

BOOKLET

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SMALL CLAIMS COURT

Replying to a Claim



MINISTRY OF JUSTICE

PROVINCIAL COURT OF BRITISH COLUMBIA



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To contact a court registry, consult your telephone directory under “Court Services” in the provincial government blue pages for the phone number of the registry or look for information online at: www.gov.bc.ca/ag.

The PDF versions of forms can be filled out online, printed and then filed at the registry. You may wish to use the Filing Assistant on that website for the notice of claim, the reply and the third party notice. The Filing Assistant will prompt you through a series of questions that will help you complete the required forms. The results of your answers will be put in the form and you can print it and file it at the registry. You could also print the form and complete it manually.

The information contained in this booklet is simply an overview of the significant provisions of the Small Claims Act and small claims rules. It is not intended as a substitute for the act or the rules, which should be examined for specific information. Also the information is not intended to be legal advice. If you have any legal questions, you should see a lawyer. You may also wish to consult Clicklaw at www.clicklaw.bc.ca for additional legal information.

Pilot Projects

NOTE: From time to time, the Ministry of Justice and the Provincial Court run pilot projects to explore ways to improve the small claims court. If the registry where your case is filed is running a pilot project, it might not follow the process in this guide. You can find more information on the pilot project processes from your court registry or online at: <http://www.ag.gov.bc.ca/courts/index.htm>.

Replying to a Claim

If someone is suing you in small claims court, you will receive a notice of claim. For most people, this raises a lot of questions.

This booklet will answer some of those questions. It will give you information that may help you with some of the decisions you'll have to make.

If you are a claimant and the person you are suing makes a counterclaim against you, this booklet may provide some help with some of the decisions you'll have to make.

If you decide to oppose the claim, it will tell you how. If you simply want a reasonable payment schedule, it will tell you how to arrange that. Read the booklet first and then decide what action you want to take.



What if I just do nothing?

The one thing you should NOT do is ignore the claim. If you do nothing, the claimant can get a judgment against you, just as if there had been a trial.



What if I want to pay the claim?

You may agree that you owe what is claimed. If that's the case, you can pay it directly to the claimant. Or you may contact the claimant to make some arrangements that you can both live with and the claimant can withdraw the claim. Either way, that will end the

lawsuit. Alternatively, if you have reached an agreement, you may both sign a consent order and file it with the registry or the claimant may file a payment order with the registry. Nothing further would happen with the lawsuit, unless the terms of the agreement were not followed.



What if I don't agree with the claim?

If you and the claimant cannot agree, either on the claim itself or on the terms of payment, there are several things that you can do:

- If you do owe what is claimed, but can't pay it right away and can't agree with the claimant on a payment schedule, you can ask the court to set a schedule of payments that you can handle.
- If you don't agree with the claim, you can deny all or part of what the claimant says.
- You can make a claim against the claimant.

Whatever you decide, the reply is the form you will use.



What is a reply?

The reply is your answer to the notice of claim. It is a special form you will use to tell:

- what you disagree with in the notice of claim, and why;
- what, if anything, you agree with;
- what, if anything, you are claiming against the claimant; and
- whether you want the court to set a payment schedule.



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How much time do I have to file my reply?

If you were in British Columbia when you received the notice of claim, you have 14 days from that date to file your reply. If you were outside the province when you received the notice of claim, you have 30 days to reply.

Even after the time limit has passed, the court registry will still file your reply, as long as the claimant has not obtained a default order against you or had a hearing date set to determine what you owe in default. Even if one of those things had happened, you can still ask the court for permission to file a reply after the time limit. You will have to have a good reason for your delay.



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Where do I get a reply form?

When the claimant gave or sent you the notice of claim, a blank reply form should have been included with it. If it was not, or if you need another form, you can get one from any small claims registry. If there isn't one near you, your government agent may have the forms. Small claims forms are also available for downloading from the provincial government website, under "Courts": www.gov.bc.ca.

You may wish to use the Filing Assistant on that website. The [Filing Assistant](#) will prompt you through a series of questions that will help you complete the reply form.

How do I fill out the reply?

The small claims court forms are specially designed to be used by people who are not lawyers. You may find all the help you need on the sheet that is attached to the front of the form. This booklet will give you more information. Let's look at an actual reply form and go through it step by step.

TO:

This is where you put the name of the claimant. Simply copy the claimant's name, address and telephone number from the notice of claim.

FROM:

This is where you put your own name, address and telephone number. Again, copy your name as it appears on the notice of claim.

The address given on the notice of claim may not be the right one. You must be sure that the address you give is correct because this is where the registry will send any further notices or information to you.

If your address changes at any time, be sure to notify the small claims court registry and all other parties to the lawsuit. Otherwise, they will continue to send mail to your old address and you won't know what is happening in your case.

DISPUTE:

This is where you tell what you disagree with in the notice of claim. You should take some care with this part. Look at the "How Much" section of the notice of claim. If the claim has more than one part - a, b, c and so on - then you should reply to each part separately, using the same letters.

