

## GUIDEBOOKS FOR REPRESENTING YOURSELF IN THE SUPERIOR COURT OF JUSTICE:



### *Starting a Civil Proceeding in the Superior Court of Justice*

#### STATEMENT OF CLAIM & NOTICE OF APPLICATION

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Law Help Ontario operates court-based, self-help centres for low-income, unrepresented litigants appearing before Small Claims Court and the Superior Court of Justice (limited civil matters – no family law). The centres are designed to help individuals who cannot afford a lawyer.

#### **Ottawa – Superior Court of Justice & Small Claims Court**

161 Elgin Street, 5<sup>th</sup> Floor, Ottawa (The centre is adjacent to courtroom 52)

#### **Toronto – Superior Court of Justice**

393 University Avenue, Suite 110, Toronto

#### **Toronto – Small Claims Court**

47 Sheppard Avenue East, 3<sup>rd</sup> Floor

[LawHelpOntario.org](http://LawHelpOntario.org)



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Building a better foundation for justice in Ontario

**PRO BONO LAW  
ONTARIO**



# Starting a Civil Proceeding in the Superior Court of Justice

## Where you can get help with your case

### *Information If You Represent Yourself*

Law Help Ontario is a project of Pro Bono Law Ontario that provides pro bono legal services to people who cannot afford to hire a lawyer and are unrepresented in a legal matter. The project is currently piloting three self-help centres in courthouses in the Toronto and Ottawa areas. In the future, centres may be launched in other locations across Ontario. The Law Help Ontario web site provides online resources relating to pro bono legal services.

If you live in the Toronto or Ottawa area, have a civil matter and are unrepresented because you cannot afford a lawyer, visit us at our centre in Superior Court or Small Claims Court. You may be eligible for free (pro bono) legal advice.

Get legal help in person on a civil case such as:

- starting or defending a civil action in Superior Court
- motions in Superior Court
- appeals (merit assessment only)

**We CANNOT help you at the centre with: family law matters, criminal cases, human rights, landlord and tenant matters etc. Please refer to our online resources for information that might be available in these areas.**

If you are located in other areas of the province or need help in another area of the law, check out our online resources at [lawhelpontario.org](http://lawhelpontario.org).

### *Rules of Civil Procedure*

The *Rules of Civil Procedure* describe how litigation is handled in the Superior Court of Justice. The rules will guide you through every step of your case and set time limits for when certain steps must be done. To view the *Rules of Civil Procedure*, go to <http://www.canlii.org/on/laws/regu/1990r.194/index.html>

### *Forms*

Official court forms must be used when you bring a dispute to court and you must format your forms in accordance with the formatting requirements of the *Rules of Civil Procedure* (e.g. Rule 4.01) before filing them with the court. Visit [www.lawhelpontario.org](http://www.lawhelpontario.org) for help with forms.

*This guidebook provides general information about civil, non-family claims in the Superior Court of Justice of Ontario. It does not explain the law. Court staff (and this guidebook) can only give you legal information, not legal advice. They can help you file documents or swear your affidavits, but they cannot tell you whether you should do something. Legal advice must come from a lawyer.*

Before proceeding with a case in the Superior Court of Justice on your own, consider talking to a lawyer to help you understand the law and the procedures that might apply to your case.

If you do not have a lawyer, you will have to prepare your case and do the legal research to represent yourself. You will have to do all the things a lawyer would do and it will not be easy.

You will need to learn about:

- the court system;
- the law that relates to your case;
- what you and the other side need to prove; and
- the possible legal arguments for your case.

You will also need to know about the court rules and forms that must be used in your case. If you do not understand these things, you might miss something (e.g. a deadline) and hurt your case. You might be ordered to pay some or all of the costs of the other party.

# 1. Before you start your proceeding

## Should this case go to court?

Before you decide to start a court case, there are several things you should consider:

- Even if you win, you may have to enforce your judgment. In order for you to collect, the person/business must have money, assets or a debt that you can collect against. There may be other creditors already waiting to collect their judgments against the person/business. But, even if the person/business does not have money now, you may be able to collect your judgment in the future.
- The majority of cases settle before trial. If you think your case can be settled, you may want to consult a lawyer about your alternatives before you begin your lawsuit.

Some of these alternatives are:

- Mediation
- Arbitration
- A letter from a lawyer to the other party
- Taking a case to court can be an expensive way of solving your problem. There are court fees for most steps in a case. When considering alternatives, consider the cost of taking your case to court, as opposed to the cost of an alternative solution. If you sue, you could be ordered by the court to pay some or all of the costs of the other parties, which could be very significant. Even if you win and are entitled to costs from the other parties, those costs may not even come close to the money you spend on your case.

