the judge should reach based upon the evidence previously presented. You can try to persuade the judge why they should decide the case in your favour.

Only a party or counsel can make a concluding argument, and not until the "submissions" phase of the trial, which comes after all evidence has been presented, including cross-examinations.

In your concluding arguments, you may:

- **summarize the law** – briefly state the law you are relying on and refer to any case law that you believe supports your position
- **summarize your evidence and how it relates to the law** – refer to the evidence presented to the judge at trial that supports what it is that you are trying to prove
- **address any arguments made by the other party** – explain why, in your view, the other party's arguments should not be accepted by the judge
- **conclude** – restate the order that you are asking the judge to make

It is important to note that the trial judge will make their decision only based on the evidence presented at trial. The evidence includes the oral testimony, cross-examinations and re-examinations of witnesses, discovery evidence "read-in", and evidence that has been introduced and marked as exhibits. Statements made outside of the witness box, including statements made during concluding arguments, are not testimony and cannot be considered by the trial judge as evidence. These statements are your suggestions about how the trial judge should interpret the evidence.

Some specific procedures that will be followed during the different phases of trial are highlighted below.

(d) Non-suit Motion

It is the responsibility of the person bringing the lawsuit to prove on a balance of probabilities (more than 50%) all the elements of their case. If you are confident the other side has not proven one or more elements of their case at all, you may choose not to call any witnesses or give evidence yourself, and instead ask for a non-suit.

You may ask the judge to decide whether the party who started the lawsuit has proven every necessary element of their case. This is called a motion for non-suit. If your motion for non-suit is granted, you will not have to call evidence or make a legal argument about your position in the lawsuit, and you will usually win the lawsuit. If your motion for non-suit is denied, you can still call your own evidence if you want.

(e) Questioning Witnesses

Direct Examination, Cross-examination and Re-examination

Before each witness testifies, they will be required to take an oath or affirm to tell the truth. The plaintiff will ask each of the plaintiff's witnesses questions. When a party questions their own witness, it is called "direct examination."

During direct examination of your witnesses, you are not allowed to ask a witness leading questions. A leading question is one that suggests the answer.

Examples:

Non-leading Question: *What is your name? (The answer is not suggested in the question).*

Leading Question: *Your name is John Doe, isn't it? (The answer is suggested in the question).*

All questions asked of witnesses must be relevant to the matters at issue in the case. If a party who is not represented by counsel is a witness, there will not be a question and answer format during direct examination; instead the self-represented party will give a narrative statement of relevant facts.
If you decide not to call evidence about an issue in the case, an inference may be drawn against you that there is nothing to rebut the other party's position on that issue.

After the plaintiff has finished questioning a plaintiff's witness, the defendant will have an opportunity to cross-examine the witness. The purpose of cross-examination is to obtain answers from the witness that will test the accuracy or honesty of the evidence, or bring out facts that may help the defendant. During cross-examination, leading questions (which suggest an answer) are permitted.

A plaintiff who testifies as a witness may be cross-examined by the defendant in the same manner as any of the other plaintiff's witnesses.

Responses on cross-examination have the same weight as answers given in direct examination. If something new comes up during cross-examination that need to be explained, or if there are matters that need clarification as a result of the cross-examination, the party who put forward that

witness may be able to “re-examine” the witness on those matters, but only to clarify ambiguities or explain new things raised for the first time on cross-examination.

After the plaintiff has finished presenting his or her case, the defendant’s case begins. The same procedure is followed, except that the defendant will first ask questions of each of the defendant’s witnesses in direct examination and the plaintiff will be entitled to cross-examine each of those witnesses. The defendant will also have the right to re-examine to clarify matters which arise during cross-examination.

(f) Exhibits

You may wish to introduce documents or other evidence such as photographs or physical objects as exhibits. You may do so by obtaining the consent of the other parties to have them introduced, or by having witnesses identify them. You must then ask the trial judge whether the document or other object can be marked as a trial exhibit.

You should provide opposing parties with advance notice of the exhibits that you intend to introduce. You must have at least four copies of any document that you intend to request be an exhibit in the trial: one for the witness (which will potentially be stamped as the exhibit); one for the judge; one for the opposing party; and one for your own use.

(g) Objections

During testimony, you or one of the other parties may object to a question that is being asked. The purpose of an objection is to have the trial judge decide whether the answer can become part of the evidence in the case. The trial judge has the right to disallow any question that the judge believes is improper. If you object to a particular question being asked, stand up and let the trial judge know that you object. The judge will then ask you to state the reason for your objection and will ask the other parties to respond. Some examples of objections are that the evidence has nothing to do with the case (relevance) or that it is hearsay. If the trial judge decides that your objection is justified, they will disallow that particular question. If the trial judge decides that the question is permitted, the witness must answer.

Similarly, if you object to the introduction of any document or other object that a party is trying to have marked as an exhibit, you may stand up and object to its admission by saying “objection, Your Honour” to the trial judge.

