

How to Start a Small Claim

Small Claims Court Self-Help Guide



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Information Resources – Whitehorse, Yukon

Yukon Government

Consumer Services

867-667-5111; toll free (in Yukon) 1-800-661-0408, ext. 5111
Email: consumer@gov.yk.ca
Web site: www.community.gov.yk.ca/consumer/index.html
Location: 307 Black Street

Corporate Affairs

867-667-5314; toll free (in Yukon) 1-800-661-0408, ext. 5314
Email: corporateaffairs@gov.yk.ca
Web site: www.community.gov.yk.ca/corp/index.html
Location: 307 Black Street

Employment Standards

867-667-5944; toll free (in Yukon) 1-800-661-0408, ext. 5944
Email: employmentstandards@gov.yk.ca
Web site: www.community.gov.yk.ca/es/index.html
Location: 307 Black Street

Small Claims Court Registry

867-667-5619; toll free (in Yukon) 1-800-661-0408, ext. 5619
Email: courtservices@gov.yk.ca
Web site: www.yukoncourts.ca/courts/smallclaims.html
Location: Ground Floor Law Courts, 2134 – 2nd Avenue

Non - Government

Law Line - Yukon Public Legal Education Association (YPLEA)

867-668-5297; toll free (in Yukon) 1-866-667-4305
Email: ypleayt@gmail.com
Web site: www.yplea.com
Location: Ground Floor Andrew A. Philipsen Law Centre, 2134–2nd Avenue

Law Society of Yukon (Lawyer Referral Service)

867-668-4231
Email: info@lawsocietyyukon.com
Web site: www.lawsocietyyukon.com
Location: Suite 202–302 Steele Street (T.C. Richards Building)
Lawyer Referral Service—half—hour consultation with a lawyer—\$30 incl. GST

Lawyers

To contact a lawyer's office, look in the phone directory under "Lawyers" in the Yellow Pages or under names of local law firms

IMPORTANT!

This guide has been produced by the Court Services Branch of the Yukon Department of Justice. It is intended to be used as a guide only and is not considered a comprehensive legal resource.

The information provided does not replace a lawyer's advice and cannot teach you everything you need to know. Even if you decide to proceed without a lawyer, you should consult a lawyer for interpretation of the law that applies to your case and for other legal advice.

The information provided in this guide is believed to be correct as of its date of publication.

How to Start a Small Claim

How do I start the Small Claims process?

You can go to the court registry in Whitehorse, Watson Lake or Dawson City and ask for a Claim form (Form #1) to start the Small Claims process. If you are unable to go to a court registry in person, you may also phone or write to one of the following registries to ask for the form:

Whitehorse Court Registry P.O Box 2703 Whitehorse, YT Y1A 2C6 Ground floor, Law Courts 2134 Second Avenue Phone 867-667-5619 Fax 867-393-6212	Dawson City Court Registry P.O. Box 651 Dawson City, YT Y0B 1G0 Fifth Avenue and Mission (Museum Building) Phone 867-993-5070 Fax 867-993-5311	Watson Lake Court Registry P.O. Box 192 Watson Lake, YT Y0A 1C0 820C Adela Trail (Pejest Building) Phone 867-536-7551 Fax 867-536-7564
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You can also obtain Small Claims Court forms from the web site at <http://www.justice.gov.yk.ca/prog/formscat.html#courtservices>.

What information do I need to fill out a claim?

As the **plaintiff** (the person who is suing), you must print or type the details of your claim on the form. Be sure to include all your contact information on the form, such as your current physical and mailing addresses and phone number. (You may also include your email and fax addresses.) Your claim must also include the name, address and telephone number of the **defendant** (the person you are suing), the amount of your claim, the type of claim, the reasons for your claim and the details of your claim. You

should provide the date, place and any other information that relates to your claim as briefly as possible. Attach a copy of any documents you have that will support your claim.

Can I claim interest on a debt?

If you are claiming interest on the amount you are owed, be sure to write this on the form, and to give the date when interest was to start. If the defendant agreed to pay you a set rate of interest, you can claim that rate of interest. (Make sure you claim on a "per annum" basis.)

How do I name the defendant?

You must properly name the defendant. If a judgment is in your favour, you can only collect money from the party named as the defendant in the case. If the defendant is an individual, be sure to include the person's full name, and make sure that the name is spelled correctly.

If the defendant is an **incorporated company**, you must give the full legal name of the company. You can check for the correct company name at the Corporate Affairs office at 307 Black Street in Whitehorse or by contacting:

Corporate Affairs
Department of Community Services
Government of Yukon
P.O. Box 2703 (C-5)
Whitehorse, Yukon Y1A 2C6
Phone 867-667-5314
Toll-free (in Yukon) 1-800-661-0408, extension 5314

The corporate records will show a "registered office" (usually the address of a law firm). You should show this address on your claim and use it to serve documents on a corporation.

The defendant could also be an **unincorporated business** such as a sole proprietorship (a person operating under a business name) or a partnership (two or more people operating a business). You can make a claim against a *sole proprietorship* by naming the business name as the defendant, or by suing both the owner and the business as a partnership. Who you decide to sue will depend on what you think your chances will be to collect from either the business or the individual.