## What to think about once you have decided to start your case

### Choosing a Court

In Ontario, civil cases can be started in either the Superior Court of Justice or the Small Claims Court, which is a branch of the Superior Court of Justice. If you are not sure where you should bring your case, or which rules apply, you should speak to a lawyer.

#### Small Claims Court

If your claim is for \$25,000 or less, you can start your claim in Small Claims Court. The Small Claims Court has its own procedures and rules which are simpler and less expensive than bringing a civil claim in the Superior Court of Justice. For information about Small Claims Court, go to [www.attorneygeneral.jus.gov.on.ca](http://www.attorneygeneral.jus.gov.on.ca). Choose your preferred language, click on “Court Services,” and scroll down to “Small Claims Court.”

#### Superior Court of Justice

The Superior Court deals with almost all types of civil cases except:

- Cases where a law says that the matter must go to a special government agency or tribunal. These include residential tenancy complaints, workers’ compensation matters and labour relations.
- Cases where the federal government has control. These include federal tax matters, immigration matters, and patents and trademarks. The Federal Court deals with these matters. Its website is: [www.fct-cf.gc.ca](http://www.fct-cf.gc.ca).

If you bring your case in the Superior Court of Justice, special rules may apply to your case in certain situations. This series of guidebooks does not deal with these special rules (except Rule 76). If special rules apply to your case, you will need to find out more by reading the rules and/or speaking to a lawyer.

### **Rule 24.1 and Rule 75.1 – Mandatory Mediation**

Rule 24.1 of the *Rules of Civil Procedure* establishes mandatory mediation for civil, non-family, case managed actions as well as actions commenced in Ottawa, Toronto and Windsor. The mandatory mediation program is in effect in Toronto, Ottawa and Windsor. Mandatory mediation under Rule 75.1 applies to certain estates, trusts, and substitute decisions proceedings in Toronto, Ottawa, and Windsor.

### **Rule 76 – Simplified Procedure**

You must bring your claim under Rule 76 of the *Rules of Civil Procedure* if it is an action for \$100,000 or less, not including interest or costs. Procedures under Rule 76 are simpler, and the trials are generally shorter. You may choose to bring your claim under Rule 76 even if your claim is for more than \$100,000, but the defendant can object. Read Rule 76 for more information.

### **Rule 77 – Civil Case Management**

Civil case management under Rule 77 applies to civil actions and applications in Ottawa, Toronto and Windsor. Rule 77 does not apply to family law actions, class proceedings, estates, bankruptcy and insolvency proceedings, mortgage actions (under Rule 64), construction lien proceedings (except trust claims), Toronto Commercial List matters, or simplified procedure proceedings (under Rule 76).

## **Time Limits**

Time limits are important in legal claims in two ways:

### **1. Limitation periods**

There may be a time limit on how long you can wait before starting a lawsuit, which is set out in the *Limitations Act, 2002* or other legislation. If your limitation period expires before you file a claim, your opportunity to file the claim may be lost. If you are uncertain about what limitation period applies to your case, you should consult a lawyer. Court staff cannot advise you on limitation periods.

Most limitation periods for lawsuits started in Ontario are 2 years and start from the date that:

- The event that the lawsuit is about happened; or
- The date the person who has sued you found out about his or her possible claim.

### **2. Procedural time limits**

There are many procedural time limits that will affect your case, which are set out in the *Rules of Civil Procedure*. These time limits exist to make sure that cases proceed in a timely way. Not following them can result in costs or judgment being ordered against you.

## 2. Starting your proceeding

Before you start your claim, consider these three questions:

- **Do I bring my claim under Simplified Procedure (Rule 76)?** See the previous page of this guidebook for more information about Rule 76.
- **Which court office should I start my claim in?** Generally, claims can be started in any Superior Court of Justice (Civil) office in Ontario, unless legislation or the Rules require that it be started in a particular location (see Rule 13.1). A list of court offices can be found at [www.attorneygeneral.jus.gov.on.ca](http://www.attorneygeneral.jus.gov.on.ca). Choose your preferred language and click on “Court addresses.”
- **Should I start my claim as an action or an application?** There are two ways to start a claim in the Superior Court of Justice in Ontario. One is called an *action*, and the other is called an *application*. Most cases proceed as actions but some cases must proceed as applications. You may start an application only if legislation, the Rules, or the situations described in subrule 14.05(3) of the Rules, allow you to. See Table 1 for information on the differences between an action and an application. You may need legal advice to answer this question.