(h) Evidence

Hearsay Evidence

Hearsay is an out-of-court statement that is offered to prove the truth of its contents. The issue of hearsay arises when a witness attempts to testify about what someone else said. The person who made the statement may not actually be testifying at the trial.

For example, if someone said something to Mr. “B” outside of the courtroom and Mr. “B” then takes the witness stand to tell the court what the person said, Mr. “B” may not be allowed to share the information because it is hearsay.

Hearsay statements are generally excluded because a court relies upon the calling of witnesses who give their evidence under oath and who are subject to cross-examination by opposing parties. If the statement in question was not made by a witness available to be cross-examined, the truth of the statement can be called into question.

There are a number of exceptions to the hearsay rule. For example, hearsay evidence may be permitted if it meets the test of necessity and reliability. During the course of the trial, the trial judge may make rulings on whether hearsay evidence is permissible.

(i) Expert Evidence

Sometimes parties will call expert witnesses to testify. Before any party can call an expert as a witness, they must convince the trial judge that the person is an expert in the area in which they will give evidence. An ordinary (or “lay”) witness can usually only describe facts which they have observed or matters they have experienced, while an expert witness, such as a doctor, is allowed to give their opinion in the area of their established expertise.

The court rules have specific requirements for expert witnesses that the parties must comply with (Rule 53 of the *Rules of Civil Procedure*).

If you do not think that the “expert” put forward by another party is qualified, you may cross-examine the witness on their qualifications. If you agree that the expert is qualified to give an opinion, you still have the right to cross-examine the expert about the facts that they relied on to form their opinion and to question the opinion itself.

If the trial judge decides the witness is qualified to give expert (opinion) evidence, the party calling that witness will then conduct a direct examination of that witness (or enter into evidence a written report, which you must have received in advance of the trial). You will then have an opportunity to cross-examine the expert on their opinion.

(j) Evidence Obtained During Discovery Examination

If you have questioned the opposing party at an examination for discovery before the trial, you may be able to use questions and answers from the examination for discovery that help your case (Rule 31.11 of the *Rules of Civil Procedure*). Usually these will be admissions made by the other party that you will want to rely on to prove your case. Because the answer has been made under oath at the examination for discovery, you will not have to prove the point again at trial as long as it is "read in" to evidence.

To do this, you read out the relevant questions and answers from the examination for discovery transcript (i.e., not from your notes or from a summary of what was said at the examination for discovery) and those questions and answers become trial evidence. The evidence must be admissible, so the opposing party may make objections and the trial judge will decide what will be permitted. You should have the discovery transcript available, and the opposite party may request that additional questions and answers also be read into evidence to qualify or explain the portions of the transcript that you have read-in.

You can also use the examination for discovery transcript if a witness answers a question during cross-examination differently than he or she did at the discovery. You may prefer the discovery answer, or you may want to attack the credibility of the witness by showing that the witness gave different answers to the same question at different times. In that case, during cross-examination you may refer to the discovery transcript and question the witness about an answer given at discovery that contradicts their testimony at trial.

Please also consider the following procedural notes:

- These are general instructions only. The parties are responsible for obtaining whatever legal advice and information that they made need to put forward their case at trial. Note that the trial judge and court staff cannot give anyone legal advice.

- The court will usually sit in the morning from 10:00 a.m. to about 1:00 p.m., with a 15-minute break at about 11:30 a.m. In the afternoon the court will usually sit from 2:15 p.m. until 4:30 p.m., with a short break between 3:00 p.m. and 3:15 p.m. These times may be varied or extended to accommodate witness availability. Plan to arrive at the courtroom early to avoid delaying the trial. Also be prepared to stay later than 4:30 p.m.

- You should summons or otherwise have available all the witnesses you believe have relevant evidence to give at the trial so the trial can proceed without interruptions.

- Although the case is proceeding to trial, you can still agree before or during the trial to settle your differences with other parties. This is not part of the trial itself and the trial judge is not to be told about settlement negotiations. However, if you reach a settlement on any or all of the issues in dispute, put it in writing and present it to the trial judge. The judge will make a court order reflecting the terms of the settlement.

- If at any time during the trial you do not understand a question or terms which are used by anyone in the courtroom, please let the trial judge know.

Getting Paid If You Win a Case

Winning a case does not guarantee that you, as the creditor, will get paid. The person or business you sued (the debtor) may not be able to pay you or may choose not to pay you. If you do not get paid, there are steps you can take to try to get paid. This is called “enforcing the judgment.”

You can try to get paid by:

- garnishment, for example, of the debtor’s bank account or wages (when money is taken from the defendant’s paycheque and given to you)
- through the seizure and sale of personal property or land (the defendant’s personal property or land is taken and sold, with the profits being used to pay you back the money owed)

Enforcing judgment

It is up to you to determine the best way to enforce the judgment. To determine the best way to enforce a judgment, you may need information about the debtor’s financial situation.