Example 1

You are a roofer. You put a roof on an addition to a customer's house and now the customer is suing you. They say the roof leaked and they had to pay \$1,250 to fix it. In the "How Much" section they say:

- a) Cost of replacing chair \$479.00*
- b) Cost of cleaning carpet 135.00*
- c) Cost of repairing roof 1,250.00*

You might say, in your "Dispute" section:

- a) I don't know about any chair in the area that could have been damaged by a leak from the roof.*
- b) There was only a small rug in the room and it would not cost \$135 to clean it.*
- c) If there was a leak at all, it was caused by faulty shingles.*

If there is anything in the notice of claim that you agree with, be sure to include that here. Otherwise, the claimant might have to spend money to prove it in court. The judge could order you to pay the claimant back for money that was wasted proving something that was never really an issue.

Try to be brief. You may have many other quarrels with the claimant, but don't include them here. Stick to only those items that appear in the notice of claim under "How Much." Don't worry about using "legal language." Just make your point in your own words.

AGREEMENT WITH THE CLAIM:

If you want to pay the claim but you need some time - and you can't come to an agreement with the claimant - fill in this space. In the spaces to follow, you can tell what sort of payment arrangements you want to make. Most of us want to pay what we owe. Often the reason we don't is that we simply can't. Or we can't pay it right away. Sometimes installment payments can be the answer. Or a delayed payment date might satisfy both sides.

Example 2

Say you are the roofer in Example 1. You admit that you owe the \$1,250 but work has been slow lately and you have a lot of other obligations. You might say this: "I will pay \$300 a month, on the 1st of each month, starting in June 2004 until August 2004, and \$350 on September 2004."

Example 3

Of, if you were due to be paid for a big job in July, you might say: "I will pay \$1,250 before September 1, 2004."

COUNTERCLAIM:

If you have a claim to make against the claimant, this is where it goes. For example, if the roofer in example 1 hadn't been paid for the work, he might make a counterclaim for the amount owing on the invoice. A counterclaim is just another claim, like the one in the notice of claim, except that it is made by the defendant, against the claimant. It is important to correctly identify who you are suing.

For more information about making a counterclaim, read booklet [#2: Making a Claim](#) which you can get at any small claims registry (if there is no small claims registry near you, your local or government agent's office, or library may have the booklets).

HOW MUCH?

This is where you say what you are claiming in your counterclaim. Again, look at booklet [#2: Making a Claim](#), for more information.



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What do I do with my reply, after I've filled it out?

The next step is to file the reply with the court. You do that by taking or mailing it to the small claims registry. The address will be on the notice of claim you received. If you have completed the reply form online, make sure you print it and file it at the registry.

When your reply is filed, you will be asked to pay the filing fee unless you have agreed to pay the full claim. If you have set out a counterclaim, there will be an additional fee. The fee for filing a counterclaim, will depend on the amount of the counterclaim.

You may pay by cash, personal or company cheque, certified cheque, money order or bank draft, payable to the Minister of Finance.

What happens next?

Once the registry has accepted your reply form, they will send a copy to each of the other parties in the case (usually there is only the claimant). If you had agreed to pay all or part of the claim, the claimant may contact you to sign a consent order setting out the terms for payment or the claimant might file a payment order at the court registry.

If the claimant doesn't agree with your proposed payment schedule, you can ask for a payment hearing or the claimant may summons you to a payment hearing so that the payment schedule can be set by the court. You can read more about payment hearings in booklet [#6: Getting Results](#).

If your offer is not acceptable to the claimant, a settlement conference is the next step. You will receive a notice in the mail, telling you where and when it will be held and you must attend. You can read more about the settlement conference in booklet [#5: Getting Ready For Court](#).

The judge at the settlement conference will discuss with both of you the possibility of settling the claim. If you have asked in your reply for a payment schedule, that will be discussed at the settlement conference.

Remember that at any stage, you are always free to try to work out some agreement with the claimant, which will put an end to the lawsuit.

What if I think there is someone else who should pay?

It may be that there is someone else who should be responsible for paying the claim.

Example 4

The roofer in the earlier example might feel that if the roof does leak, it must be because the shingles were faulty. In that case, he might issue a third party notice against the supplier of the shingles. He can say, in effect, “I don’t agree that there is anything wrong with the roofing job but if there is, then it’s the shingle supplier who should pay you, not me.”

This is called a “third party claim.” If you have a third party claim, you will fill out the form and file it in the registry, just as you did with your reply. There is a fee for filing a third party notice. Then you have to let the third party know about your claim. You do this by serving the third party with these documents:

- a copy of the third party notice;
- a copy of the notice of claim;
- a copy of your reply;
- a copy of any notice of settlement conference or notice of trial that has been issued; and
- a blank reply form.

A third party notice must be served in the same way as a notice of claim. For more information about service, see booklet [#4: Serving Documents](#).

NOTES: _____

How can I get more information?

The Ministry of Justice has published a series of booklets that describe the court process. They are available from any small claims court registry. (If there isn't a small claims court near you, your local government agent may have the booklets.) The booklets can also be found under "Courts, Small Claims" through the provincial government website:

www.gov.bc.ca/ag.

The other titles in the series are:

- #1 What is Small Claims Court?**
- #2 Making a Claim**
- #3 Replying to a Claim**
- #4 Serving Documents**
- #5 Getting Ready for Court**
- #6 Getting Results**
- #7 Court Mediation Program for Claims Up to \$10,000**
- #8 Mediation for Claims Between \$10,000 and \$25,000**

Civil Rules - September 2010

The small claims court rules provide more detailed information. The rules have been written for non-lawyers. You can find a copy at some court registries, at your public library or online at:

www.gov.bc.ca/ag.



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