	<b>Action</b> <b>Forms 14A, 14C, 14D, 14F</b> <b>See Rules 14.02, 14.03 and 14.03.1</b>	<b>Application</b> <b>Forms 14E and 14F</b> <b>See Rules 14.05 and 38</b>
<b>Start the claim using:</b>	<p>A Statement of Claim (Form 14A) starts the action. If there is not enough time to prepare a Statement of Claim, a Notice of Action (Form 14C) starts the action. With either form, you will also need to file an Information for Court Use (Form 14F).</p> <p>If you start your claim with a Notice of Action, you must file a Statement of Claim (Form 14D, <b>not</b> Form 14A) with the court office within 30 days after the Notice of Action is issued.</p> <p>If you are bringing your claim under Simplified Procedure (Rule 76), you will need to state this clearly in your Statement of Claim or Notice of Action.</p>	<p>A Notice of Application (Form 14E) starts the application. An Information for Court Use (Form 14F) must be filed together with your Notice of Application.</p>
<b>Type of hearing:</b>	Full trial. Under Simplified Procedure (Rule 76), summary trial or full trial.	Hearing before a judge.
<b>Type of evidence to support the claim:</b>	<p>Witnesses who come to court to give evidence.</p> <p>In a summary trial under Simplified Procedure (Rule 76), evidence is given by affidavit. People who provided affidavits (<i>deponents</i>) can be cross-examined for a limited amount of time.</p>	<p>The evidence is written down and filed with the court. This type of evidence is given by affidavit. Transcripts from an examination of a witness or a cross-examination (see last row of this Table) may also be used.</p>

<b>Process:</b>	<p><b>More complicated</b></p> <p>A claim is started as an action when the facts of the claim are in dispute. Because the court will have to determine the facts to make a decision about the claim, a trial is often necessary.</p>	<p><b>Less complicated and more streamlined</b></p> <p>An application is usually used in cases where the facts are not in serious dispute. A judge can decide the facts by reading the evidence set out in affidavits. Some laws require that an application be used to start a claim.</p>
<b>Facts are presented:</b>	<p>The Statement of Claim (Form 14A or 14D) is used to present the facts supporting your claim. It also sets out the solutions (called <i>relief</i>) you want from the court.</p> <p>If you start your action with a Notice of Action (Form 14C), you will need to include a short statement of the nature of your claim in the Notice of Action.</p>	<p>The Notice of Application includes a short statement of facts supporting the claim. Instead of a Statement of Claim, a sworn affidavit is filed with the Application. The affidavit sets out the facts. If you include documents with the affidavit, the court will consider those documents. Transcripts from cross-examination on the affidavit may also be used.</p>
<b>Parties are called:</b>	<p>The person or business starting the case is called the <i>plaintiff</i> and the person or business who is being sued is called the <i>defendant</i>.</p>	<p>The person or business starting the case is called the <i>applicant</i> and the person or business who is being sued is called the <i>respondent</i>.</p>
<b>Finding out about another party's case before the trial or hearing:</b>	<p>Generally speaking, before the trial, the plaintiff and defendant are both entitled to see the evidence of the other party (<i>document discovery</i>). Each party can ask the other party questions about the case in a meeting called an <i>examination for discovery</i>.</p> <p>Under Simplified Procedure, there is no examination for discovery.</p> <p>For more information, see the guidebook in this series called <i>The Discovery Process</i>.</p>	<p>Before the hearing, the applicant and respondent are both entitled to ask questions in a meeting about the documents and information set out in the other party's affidavit (<i>cross-examination</i>). A recording of the questions and answers is taken by an <i>official examiner</i>, and the questions and answers are available in printed form (transcript) for a fee. The parties can also examine a witness before a hearing.</p>

### 3. Who should be part of the proceeding?

An important part of planning your case is deciding who you want to make your case against and who might be on your side of the case. Depending on what type of document you file in court, these people will be called plaintiffs, defendants, applicants or respondents (see Part 2 of this guidebook). They will all be called *parties* to the proceeding.

Parties to a claim may include:

- A person;
- A corporation;

- A sole proprietorship;
- A federal or provincial government ministry or agency;
- A city or a municipality; or
- A partnership.

There can be more than one plaintiff/applicant or defendant/respondent. If there is more than one plaintiff or applicant, all the plaintiffs or applicants must consent to being plaintiffs or applicants. If you are naming more than one other party, you use one form (Form 14A or Form 14C and 14D) for all of the parties.

There are special rules for suing certain parties, such as parties under disability (e.g. a minor or a mentally incapable person) (Rule 7), partnerships and sole proprietorships (Rule 8), and estates and trusts (Rule 9). If one of these rules apply to one of the parties to your claim, you will need to make sure that you follow the rule.