You can find out information about the debtor’s financial situation by:

- checking with the local credit bureau, enforcement office or land registry office to find out if the person owns property or has other assets
- asking for an examination in aid of execution where you can ask questions about the debtor's financial situation and their ability to pay the judgment

At the examination, the debtor may be asked to give information about their:

- job
- income
- property, for example, motor vehicles or land
- bank accounts
- debts
- expenses
- reasons for not paying

See Rule 60 of the *Rules of Civil Procedure* for more information about enforcing judgments.

Prejudgment and postjudgment interest rates

If you want to ask for interest on the money you are claiming, you must ask for interest in your Statement of Claim. Before judgment, the interest is called “prejudgment interest.” Prejudgment interest can help motivate the defendant to settle the case before going to trial.

After judgment, the interest is called “postjudgment interest.” If your claim is successful, post-judgment interest is added automatically to the amount owed to you under the judgment. Postjudgment interest can motivate the defendant to pay the amount they owe sooner.

If the rate of interest has been agreed to by the parties (for example, in a written contract signed by the parties), indicate that interest rate in your Statement of Claim. If no interest rate was agreed upon, you can ask the judge to award you prejudgment and postjudgment interest at the rates defined in the *Courts of Justice Act.*

Appeals

Once you have received the judge's or jury's decision, you may want to appeal the decision. An appeal is where you argue in a higher court that the court that made the decision in your case made an error (e.g., in misstating the law or misapplying the law to the facts of your case). The decision to appeal should not be taken lightly. Making an appeal can be timely and costly. It is important to get legal advice when considering your options. A lawyer can help assess the probability of success if you were to appeal a decision.

In almost all cases, an appeal is not a new hearing or a new trial. An appeal is usually a hearing on the evidentiary record from the original hearing or trial. The job of the appeal court is to decide if the lower court judge made any errors in their judgment.

It is not enough to be unhappy with the result of a trial or other proceeding. In order to successfully appeal, you must generally show that the judge's decision was unreasonable or could not be supported by the evidence, or that the judge made an error in stating the law.

Both appellate courts have developed guides and practice directions to help individuals navigate the appeals process:

- **Court of Appeal for Ontario**
    - How to Proceed with a Civil Appeal in the Court of Appeal
    - Court of Appeal Practice Directions, Rules and Forms
    - Practice Direction Concerning Civil Appeals at the Court of Appeal for Ontario
    - How to Proceed with a Motion for Leave to Appeal in the Court of Appeal

- **Divisional Court (Ontario Superior Court of Justice)**
    - Guide to Appeals in Divisional Court
    - Appeal Process (Divisional Court)

Appeal Deadlines

Appeal deadlines for service and filing are very short, so you must act quickly. Failing to meet a deadline could be fatal to your appeal.

Appellate Court	Deadline
Divisional Court	The Notice of Appeal (Form 61A) and Appellant's Certificate Respecting Evidence should be served on the respondents within 30 days after the date of the order being appealed. Once the documents have been served, they should be filed with the Court within 10 days after service on all named respondents.
Divisional Court (Leave to appeal)	For appeals of an interlocutory order of a judge and statutory appeals where leave is required, the moving party must serve the Notice of Motion for Leave to Appeal (Form 37A) on the respondents within 15 days after the date of the order being appealed. The Notice must then be filed with the Court within 5 days after completing service, along with proof of service.
Court of Appeal	Usually, the Notice of Appeal (Form 61A) must be served on the respondent(s) within 30 days after the date of the order appealed from. The appellant then has 10 days to file the Notice of Appeal from the day the respondent(s) was served with the Notice of Appeal.
Court of Appeal (Leave to appeal)	In civil appeals where leave to appeal is required, a Notice of Motion for leave to appeal (Form 37A) must be served within 15 days from the date of the order being appealed and filed within 5 days of service with the Court of Appeal.

If you are acting without the assistance of a lawyer, please consult the Court of Appeal and Divisional Court websites for more information.

The Process of Appealing

You can appeal the decisions of a trial or hearing judge to a higher-level appeal court. It can be confusing trying to determine whether to appeal a decision to the Divisional Court or the Court of Appeal.

- In general, an appeal lies to the Court of Appeal from:
    - An order of the Divisional Court on a question that is not a question of fact alone, with leave of the Court of Appeal

    - A final order of a judge of the Superior Court of Justice, where the judgment is over $50,000; or
    - A certificate of assessment of costs issued in a proceeding in the Court of Appeal.
- The Divisional Court can hear appeals from the following order:
    - Tribunals that allow appeals to the Divisional Court per their legislation;
    - A final order of a judge of the Superior Court of Justice where the judgment is $50,000 or less;
    - A final order of a judge of the Family Court made only under a provision of an Act or regulation of Ontario;
    - An interlocutory order (an order that is provisional and not final) of a judge of the Superior Court of Justice, with leave as provided in the rules of court; or
    - A final order of a master, case management master or associate judge.
- A decision from a superior trial court will be appealed to the Court of Appeal, although you may have to apply for leave to file an appeal.
- Decisions of a Court of Appeal may be appealed to the Supreme Court of Canada but only if the Supreme Court grants leave to appeal.

