

## Small Claims Court

### Increase in monetary limit from \$10,000 to \$25,000

Why is the monetary limit of the Small Claims Court increasing to \$25,000?

The limit for Small Claims Court will increase from \$10,000 to \$25,000 to allow individuals and businesses to resolve more claims in a simple and inexpensive way. This change was recommended in the [2007 Civil Justice Reform Project report](#).

Broadening the scope of Small Claims Court will improve access to justice for all Ontarians.

The monetary limit of the Small Claims Court is increasing pursuant to [Ontario Regulation 439/08](#).

When is the limit of the Small Claims Court increasing to \$25,000?

The Small Claims Court limit will increase from \$10,000 to \$25,000 on January 1, 2010.

Can I file a claim in the Small Claims Court for more than \$10,000 before January 1, 2010?

No. Until January 1, 2010, the monetary jurisdiction of the Small Claims Court is \$10,000. Before January 1, 2010, you can only file a claim in the Small Claims Court for up to \$10,000.

If you need to start your claim before January 1, 2010, you should talk to a lawyer about your options.

This document contains general information about civil court processes. It does not cover every situation. This document does not explain the law. It does not tell you what you should do and why you should do it. For legal advice, talk to a lawyer.

For more information see the *Rules of Civil Procedure* and the Guides on Small Claims Court and Superior Court of Justice which are available on the [Ministry of the Attorney General](#) website.

I filed a claim in the Superior Court of Justice before January 1, 2010 for \$25,000 or less. What will happen to my claim after January 1, 2010?

Your claim will continue in the Superior Court of Justice unless you or the other party take certain steps.

Claims filed in the Superior Court of Justice before January 1, 2010 for \$25,000 or less will **NOT** automatically be transferred to the Small Claims Court.

If you want a transfer of your case from the Superior Court of Justice to the Small Claims Court, after January 1, 2010, you can take steps to ask for this to happen.

### How do I decide whether to ask for a transfer of my case from the Superior Court of Justice to the Small Claims Court?

There are many things to consider to decide whether to ask for a transfer of your case from the Superior Court of Justice to the Small Claims Court.

The things to consider depend on your specific circumstances. You may wish to talk to a lawyer about your options.

### How do I decide which Small Claims Court location my case should be transferred to?

In Small Claims Court, there are rules about the court location where your claim should be started. Generally, a Small Claims Court action is started in the territorial division:

- where the problem occurred (the location of the cause of action);
- where the defendant lives or carries on business; or
- the court location nearest to where the defendant lives or carries on business.

For more information, see *Small Claims Court* [rule 6.01](#).

## How do I ask to have my case transferred from the Superior Court of Justice to Small Claims Court after January 1, 2010?

There are two ways claims under \$25,000 can be transferred from the Superior Court of Justice to the Small Claims Court.

The two ways you can ask for a transfer are:

1. If your trial has not started and all parties in the action agree to the transfer, you can ask the local Registrar of the Superior Court of Justice to transfer the action.
2. If all parties do not agree to the transfer, you can bring a motion in the Superior Court of Justice and ask the court for permission to transfer your case.

For more information about these processes, see the next few questions and also see the flowchart: [Transferring a case from Superior Court of Justice to Small Claims Court](#).

## How do I ask a Registrar to transfer my case from the Superior Court of Justice to Small Claims Court after January 1, 2010?

To ask a Registrar of the Superior Court of Justice to transfer your case:

1. Obtain the written consent of all parties to transfer the case to the Small Claims Court.
2. Fill out a copy of a Requisition ([Form 4E](#)).
3. Go to the Superior Court of Justice. File with the court the Form 4E and the written consent of all the parties to the transfer.
4. Pay the court fee to transfer the court file to the Small Claims Court (\$75 fee).

## How can I bring a motion to ask for the court's permission to transfer my case from the Superior Court of Justice to Small Claims Court after January 1, 2010?

If all parties do not agree to the transfer, you can bring a motion in the Superior Court of Justice to ask the court to transfer your case to Small Claims Court.

To bring a motion for a transfer:

1. Contact the Superior Court of Justice court office where your claim was started. Ask for a hearing date which is after January 1, 2010.
2. If your case is under Simplified Procedure under rule 76, you can fill out a Motion Form ([Form 76B](#)). Serve the Motion Form on the other parties. At least seven days before the hearing date, file with the court the Motion Form and an Affidavit of Service.
3. If your case is under the ordinary procedure, you can fill out a Notice of Motion ([Form 37A](#)). Prepare an Affidavit to support your motion. Serve the Notice of Motion and Affidavit on the other parties. At least seven days before the hearing date, file with the court the Notice of Motion, your Affidavit and an Affidavit of Service.
4. You can also bring a motion in writing. For more information about this process, see *Rules of Civil Procedure*, [rule 37.12.1](#).
5. Pay the court fee to file the Notice of Motion (\$127 fee).

## If I file my claim in Small Claims Court before January 1, 2010 for less than \$10,000, can I change the amount after January 1, 2010?