You may wish to speak to a lawyer to get legal advice to make sure that you have included all of the parties in the claim you are making. If you choose the wrong party, or do not include a party, it will cost time and money to make changes later on.

## 4. Preparing your documents

Once you have decided on the procedure to start your claim (action or application), the parties, and the court office location, you are now ready to prepare your documents. These documents will be critical to your case and you will want to make sure you get them right. It might help you to consult a lawyer at this point to make sure your documents are correct and complete.

Sample forms 14A, 14C, 14D, 14E, 14F, and 16B are included at the end of this guidebook with easy-to-read instructions on completing them. You can download the official content of forms from the following website: [www.ontariocourtforms.on.ca](http://www.ontariocourtforms.on.ca). You must format your forms in accordance with the formatting requirements of the *Rules of Civil Procedure* (e.g. Rule 4.01) before filing them with the court. You can also obtain forms from a supplier of legal stationery.

You need to set out the facts carefully and clearly on all court forms. Be concise and specific. Do not give your opinion about the case. You will need to do research on the laws that apply to your case to understand what you need to prove to the court.

### General Heading

Begin by preparing a general heading. This is the part at the top of the document that identifies it as belonging to your case. The general heading is a form within a form – for actions, use Form 4A, and for applications, use Form 4B. You will use the general heading on each one of your documents, whether they are filed in the court office or not. A completed sample of a general heading for an action is set out on the next page for your reference.

Court File No. \*\*\*\*\*

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

**IVAN HOE**

**Plaintiff**

- and -

**00000 ONTARIO LTD., AIMI TANAKA and  
MARY BROWN**

**Defendants**

The number in the top right hand corner will be inserted by the court office when you present your document for issuing. That court file number is the identifying number for your case and you will need to include this number on every document you file in your case.

## Statement of Claim (Form 14A or 14D) and Notice of Action (Form 14C)

In your Statement of Claim, you will need to include the *relief* you are seeking (what you are asking the court to order for you), as well as a statement of the facts (*allegations*) that you think the court should consider. Your research on what you need to prove to the court will be important to ensure that you do not include too much information or forget to include important information. You will have to prove the facts in your Statement of Claim in court, if the case goes to trial.

If you are bringing an action under Simplified Procedure (Rule 76), you will need to include the following sentence in your Statement of Claim and/or Notice of Action: “This action is brought against you under the Simplified Procedure provided in Rule 76 of the Rules of Civil Procedure.”

In Forms 14A, 14C, and 14D, you will notice that there are sections relating to *costs*. In Forms 14A and 14C, you can include an amount for the time and money you spent to bring the claim. The defendant(s) may decide to resolve the case by paying the amount you are claiming, including your costs for bringing the claim.

You may also include costs in the relief that you are seeking from the court if your dispute is not resolved and goes to court for a decision. You can include the following sentence when you set out the relief you are seeking: “I am asking the Court to give me costs.” You may not want to put a dollar amount in at the time you fill out this form because you do not know how much it will cost you to take the claim to court. You will have time later to come up with a final dollar amount. You should be prepared to give this information to the court at the end of the trial.

## Notice of Application (Form 14E), Affidavit and other application material

In your Notice of Application, you will need to include the *relief* you are seeking (what you are asking the court to order for you).

In the Notice of Application, you may also include *costs* in the relief that you are seeking from the court. You can include the following sentence when you set out the relief you are seeking: “I am asking the Court to give me costs.” You may not want to put a dollar amount in at the time you fill out this form because you do not know how much it will cost you to take the claim to court. You will have time later to come up with a final dollar amount. You should be prepared to give this information to the court at the end of the trial.

If you are bringing an application, you must file an affidavit(s) with your Notice of Application. An affidavit is a statement setting out facts and evidence. It must be sworn or affirmed. For information on preparing affidavits, see the guidebook in this series called *A Guide to Preparing your Affidavit*. Swearing an affidavit is a serious matter and swearing a false affidavit may be a criminal offence.

Later, you will need to prepare other documents, including an Application Record and Factum. The Application Record contains all of the important documents that will be used at the hearing, such as your Notice of Application and affidavits or other material that will be needed for the hearing. The Factum is a concise argument stating the facts and law that you will rely on. See Rule 38 for more information about other documents in an application, and when they need to be served and filed.

## Backsheet (Form 4C)

This form has to be the last page on all documents that you file with the court, with the type facing out. The backsheet consists of three parts on one page:

1. The court file number, title of proceeding, court and location.
2. A description of the document set between two lines, e.g. Affidavit.
3. Your name, address and phone number. Include a fax number and e-mail address, if you have these.

A sample backsheet is included at the end of the guidebook in this series called *A Guide to Preparing your Affidavit*.