Seeking Leave to appeal

For some appeals, you must seek leave (i.e., ask permission of the court) to appeal the decision/order/ judgment of the lower court. This is called “applying for leave to appeal”.

In general, leave to appeal is required in the Court of Appeal from:

- An order of the Divisional Court, that finally determines an appeal in that court;
- A cost decision from a final order of a judge of the Superior Court of Justice where the cost judgement was over $50,000; or
- An order of a court where the governing statute requires leave to appeal.

Requesting leave to appeal from Divisional Court is required where the decision being appealed is an interlocutory order of a judge of the Superior Court, or where the provision granting a right to appeal requires leave of the court, such as an appeal from the *Ontario Land Tribunal*. Leave of the court is also required for appeals from an order made with the consent of the parties and where the appeal is only with respect to a final order as to costs.

To succeed with a leave application, you will need to show the court of appeal that your proposed appeal involves a mistake of law or an important mistake of fact. In other words, if leave to appeal is granted, you are expected to be able to show that the judge applied the wrong law or misinterpreted the law, or applied the right law in the wrong way, or came to a decision that is unreasonable in light of the evidence.

Where leave to appeal is required, the appeal court retains discretion to hear your appeal even if you are able to show an apparent mistake of law or fact. The appeal court decides whether your appeal is the kind of case that is of sufficient public or legal importance that it deserves to be heard on appeal and should be allowed to proceed.

Appendix "A": Case Centre in the Superior Court of Justice

Case Center is the mandatory document sharing platform in the Superior Court of Justice. It is now being used for most events before the Superior Court of Justice. Where Case Center is used, parties are expected to upload electronic copies of their documents to Case Center after they are accepted for filing by the court. Documents that are uploaded to Case Center will be available for review by all participants before and during a court hearing. The use of Case Center is not limited to remote hearings; you will be expected to use Case Center and refer to Case Center-generated page numbers whether your attendance is virtual or in person.

Case Center does not replace online filing systems currently in place, such as the Ministry of the Attorney General's Justice Services Online (JSO). Material filed into JSO or with the court through other means is not automatically placed into Case Center. It is the responsibility of counsel and parties to upload material into Case Center after it has been accepted and filed by the court. More information to help you work with Case Centre can be found here.

Appendix "B": Legal Research

Legal research is about learning the law and understanding how the law applies to the specific facts of your case. It is important to understand your legal rights. A court can only grant you what you are entitled to under the law. By knowing the law, you will have a better idea of what orders a court can grant you and you can develop a stronger, more convincing legal position.

The law consists of two elements:

- **Legislation**: refers to written laws, often referred to as "Acts" or "statutes", which are enacted by Parliament, the legislative arm of government.
- **Case law**: refers to law created when the court interprets legislation in one case, and then that interpretation becomes the standard for the meaning of the legislation in other cases.

Finding the law

A judge may use both legislation and case law to decide your case. You will want to use the law to support your position and convince the judge to decide in your favour. This means you will need to have basic knowledge of how to research legislation and case law.

First you will want to see what the legislation says about your legal rights. In Canada, laws about some things (like criminal law) are made by the federal government; laws about other things (like an employee's rights) are made by provincial and territorial governments. All federal and provincial legislation can be found for free online, usually through a government website. If you are looking for a federal law, they are found on the Justice Laws website. If you are looking for an Ontario law, they are found on the Ontario e-Laws website. Each Act or statute has a table of contents to help you navigate its content. Regulations made under an Act will also be available on the website. You can also find the legislation that you need at no cost on the CanLII website.

Researching Case Law

Laws can be interpreted in different ways. A judge must decide how to interpret the law. Their decision becomes "case law". Case law helps to guide judges in a later case on how to interpret the legislation at issue and make decisions. Some cases (particularly from an appeal court) set the standard for how legislation or facts are to be interpreted. The legal term for this is "precedent." Legally, this is when a decision made by a judge becomes the standard for how other judges

make decisions related to a certain area of law. As you can see, using case law that supports your case can help the judge understand how to interpret the law in your favour. Cases with facts similar to yours may be more helpful to you. To do this, you need to research past cases. When you are representing yourself in court, this kind of legal research can be important.

If you can find a recent case, preferably from Ontario, where the situation is like yours and the decision is the same as the one you want, providing this information to the judge may be persuasive and can help support your case.

At the same time, it is important not to ignore cases that clearly do not support the outcome you want. There is a good chance the other party will use those cases. You need to be able to say why those cases do not apply in your situation (e.g., by showing that the facts are different from your case). If you are finding lots of cases that do not support the legal argument you are making, you may want to reconsider your position and think about an alternative resolution.