After January 1, 2010, you can change the amount of your Small Claims Court claim to an amount up to \$25,000. There are three ways you can ask for a change.

1. Serve and file an amended Plaintiff's Claim;
2. Ask the court to make an Order to allow you to change your Plaintiff's Claim;
3. If all the parties agree, file a Request for a Clerk's Order.

The method you choose depends on the circumstances of your case.

## There is no Small Claims Court trial date scheduled in my case. How do I change the amount of my claim?

If no trial date has been scheduled in your Small Claims Court case, you can change the amount of your claim by taking certain steps. These steps are:

1. Write "Amended" at the top of your original Plaintiff's Claim.
2. Underline any changes you make to the Plaintiff's Claim. If you change the amount of the claim, strike a line through the original dollar value on the claim and insert a new dollar value. Underline the new dollar value.
3. Serve the Amended Plaintiff's Claim on all of the parties to the proceeding. This includes any parties who have been noted in default for failing to file a defence.
4. File the Amended Plaintiff's Claim with the court. You must prove that you served the Amended Plaintiff's Claim on all the parties by filing an Affidavit of Service with the court.

There is no court fee to amend your claim using this method.

## The Small Claims Court trial date for my case is more than 30 days away. How do I change the amount of my claim?

If a trial date is scheduled but it is more than 30 days away, you can change the amount of your claim by taking certain steps. You can:

1. Take the steps outlined in the question above: *How do I change the amount of my claim if there is no trial date scheduled?* You must take these steps no later than 30 days before the trial date; or
2. Ask the court to make an Order to change the amount of your claim at a settlement conference (see *Small Claims Court* [rule 13.05\(2\)\(a\)\(iv\)](#)).

There is no court fee to amend your claim using this method.

## The Small Claims Court trial date for my case is less than 30 days away. How do I change the amount of my claim?

In this case, there are three ways to ask to amend your claim.

1. If there are less than 30 days before the trial date, you can bring a motion to ask the Court to allow a shorter time for filing and serving your Amended Plaintiff's Claim. You must pay a court fee to bring the motion (\$40 fee).
2. If all the parties agree to you amending your claim, you can ask the court clerk to make an order on consent of all of the parties. To do this, you file

with the court a Request for Clerk's Order ([Form 11.2 A](#)) a Consent to Clerk's Order ([Form 11.2 B](#)).

## How can I bring a motion in Small Claims Court to ask to have my claim amended?

To bring a motion in Small Claims Court to ask to increase the monetary amount of your claim:

1. Obtain a hearing date for your motion from the Small Claims Court office. The date for the hearing will be a date after January 1, 2010.
2. Fill out a Notice of Motion ([Form 15A](#)) and a Supporting Affidavit ([Form 15B](#)).
3. At least seven days before the hearing date, serve the Notice of Motion and Supporting Affidavit on all of the parties (see *Small Claims Court* [rule 8](#)).
4. At least three days before the hearing date, file with the court the Notice of Motion, Supporting Affidavit and an Affidavit of Service ([Form 8A](#)).
5. Pay the court fee to file the Notice of Motion (\$40 fee).

## If I file an Amended Plaintiff's Claim after January 1, 2010, does the defendant have to file an Amended Defence?

No. An Amended Defence does not have to be filed with the Court in response to an Amended Plaintiff's Claim.

However, the defendant might choose to file an Amended Defence to respond to an Amended Plaintiff's Claim. The defendant may wish to talk to a lawyer about whether an Amended Defence should be filed.

If the defendant chooses to amend the Defence, the defendant must serve the Amended Defence on the other parties and file the Amended Defence with the Court.

There is no court fee to file an Amended Defence.

## Will there be an increase in Small Claims Court fees?

There will not be a change to the Small Claims Court fees at this time.

## Will there be any changes to the Small Claims Court procedures?

The Ministry of the Attorney General is working with the judiciary and the bar on improving access to easy-to-use Small Claims Court materials and streamlining Small Claims Court processes.

## Will I need to get a lawyer?

No. You will not be required to get a lawyer just because the Small Claims Court limit increases to \$25,000.

In Small Claims Court, you can choose to bring your case yourself or hire a lawyer or a paralegal to represent you.

Even though you don't have to be represented by a lawyer or a paralegal, you may want to consider doing so.

## How do I find a lawyer or a paralegal?

If you wish to retain an Ontario lawyer, you can contact the Lawyer Referral Service operated by the Law Society of Upper Canada. The Lawyer Referral Service will provide the name of a lawyer in your area, who provides a free consultation of up to 30 minutes. The Lawyer Referral is available by telephone only at 1-800-268-8326 (or in the Greater Toronto Area at 416-947-3330). If you are calling from outside the province, you can reach the Lawyer Referral Service by dialing 1-416-947-3330. Advise the operator that you are calling from outside the province. A half-hour consultation is not guaranteed if you do not have an Ontario phone number. The Law Society of Upper Canada also maintains a list of lawyers in Ontario and their contact information, which may be accessed through the Law Society of Upper Canada website at: [www.lsuc.on.ca](http://www.lsuc.on.ca).