## 5. Next steps: Issuing, serving and filing your documents

### Issuing your documents

Once you have completed your Statement of Claim (Form 14A), Notice of Action (Form 14C), or Notice of Application (Form 14E), it is time to go to the court office to have the document *issued* by the court.

You will need to bring with you:

- The original and one copy of your Statement of Claim, Notice of Action, or Notice of Application. The court will give you back one copy with the court seal. Keep this copy in your file and make copies to serve the defendant(s)/respondent(s).

- One copy of an Information for Court Use (Form 14F) to be filed with the court office (you should keep one copy for your files).
- The filing fee. For a current listing of fees, go to [www.e-laws.gov.on.ca](http://www.e-laws.gov.on.ca). Choose your preferred language and click on “Search or Browse Current Consolidated Law.” Click on “A” and then click on the plus sign to the left of “Administration of Justice Act.” Click on “Superior Court of Justice and Court of Appeal – Fees.”

If you are not able to afford court fees, you may be eligible to have fees waived. For more information on fee waiver, go to [www.attorneygeneral.jus.gov.on.ca](http://www.attorneygeneral.jus.gov.on.ca). Click on your preferred language, and then click on “Court Services.” Scroll down to “Court Fees” and click on “A Guide to Fee Waiver Requests.”

You should take your documents in personally. If there is a problem with the documents, court staff will inform you and you may be able to fix the problem on the spot. This way, you will avoid wasting time sending documents back and forth to the court. If you can’t go in yourself, you can send a representative to file the document for you. You or someone on your behalf must attend the court office to have a document issued.

## Serving your documents

Once the court issues your Statement of Claim (Form 14A), Notice of Action (Form 14C) or Notice of Application (Form 14E), you must *serve* the defendants or respondents with a copy of the document that was sealed by court staff.

You must serve your Notice of Action (Form 14C) or Statement of Claim (Form 14A) within six months after it was issued, unless the court orders otherwise. If you are serving a Notice of Action (Form 14C), you will need to serve your Statement of Claim (Form 14D) with it.

You must serve your Notice of Application at least ten days before the hearing date if you are serving the respondent in Ontario. If you are serving the respondent outside Ontario, you must do so at least 20 days before the hearing date.

By serving your documents, you notify the other party that you have started a claim against them. If you are making a claim against more than one defendant or respondent, you have to serve each of those defendants or respondents.

Serving a document is different from simply sending it. There are special rules for how to serve a court document. You can serve the documents yourself or have someone else do this for you. If you think you may have trouble serving a party, you may want to use a professional document server called a process server. Names of process servers can be found in the telephone book.

The correct way of serving a document on a defendant or respondent in Ontario is set out in Rule 16. If you are serving a defendant or respondent outside Ontario, different rules apply. See Rule 17 for more information. If you have to serve a person who is outside of Ontario, you should speak to a lawyer.

Under Rule 16, you can serve a Statement of Claim (Forms 14A), a Notice of Action (Form 14C) or a Notice of Application (Form 14E) by *personal service* (Rule 16.02) or *alternatives to personal service* (Rule 16.03). You will need to prepare an Affidavit of Service (Form 16B) outlining the details of when and how each person was served when you are done.

*Personal service* under Rule 16.02 is made on:

- a **person**, by handing a copy to them personally (note that there are special rules for serving a person under disability: see Rule 16.02 for more detail);

- a **corporation**, by leaving a copy with an officer, director or agent of the corporation, or with a person at any place of business of the corporation who appears to be in control or management of the place of business. If you do not know the address of the corporation, you may, for a fee, order a copy of the Corporation Profile Report, which shows the last known mailing address of the corporation, from the Ministry of Government Services;
- a **partnership**, by leaving a copy with a partner or partners, or with a person at the principal place of business of the partnership who appears to be in control or management of the place of business;
- a **sole proprietor**, by leaving a copy with that person, or with a person at the principal place of business of the sole proprietorship who appears to be in control or management of the place of business;
- a **municipality**, by leaving a copy with the chairman, mayor, warden or reeve of the municipality, with the clerk or deputy clerk of the municipality, or with the lawyer for the municipality;
- a **Board or Commission**, by leaving a copy with a member or officer of the board or commission;
- the **federal government** (Her Majesty the Queen in right of Canada), by leaving a copy with the Deputy Attorney General of Canada, or the chief executive officer of the agency you are making a claim against (see subsection 23(2) of the *Crown Liability and Proceedings Act* (Canada)). At the time of writing this guidebook, the Deputy Attorney General of Canada may be served in Toronto at the Department of Justice Canada, Exchange Tower, 130 King Street West, Suite 3400;
- the **Ontario government** (Her Majesty the Queen in right of Ontario), by leaving a copy with a lawyer in the Crown Law Office (Civil Law) of the Ministry of the Attorney General (see section 10 of the *Proceedings Against the Crown Act*). At the time of writing this guidebook, the office is located at 720 Bay Street, Toronto;
- the **Attorney General of Ontario**, by leaving a copy with a lawyer in the Crown Law Office (Civil Law) of the Ministry of the Attorney General. At the time of writing this guidebook, the office is located at 720 Bay Street, Toronto; and
- a **person outside Ontario carrying on business in Ontario** by leaving a copy with anyone carrying on business for the person in Ontario.