Legal Writing

Legal writing is the style of writing used when you are writing a document that is filed or presented in court. The convoluted traditional legal style of writing, often called “legalese”, is no longer necessary in legal writing. In fact, this style of writing is discouraged. Simple and plain language is most effective.

As you move through a proceeding, you will likely need to complete court forms or write other legal documents. When legal documents are poorly written, the judge has difficulty understanding your position and your legal arguments might not be clear. The easier it is to understand your documents, the more convincing your legal arguments will be.

Tips for Effective Legal Writing

Tip	Brief explanation
Use plain language	A judge wants to understand your case. The best way to ensure they do is by writing in plain language.
Write shorter sentences	Avoid telling your reader too much in one sentence. Shorter sentences are easier to digest. A good rule of thumb is to keep sentences under 20 words.
Write one idea per paragraph	Complicated information usually needs to be broken down into separate paragraphs to be understood.
Always keep your reader in mind	Your number one reader is the judge but the other party is also important. Your legal writing should be serious and professional. The judge needs to understand the relevant and material facts of your case. This does not necessarily mean you need to include the detailed story of your dispute – just what is needed for the hearing or trial.
Be clear	A good test is to read the document out loud. If you have to read a sentence more than once to understand it, you should re-write it.
Be well organized	Start by getting your ideas organized. Identify what you want to write; for example, “what are you asking for”, “why” and “your evidence”. Make a point form outline. This will help your writing to have more flow and become easier to understand. To organize your document, number each page and number each paragraph.
Be specific	Try to provide exact detail. Choose more specific words instead of vague ones. Instead of using “recently,” use the date. Instead of using “him” or “her”, use names.
Be accurate	Avoid contradicting yourself. If one statement in the document says the opposite of another statement, the reader will not know which to believe. If you do not know whether something is true, do not say that it is true. Be clear if you only believe something to be true.
Be consistent	You want to make it easy for your reader to understand what you are saying. If you use a term or name for something or someone, be sure to consistently use it. For instance, do not keep switching between first name, last name, and nickname. Often you can use a definition. You can show that you are using a definition this way: “John Doe (Doe)”. From then on, you would always refer to John Doe as Doe.

Provide context	Assume the reader knows nothing about your situation. Provide a short description to set the stage for the reader.
Say what you are asking for first	The reader should not have to guess what the document is about or wait until the end to find out. Instead, tell the reader your point right at the beginning of your document. You do not want your reader asking the question, "Why are you telling me this?" The strategy is to say what you are asking for and then support it with evidence. Use this strategy for every point you are making.
Only what is helpful	Do not get distracted when you are writing. Say exactly what you need to convince the reader. Irrelevant information will do nothing to help your case. You do not want the helpful facts getting lost in a pile of irrelevant ones.
Type your document	If you have the option to type your document, do so. Handwriting is usually accepted, but a typed document looks more professional and is easier to edit and to read.
Edit your work	As in all professional writing, spelling and grammar is important. Be sure to read through it multiple times before finalizing your draft. If you can, have someone else proofread it.
Legal review	If possible, have a lawyer review your document to ensure it is done properly. A lawyer can point out mistakes that are not immediately obvious to people without legal training.

Affidavits

You might need to write an affidavit as part of your court case. An affidavit is a written statement of facts that you swear are true. It is important that an affidavit be properly written, as it is evidence, just as if you were in court testifying in front of a judge.

Since an affidavit is used as evidence in court, there are strict rules around what you can include in your affidavit. Affidavits must provide information that is true and relevant. Courthouse libraries often have resources on the court rules about writing affidavits that could be helpful. You should also refer to Rule 4.06 of the *Rules of Civil Procedure* for more information on the legal requirements of an affidavit.

Here are some general principles.

- **Truth**: Everything within your affidavit must be true to the best of your knowledge. Lying in your affidavit will hurt your case and may lead to a criminal charge of perjury. If you

have doubt about whether something is true, you should not include it in your affidavit. If you think it is true, but are not certain, use “I believe”.

- **Relevance**: Do not include facts that are not related to the issues in your case. For example, if your application relates to a specific contract, do not include information about another contract, unless it is helpful.

Tips for Writing Affidavits

What to do
Give personal knowledge: Include what you saw, heard, did, and said, not what someone told you (hearsay). **Be truthful**: Lying in your affidavit could seriously hurt your case and courts can penalize you for it. **Organize your affidavit so it flows logically**: Most people will have facts in chronological order (according to date they occurred) or by subject matter, e.g., in an employment case, the first few paragraphs are about your employment duties and the next few are about the conflict at work and then you finish with a few paragraphs about the circumstances of your dismissal.
What to avoid
Personal opinions: Avoid stating personal opinions, e.g. “I believe that” or “I think that”. Generally, only experts are allowed to state their opinions for consideration by a judge. Affidavits should be statements of facts, not personal opinions. **Expressing feelings**: Judges will ignore statements of how you felt, e.g. “I was devastated by her moving out” instead write “my roommate moved out on July 12, 2023”. **Relying on hearsay**: Avoid hearsay evidence in your affidavit. Hearsay is information being offered for its truth that a witness learned from someone else, but regarding which the person has no direct knowledge. Hearsay is not always considered reliable, and not always allowed as evidence in court. **Asking questions**: You should not use questions, e.g. “What could I have done, but take the money?” Instead say “I had no choice but to take the money”. Use legal arguments: An affidavit is not the place to be talking about the law, or why you should. **Making absolute statements**: Avoid words like “always” or “never”. From the judge’s perspective, “always” means “100% of the time”, and “never” means “not even once”. Words such as “frequently”, “seldom”, and “not often” will give the judge a more balanced view and make you sound more reasonable.