If you sue a *partnership* and want to enforce a judgment against the partners, you will have to serve each partner with a copy of the claim and with a copy of a Notice to Alleged Partner (Form #6). You can obtain this form from the clerk or from the web site. The clerk cannot provide advice as to who you should sue. Contact a lawyer or the Law Line if you have any questions about suing.

You can get information about partnerships from Corporate Affairs or from the municipal office where the partnership's business licence was issued. You can also ask for the names and addresses of the partners by writing to the partnership. The members of the partnership are required by law to give you that information.

What should I do after I complete the claim form?

Before you file your claim in court, you must make copies of your claim and of any supporting documents (such as invoices, receipts, etc.) and attach them to your claim. Bring all the copies with you when you file your claim so that the clerk can stamp them to show when the original was filed in court.

If you sue one defendant, make enough copies to give the clerk four sets of the claim form and supporting documents (the original plus three copies). You will need to provide:

- the original for the court;
- a copy to serve on the defendant;
- a copy to attach to the Affidavit of Service (Form #7); and
- a copy for yourself.

The clerk will keep the claim form and a copy of the supporting documents when the claim has been filed. The other copies and the originals of the supporting documents will be returned to you. If your case goes to trial, you may have to provide the original supporting documents as exhibits for your court case, so keep them in a safe place.

If you sue more than one defendant, bring two extra copies of the claim form and of the supporting documents for each additional defendant. If you sue a partnership, give the clerk two copies of the completed Form # 1 and Form #6 and of supporting documents for the business and for each of the partners you want to sue. The clerk will place the original on the court file, stamp all the copies and return them to you to serve on the other parties.

You must serve one copy of the claim form and supporting documents on each defendant. Attach the other copy to an Affidavit of Service (Form #7) once service is completed, and file it in court.

How much does it cost to file a claim?

Fees for filing a claim vary with the amount of the claim. The cost for filing a claim of \$5,000 or less is \$50; the fee for claims between \$5,000.01 and \$25,000 is \$100. Payment may be made by cheque or money order (payable to the Territorial Treasurer), cash, VISA, MasterCard or debit card.

How do I get the details of my claim to the defendant?

After you file your claim (and supporting documents, if any) in court, you are responsible for serving the defendant with one copy of the claim and a blank Reply form (Form #2). You can do this by:

1. delivering the forms personally to the defendant;
2. having a lawyer or other agent serve the defendant personally;
3. having the Sheriff serve the defendant; or
4. by mailing the claim to the defendant by registered mail.

If you have a lawyer serve the documents, you will be charged for the service at rates set by the lawyer's office. If you have the Sheriff serve the documents, you will have to pay a fee. Contact the Sheriff's Office at 867-667-5451 (toll-free in Yukon at 1-800-661-0408, extension 5451) for information about Sheriff's fees. Sheriff's fees can be paid at the Sheriff's Office at the time you file your claim.

If the defendant is a *corporation*, the claim can be served on an officer, director or agent of the corporation, on the corporation's registered office or place of business, or on the manager of the business.

If the defendant is a sole *proprietorship*, the claim can be served on the proprietor, or on the manager at the defendant's place of business.

If the defendant is a *partnership*, the claim can be served on one or more of the partners, or on the manager at the defendant's place of business. You must serve the partnership as well as each partner from whom you hope to collect money.

How do I prove that I served the defendant?

If you or an agent or the Sheriff served the defendant personally, the person who did the serving must complete an Affidavit of Service (Form #7) and file it with the Small Claims Clerk along with a blank reply form and a copy of the claim and other documents that were served. If you use registered mail, you should also complete an Affidavit of Service, and be sure to attach tracking information including the defendant's signature from the Canada Post web site (www.canadapost.ca) plus the claim, blank reply and other documents.

The Affidavit of Service must be notarized. You can swear it before a notary for a fee, or you can have the clerk notarize it free of charge. If you have the Sheriff's Office complete the service, you must leave an extra copy of the documents to be served with them so that they can complete the Affidavit of Service and have it notarized before returning it to you so that you can file it in court.

How long do I have to serve the defendant?

Your claim must be served within one year of the date that you file it in court. If you are unable to serve the defendant during this period, contact the clerk for information about how to extend the service period.

How long do I have to wait for the defendant to reply?

Defendants who are served in Yukon must reply within 20 days of being served. Defendants who are served outside Yukon must reply within 30 days of service.

If you check the court file and the defendant has not replied to your claim within the time limit, you may ask for a default judgment. For more information on default judgments, see Guide #6, Judgments and How to Collect a Small Claim.

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For more information, or to obtain copies of these publications, please contact:

Small Claims Court

Court Registry

Ground floor, Law Courts

2134 Second Avenue (between Wood Street and Jarvis Street)

Box 2703, Whitehorse, Yukon Y1A 2C6

www.yukoncourts.ca

Tel: 867-667-5619

Toll free in Yukon: 1-800-661-0408, extension 5619

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