If you have difficulties with serving your documents personally, you may consider an alternative to personal service (Rule 16.03):

- If you know that the person has a lawyer representing them, you can leave a copy of the document with the lawyer at his or her office if the lawyer writes on a copy that s/he accepted service of the document and the date s/he accepted it. Bring at least two copies of the document with you. You will file a copy, with the lawyer's *admission of service*, at the court office to prove that the document was served.
- You can serve the document by sending a copy along with an Acknowledgment of Receipt Card (Form 16A) by mail to the last known address of the person. Your document will only be considered served on the date you receive the Acknowledgment of Receipt Card back from the person you are serving.
- If you have made an attempt to personally serve a person at their place of residence and for some reason you can't, you can serve the document by taking the following steps:
  - (1) First, leave a copy, in a sealed envelope addressed to the person, at the place of residence with anyone who appears to be an adult member of the same household; and

(2) Then, on the same day or the following day, mail another copy to the person at the place of residence.

Your document will be considered served on the fifth business day after you mail the document.

- If you get an address for a corporation from a Corporation Profile Report through the Ministry of Government Services, and you cannot find the corporation at that address, you can serve the corporation by mailing a copy of the document to the corporation at the address shown on the Corporation Profile Report.

If you are still having difficulty serving your document, in some circumstances, the court may make an order for *substituted service* or may *dispense* with service (see Rule 16.04).

## Filing your documents

If you started an action with a Notice of Action (Form 14C), you will need to file your original Statement of Claim (Form 14D) with the court office within 30 days of when the court issued your Notice of Action (or get the defendant's consent or the court's permission to file it later: see Rule 14.03(3)), along with an Affidavit of Service (Form 16B).

If you served a Notice of Application, you must file your Affidavit of Service at least four days before the hearing date in the court office where the application is to be heard.

If you served a Statement of Claim (Form 14A), you may need to file your Affidavit of Service at some point later in your case, for example if you ask for a noting in default (see Rule 19).

## 6. Response to your proceeding

A defendant or respondent who has been properly served has a certain amount of time to respond. This time is different depending on whether they were served inside or outside Ontario.

There is a guidebook called *Defending a Civil Proceeding in the Superior Court of Justice*. You should read it so that you can understand the documents a defendant or respondent serves on you to respond to your claim.

**For more information about court processes, read the other guidebooks in this series by visiting [www.lawhelpontario.org](http://www.lawhelpontario.org).**

***Your feedback is important to us.***

***Please tell us how we can help you better by taking a moment to comment on this Guidebook. Was this Guidebook helpful to you and why? What can we do to make this Guidebook better?***

***Send your response to [lho@pblo.org](mailto:lho@pblo.org) or***

***393 University Avenue, Suite 110, Toronto, Ontario M5E 1E6.***

## Appendix 1: Statement of Claim (Form 14A)

*[Insert general heading as described in Part 4]*

*[Court staff will place the court seal here]*

### STATEMENT OF CLAIM

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

*[If you are claiming that the defendant(s) should pay you money, include the paragraph below.]*

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$*[Insert the dollar amount you are seeking for bringing your claim as described in Part 4]* for costs, within the time for serving and filing your statement of defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400 for costs and have the costs assessed by the court.

Date *[Court staff will insert the date of issue]*.....

Issued by *[Court staff will sign here]*

Local registrar

Address of  
court office *[Court staff will insert address here]*

TO *[Insert the name and address of each defendant.]*

*[If you are bringing your claim under Simplified Procedure (Rule 76), include the paragraph below.]*

THIS ACTION IS BROUGHT AGAINST YOU UNDER THE SIMPLIFIED PROCEDURE PROVIDED IN RULE 76 OF THE RULES OF CIVIL PROCEDURE.