Formatting Affidavits

The affidavit can vary in length from one or two paragraphs to multiple pages depending on the purpose for which it is being prepared. Keep your affidavit as short as possible. The facts are set out in paragraphs with each paragraph numbered on the left side. It is best to keep your paragraphs short, limiting each paragraph to one idea. Spacing should be set at least 1.5 lines and a space should separate the paragraphs. Use 12-point font for the main body of the text -- no larger or smaller font should be used.

Exhibits

When you want to support a statement in your affidavit with a document, you can attach it as an exhibit. Any document that can be printed on paper can become an exhibit (e.g., income tax return, web page printouts, receipts, photographs, prescription, etc.).

Here are examples of facts that can be supported by exhibits:

Fact	Exhibit
• As of July 12, 2020, I have $30,000 in my bank account.	Bank statement
• I have been suffering from severe headaches for the past three months.	Doctor's note; prescription

The judge may not automatically accept the evidence shown in every exhibit as true; it will depend on the nature of the exhibit. Some exhibits may need more support to be accepted.

Attaching an Exhibit

If you want to support a fact in your affidavit with an exhibit, you must refer to it in your affidavit. Each exhibit should be given a letter and referred to in alphabetical order. The first exhibit you refer to in the affidavit will be lettered 'A', the second, 'B', and so on. References to the exhibit should be typed in bold.

For example: As of July 12, 2020, I have $30,000 in my bank account. Attached as Exhibit A is a true copy of my bank statement.

Attach all your exhibits at the end of your affidavit. If an exhibit has multiple pages, number the pages. When you bring your affidavit to the commissioner to get it sworn, you must also bring the exhibits so they can be stamped as part of the affidavit.

Swearing or Affirming the Affidavit

To “swear” or “affirm” an affidavit means that you have read the affidavit and that you promise the information in the affidavit is true. Sign the affidavit in front of a commissioner for taking affidavits (or notary) that will also take your oath or affirmation and will sign it. Lawyers and public notaries are commissioners for this purpose.

Appendix "C": Glossary of Legal Terms

Legal Term	Definition
Act	An Act is a written law that has been passed by the federal or provincial legislature. Also called legislation or statute.
Admissible Evidence	Evidence that may be received by a trial court to aid the judge or jury. Generally, evidence must be both relevant and material to be admissible, as well as not barred by any specific rule.
Adjournment	The postponement, suspension or interruption of an ongoing hearing, proceeding, or trial, to resume at some future date. This may be at the request of one of the parties or directed by the court. It is always the court who decides whether to adjourn the proceedings.
Affidavit	A document that contains facts that a person swears or affirms to be true. A lawyer, notary public, or commissioner for affidavits must witness the person's signature and sign it.
Alternative Dispute Resolution (ADR)	Alternative Dispute Resolution is the use of arbitration, negotiation, mediation and out-of-court settlements (as opposed to court litigation) in the resolution of legal disputes. In family law, the purpose of ADR is to offer a less conflict-oriented and often less expensive way to resolve a dispute than litigation.
Balance of Probabilities	The burden of proof in a civil trial. The court must be convinced the evidence shows it is more likely than not that the person asking for an order is entitled to the order, or the court will not give the order.
Case Law	Decisions of courts relating to a particular matter or issue. Case law from the same level of court or other jurisdictions may be persuasive, but the court does not have to follow it. Case law from a higher court is binding on the lower court.
Civil Litigation	A lawsuit that is brought to enforce, redress, or protect a private or civil right. It is initiated by the person who suffered the effects of the harm.
Costs	A judge's order that the losing party in a motion, application or trial of an action pay an amount of money to the other party based on the time or money the other party spent dealing with the litigation. This may include all or part of court fees, disbursements, and legal fees.

Counterclaim	Document setting out any claim the defendant has against the plaintiff or other party related to the lawsuit started by the plaintiff. The counterclaim acts as the defendant's Statement of Claim against those parties.
Court Order	A legally binding direction by the court to do something. There are serious legal consequences for disobeying a court order.
Court Reporter	A trained professional who creates official records of things said during examination for discovery/questioning, and court proceedings. This may also be done electronically.
Cross-Examination	The questioning of a witness by an opposing lawyer or party who did not call the witness to testify. Cross-examination takes place after the lawyer or party who called the witness to testify has finished asking question in direct examination (or examination-in-chief). The purpose of cross-examination is to test the witnesses' truthfulness or reliability.
Damages	Damages include monetary compensation for financial loss, property loss, emotional or physical injuries, loss of earnings, and costs of care.
Default Judgment	If you do not file a response to a notice of claim or application, the judge may grant judgment in your absence and without your input.
Direct Examination	The questioning of a witness in court by the person who called the witness to court. The questions must be open ended and must not suggest a specific answer – i.e., they cannot be leading questions. Direct examination is also called examination in chief.
Disbursements	Out-of-pocket expenses incurred in lawsuit (e.g., court filing fees, the costs of registry searches, or the costs to obtain medical evidence).
Disclosure	The process of exchanging information (e.g., financial statements) that is related to the lawsuit and tend to prove or disprove the issues in dispute. Each party to a lawsuit must disclose all of their relevant information to the other side. Failing to disclose required documents can have serious consequences. Also called Discovery.
Evidence	Oral or written statements given under oath or affirmation by a witness, or other evidence, such as documentation or objects (which become exhibits), presented to the court by agreement of all parties, and the judge, or under evidentiary rules, to prove the facts that are necessary to establish a claim or defence in a civil or family case, or to determine the guilt or maintenance of innocence of an accused in a criminal case.

Examination for Discovery or Questioning	In civil and family proceedings, a process by which the parties to an action question one another, or another person, under oath or affirmation on the facts and issues. A transcript of the questions and answers is produced. The term “questioning” is used in some jurisdictions.
Exhibit	A document or object admitted as evidence in court.
Expert	A witness who gives evidence to help the court understand technical and scientific issues in the legal action. He or she may give opinions in areas that would not normally be within the judge’s knowledge. The expert must be shown to possess the necessary skill and qualifications in the area in which their opinion is sought. An expert can give evidence in person, and / or by writing a report called an expert report.
Final / Closing Arguments or Submissions	At the end of the trial, you will present your argument to the court (judge alone in civil and family trials and judge and jury in some criminal trials). It is a summary of your position based upon the evidence that has been presented to the court about the decision that the court should make.
Hearing	In law, a proceeding before a judge or master (only in some civil and family cases) to determine questions of law and / or questions of fact, whether the hearing of an application or the hearing of a trial.
Hearsay	Inadmissible testimony that is given by a witness for the truth of its contents, who relates what others have said rather than what they personally witnessed or observed. There are a number of exceptions to hearsay being inadmissible – it is a complex legal area.
Interim Application	One party asks the court to make an order, which in most cases is not a final one. These applications often deal with issues that arise in the course of a lawsuit that require a court order before a trial.
Written Discovery	Pre-trial written questions sent to the other party in litigation lawsuit, and for which a reply is mandatory.
Leading Question	A question that prompts or encourages a desired answer. Usually allowed in cross examination but not allowed in direct examination (or examination in chief).
Leave of the Court	The court’s permission to proceed with certain types of applications or appeals or to proceed in a certain way.

Legal Advice	Advice from a lawyer about the law as it applies to a particular case. It usually includes information about whether, why and how a party should do something.
Limitation Period	The period of time that a party is allowed to wait before starting a case. After a limitation period has passed a lawsuit cannot be successfully started.
Limited Scope Legal Services	This is a method of legal representation in which a lawyer and a client agree limit the scope of the lawyer's involvement in a legal action, leaving the responsibility for those other aspects of the case to the client in order to save the client money and give them more control and responsibility.
List of Documents	A list of all the documents that relate to the issues in a case and are in a party's possession or under a party's power and control. The list also includes a list of any documents that may be privileged. This list is provided to the other parties in the discovery process and tells them where the documents can be examined (unless privileged).
Material Fact	A fact that is important to proving your case.
Mediation	A non-binding process in which a neutral third party with no decision-making authority attempts to facilitate a settlement between disputing parties. Mediation is usually a private, voluntary dispute resolution process.
Negotiation	Any form of non-facilitated (no third party) communication that allows the parties to discuss the steps they need to take to resolve the dispute. Negotiations can take place between the parties directly, or through others (such as lawyers) acting on behalf of the parties.
Onus	The burden of proof – who (which party) has to prove something.
Open-ended Questions	Questions that cannot be answers with a simple yes or no. They usually begin with who, what where, why, and how.
Order	A ruling made by a judge or master that tells a party to do something or not do something. It can also be the document that sets out the decision of the judge or master (in some civil and family cases).
Pleadings	A statement in writing of material facts and law on which a party to a dispute relies in support of a claim or defence – the documents that start a lawsuit or explain a party's defence to a lawsuit.