CLAIM

1. The plaintiff claims: *[Clearly set out what you are asking the court to order (relief claimed). If you are asking for the defendant to pay you money, write out the dollar amount. As described in Part 4, if you want to ask the court for costs, say so here.]*

*[In numbered paragraphs, set out the facts (allegations) that support your position, as described in Part 4. If you are asking the court to order the defendant to pay you money, set out the facts that show why the defendant owes you that money. You will have to prove these facts in court if your case goes to trial. If there is a document that supports your position, give details of that document, such as the date, who wrote it, and the reason why you are relying on the document to support your position.]*

*[If you are serving your Statement of Claim outside Ontario, you may need to include more information here regarding service. Refer to Rule 17 and Form 14A for more information.]*

*[Court staff will insert the date of issue here]*

*[Type or clearly print your name, address and telephone number here. Sign directly above your name.]*

RCP-E 14A (November 1, 2005)

## Appendix 2: Notice of Action (Form 14C)

*[Insert general heading as described in Part 4]*

*[Court staff will place the court seal here]*

### NOTICE OF ACTION

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the statement of claim served with this notice of action.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this notice of action is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

*[If you are claiming that the defendant(s) should pay you money, include the paragraph below.]*

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$*[Insert the dollar amount you are seeking for bringing your claim as described in Part 4]* for costs, within the time for serving and filing your statement of defence, you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400 for costs and have the costs assessed by the court.

Date *[Court staff will insert the date of issue]*.....

Issued by *[Court staff will sign here]*

Local registrar

Address of  
court office *[Court staff will insert address here]*

TO *[Insert the name and address of each defendant.]*

*[If you are bringing your claim under Simplified Procedure (Rule 76), include the paragraph below.]*

THIS ACTION IS BROUGHT AGAINST YOU UNDER THE SIMPLIFIED PROCEDURE PROVIDED IN RULE 76 OF THE RULES OF CIVIL PROCEDURE.

CLAIM

The plaintiff's claim is for *[Set out what you are asking the court to order (relief claimed) as described in Part 4. You can give less detail here and more detail in your Statement of Claim (Form 14D). As described in Part 4, if you want to ask for the court for costs, say so here.]*

*[Court staff will insert the date of issue here]*

*[Type or clearly print your name, address and telephone number here. Sign directly above your name.]*

RCP-E 14C (November 1, 2005)

### Appendix 3: Statement of Claim (Form 14D)

*[Insert general heading as described in Part 4]*

STATEMENT OF CLAIM

*Notice of action issued on (date)*

*[If you are bringing your claim under Simplified Procedure (Rule 76), include the paragraph below.]*

THIS ACTION IS BROUGHT AGAINST YOU UNDER THE SIMPLIFIED PROCEDURE PROVIDED IN RULE 76 OF THE RULES OF CIVIL PROCEDURE.

1. The plaintiff claims: *[Clearly set out what you are asking the court to order (relief claimed). If you are asking for the defendant to pay you money, write out the dollar amount. As described in Part 4, if you want to ask for the court for costs, say so here.]*

*[In numbered paragraphs, set out the facts (allegations) that support your position, as described in Part 4. If you are asking the court to order the defendant to pay you money, set out the facts that show why the defendant owes you that money. You will have to prove these facts in court if your case goes to trial. If there is a document that supports your position, give details of that document, such as the date, who wrote it, and the reason why you are relying on the document to support your position. If you are serving your Statement of Claim outside Ontario, you may need to include more information here regarding service. Refer to Rule 17 and Form 14D for more information.]*

*[Insert the date you prepared the document] [Type or clearly print your name, address and telephone number here. Sign directly above your name.]*

RCP-E 14D (November 1, 2005)

## Appendix 4: Notice of Application (Form 14E)

*[Insert general heading as described in Part 4]*

*[Court staff will place the court seal here]*

### NOTICE OF APPLICATION

TO THE RESPONDENT

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing on *(day)*, *(date)*, at *(time)*, at *(address of court house)*.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least two days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date *[Court staff will insert the date of issue]* ..... Issued by *[Court staff will sign here]*  
Local registrar

Address of  
court office *[Court staff will insert address here]*  
.....

TO *[Insert the name and address of each respondent.]*

## APPLICATION

1. The applicant makes application for: ***[Clearly set out what you are asking the court to order (relief claimed). If you are asking for the defendant to pay you money, write out the dollar amount. As described in Part 4, if you want to ask for the court for costs, say so here.]***
2. The grounds for the application are: ***[Set out the sections of the statutes and/or rules you are relying on to bring the application and seek the relief you have asked for.]***
3. The following documentary evidence will be used at the hearing of the application: ***[Set out the affidavits or documents you are relying on to prove your claim. If you are filing an affidavit to support your position, describe the affidavit with information such as the name of the person who swore the affidavit and the date on which the affidavit was sworn (e.g. The Affidavit of Jamal Roberts dated October 31, 2007). You do not have to include what the affidavit is about. If you are relying on a document, describe the document with information such as the date and who wrote it (e.g. Letter dated July 20, 2006 from Neera Gupta to Sharon Wong.)***  
***[If you are serving your Notice of Application outside Ontario, you may need to include more information here regarding service. Refer to Rule 17 and Form 14E for more information.]***