Precedent	An earlier decision of a court or a higher court that should generally be followed in subsequent similar cases.
Privileged Document	A document the other party is not entitled to see because it was created during confidential communications between a lawyer and his or her client, or was created to help conduct or settle the litigation.
Pro Bono Legal Services	Legal services donated to individuals, free of charge.
Process Server	A professional document server.
Re-Examination	Questions asked by the party or counsel who called the witness, after cross-examination by the other party or counsel. Re-examination happens if the cross-examination has brought out new facts, or if something raised for the first time in cross-examination was unclear.
Regulations	Laws that usually set out practical information or procedures relating to a particular statute. They provide specific instructions about how to implement the statute and tend to change more often than the statute itself.
Release	A document signed by the parties to acknowledge that they are giving up all or some part of claims in connection with the legal dispute. It is usually signed as part of a settlement.
Requisition	A document that asks the court registry to do something. For example, a document that asks the registry to search the court file for a response to the notice of civil claim.
Retainer	An agreement with a lawyer for legal work is called a “retainer”. A written retainer letter sets out the work that the lawyer has agreed to do, what the lawyer will not do, and how the lawyer’s pay will be calculated. The retainer agreement sets out the scope of your lawyer’s involvement in the file.
Rules of Court	Rules that govern the practice and procedure of the court. They provide guidelines for each step in the litigation and set time limits for when certain steps must be completed. Additional guidance with Rules of Court type effect include, Practice Notes, or Practice Directions, or Notices to the Profession and Public.

Serving a Document	Giving a legal document to the parties to the lawsuit. The Rules of Court set out certain procedures that must be followed when serving a document.
Settlement	An agreement between the parties in a dispute. A settlement can end or avoid or reduce the scope of a court proceeding. It usually involves the payment of money, or the release of rights.
Sheriff / Bailiff	The Sheriff's / Bailiff's responsibilities are to make sure the courtroom is safe, and to look after witnesses, jurors or prisoners.
Standing	A party's right to make a legal claim or seek judicial enforcement of a duty or right.
Statute	A statute a written law that has been passed by the federal or provincial legislature. Also called legislation or an Act.
Subpoena	A document that notifies a witness that he or she is required to go to court to give evidence at a trial and that failure to do so could have serious negative consequences.
Superior Trial Court	Hears civil and criminal cases. In Ontario, this is called the Superior Court of Justice.
Without Prejudice	This principle will generally prevent statements, whether made in writing or orally, in a genuine, but unsuccessful, attempt to settle or resolve an existing dispute from being put before the court as evidence of admissions against the interest of the party who made them. If they are used to successfully settle or resolve the dispute, they become "with prejudice", and are admissible.
Witness	A person who gives evidence in a court proceeding orally under oath or affirmation, in person or by affidavit. Witnesses are persons who testify in court because they have some information about the case. A witness may volunteer to testify or may receive a subpoena (a legal document which orders them to come to court at a certain time to testify).

Appendix "D": Additional Resources

Community Legal Clinics: A network of 73 legal clinics funded by Legal Aid Ontario provides legal assistance for low-income people living in Ontario in the areas of employment, housing, and social assistance law.

Legal Aid Ontario: Provides legal assistance for low-income people living in Ontario.

- Family Law Services Centres: Provide eligible clients a range of legal resources and support for family matters.
- Summary Legal Advice Telephone Services 1-800-668-8258.
- Student Legal Aid Services Societies (SLASS): Operating out of Ontario's seven law schools, volunteer law students provide legal advice and representation.

Ontario Courts: Information for litigants in Superior Court cases and Ontario Court of Justice cases.

Ontario Court Services from the Ministry of the Attorney General: Covering a variety of areas including, guides to procedure in civil, divisional and small claims court, and information on court fees, estates and civil case management.

Ontario Legal Information Centre: People who need help with a civil law matter can call the Centre and get up to 30 minutes of free legal advice or assistance (or if in Ottawa, can meet with a lawyer for 30 minutes).

Ontario Rules of Civil Procedure: these rules apply to all civil proceeding in Ontario courts, subject to the following exceptions:

i. they do not apply to proceedings in the Small Claims Court (which are governed by the Rules of Small Claims Court, Ontario Regulation 258/98)

ii. they do not apply to proceedings governed by the Family Law Rules, Ontario Regulation 114/99

iii. they do not apply if a statute provides for a different procedure

Ontario Rules of Civil Procedure Forms: find electronic versions of forms under the *Rules of Civil Procedure* here.

Pro Bono Ontario Hotline: People who need help with a civil law matter can call the Hotline and get up to 30 minutes of free legal advice or assistance. The Hotline does not cover family or criminal law issues.

Steps to Justice: Up to date, reliable and practical information on common legal problems.

Specific resources for Divisional Court, Small Claims Court and preparing for Simplified Procedure Trials.

- Court of Appeal – How to Proceed in the Court of Appeal for Ontario
- Superior Court of Justice – Going to court? Information for people involved in a case such as information about how to find a lawyer or legal information, and information about court proceedings at the Superior Court of Justice.
- Ontario Court of Justice – Guides for self-represented parties.