***[Court staff will insert the date of issue here]***

***[Type or clearly print your name, address and telephone number here. Sign directly above your name.]***

RCP-E 14E (November 1, 2005)



## Appendix 6: Affidavit of Service (Form 16B)

(To be filed as proof of service of other documents)

**[Insert general heading as described in Part 4]**

### AFFIDAVIT OF SERVICE

I, *(full name)*, of the *(City, Town, etc.)* of ....., in the *(County, Regional Municipality, etc.)* of ....., MAKE OATH AND SAY *(or AFFIRM)*:

**[INSERT ONE OF PARAGRAPHS A TO G BELOW, DEPENDING ON HOW YOU SERVED THE DOCUMENT. THEN PROCEED TO PARAGRAPH H. As described in Part 5, your Statement of Claim (Form 14A), Notice of Action (Form 14C) with Statement of Claim (Form 14D), or Notice of Application (Form 14E) must be served by personal service or an alternative to personal service, unless the court orders otherwise.]**

#### **[A. Personal Service]**

1. On *(date)*, at *(time)*, I served *(identify person served)* with the *(identify documents served)* by leaving a copy with him *(or her)* at *(address where service was made)*. *(Where the rules provide for personal service on a corporation, etc. by leaving a copy of the document with another person, substitute: by leaving a copy with (identify person by name and title) at (address where service was made).)*
2. I was able to identify the person by means of *(state the means by which the person's identity was ascertained.)*

#### **[B. Alternative to Personal Service – Leaving a copy with an adult person in the same household]**

1. I served *(identify person served)* with the *(identify documents served)* by leaving a copy on *(date)*, at *(time)*, with a person *(insert name if known)* who appeared to be an adult member of the same household in which *(identify person served)* is residing, at *(address where service was made)*, and by sending a copy by regular lettermail *(or registered mail)* on *(date)* to *(identify person served)* at the same address.
2. I ascertained that the person was an adult member of the household by means of *(state how it was ascertained that the person was an adult member of the household)*.

3. Before serving the documents in this way, I made an unsuccessful attempt to serve *(identify person)* personally at the same address on *(date)*. *(If more than one attempt has been made, add: and again on (date).)*

#### **[C. Alternative to Personal Service – Service by mail]**

1. On *(date)*, I sent to the *(identify person served)* by regular lettermail *(or registered mail)* a copy of

the *(identify documents served)*.

2. On *(date)*, I received the attached acknowledgment of receipt card *(or post office receipt)* bearing a signature that purports to be the signature of *(identify person)*.

***[D. Service by Mail on a Solicitor]***

1. I served *(identify party served)* with the *(identify documents served)* by sending a copy by regular lettermail *(or registered mail)* on *(date)* to *(name of solicitor)*, the solicitor for the *(identify party)*, at *(full mailing address)*.

***[E. Service by Fax on a Solicitor]***

1. I served *(identify party served)* with the *(identify documents served)* by sending a copy by fax to *(fax number)* on *(date)* to *(name of solicitor)*, the solicitor for the *(identify party)*.

***[F. Service by Courier on a Solicitor]***

1. I served *(identify party served)* with the *(identify documents served)* by sending a copy by *(name of courier)*, a courier, to *(name of solicitor)*, the solicitor for the *(identify party)*, at *(full address of place for delivery)*.

2. The copy was given to the courier on *(date)*.

***[G. Service by Mail on a Party acting in Person or a Non-Party]***

1. I served *(identify party or person served)* with the *(identify documents served)* by sending a copy by regular lettermail *(or registered mail)* on *(date)* to *(full mailing address)*, the last address for service provided by *(identify party or person)* *(or, where no such address has been provided: the last known address of (identify party or person).)*

***[H. You must have your Affidavit of Service sworn before an authorized commissioner for taking affidavits, a notary public, or a lawyer. See the guidebook A Guide to Preparing your Affidavit for more information.]***

Sworn *(or affirmed)* before \_\_\_\_\_ )  
me at the *(City/Town/etc.)* of \_\_\_\_\_ )  
in the Province of Ontario \_\_\_\_\_ )  
this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ )

\_\_\_\_\_  
Person Serving Document

\_\_\_\_\_  
Commissioner for Taking Affidavits  
*(or other title)*

RCP-E 16B (November 1, 2005)