

Fact Sheet:

Simplified Procedure

under rule 76 of the *Rules of Civil Procedure*

Ministry of the Attorney General

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This guide does not provide legal advice.

It is recommended that all parties seek legal advice where possible.

Ce guide est également disponible en français

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My claim is for money or property valued at between \$35,000 to \$200,000. Where should I start my claim?

A claim for between \$35,000 to \$200,000 can be started in the Superior Court of Justice using the Simplified Procedure ([r. 76.01\(1\)](#)) process.

The simplified procedure must be used in a civil action if:

- i. Your claim is only for one or more of the following:
 - Money
 - Real property (e.g. land)
 - Personal property

AND

- ii. The total amount is \$200,000 or less, exclusive of interest and costs, including the amount of money claimed (if any) and the fair market value of any real property and personal property, as at the date the action is commenced.

What type of cases should not be brought under the Simplified Procedure?

The Simplified Procedure does **not** apply to:

- Class proceedings
- *Construction Act* actions (except trust claims)
- Case managed actions (rule 77)
- Actions commenced or continuing under simplified procedure in which a jury notice is delivered after January 1, 2020 [[r.76.01 \(1\)](#)]

What is the process for Simplified Procedure cases?

The process for Simplified Procedure cases is described in this Guide.

See the flowchart: [Simplified Procedure](#).

What happens if I do not start my claim under Simplified Procedure?

If you do not start your claim using the Simplified Procedure and it is determined later by the court that your case should have been started under this process, you may not be awarded any costs. You may also be required to pay all or part of the defendant's costs.

If you realize that you started the claim under the ordinary process but you should have started the claim under the Simplified Procedure (because it is valued at less than \$200,000) you can amend your claim so that your action will go forward under the Simplified Procedure.

You will need to serve and file a [Form 76A](#) . For more information about the process to amend a claim, see [rule 26](#).

Cases started before January 1, 2020 under Ordinary Procedure claiming between \$100,000 and \$200,000 will NOT be automatically transferred into the Simplified Procedure.

What if there is more than one Plaintiff?

Simplified Procedure must be used if each Plaintiff's claim is valued at \$200,000 or less [see: [Rule 76.02\(2\)](#)].

What if there is more than one Defendant?

Simplified Procedure must be used if the claim against each Defendant is valued at less than \$200,000 [see [r. 76.02\(3\)](#)].

Can I use the Simplified Procedure process if my claim is for more than \$200,000?

If your claim is for more than \$200,000 you may be able to use the Simplified Procedure process.

However, if the Defendant objects, your case will go ahead under the Ordinary Procedure (for more information see below: *What happens if the Defendant objects to proceeding under Simplified Procedure?*).

A lawyer is in the best position to advise you of your options.

How do I start a claim under the Simplified Procedure?

Your Statement of Claim or Notice of Action must indicate that you are bringing the case under the Simplified Procedure rules.

Generally, an action is started under Simplified Procedure by:

1. Complete a Statement of Claim [[Form 14A](#)].

Make sure that you indicate that the action is being brought under the Simplified Procedure by including the following caption in the Statement of Claim immediately before the heading "CLAIM":

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

2. Bring to the court:
 - Two copies of the Statement of Claim [[Form 14A](#)]
 - Information for Court Use [[Form 14F](#)]
3. Pay the court filing fee. The court will return the original issued claim to you.
4. Serve a copy of the issued Statement of Claim on the other parties. To do this, use one of the methods in [rule 16.02](#) or [rule 16.03](#) . Complete an Affidavit of Service [[Form 16B](#)].

For more information about how to start an action, read [rule 14](#) and the Guide: *Civil Cases: Suing and Being Sued*. To read rule 76, click here: [rule 76](#) .

Can I file my claim online?

Yes. A Simplified Procedure action can be filed online. The claim can be filed electronically through the Ministry of the Attorney General's Civil Claims Online portal at: www.ontario.ca/civilclaims. The online filing service allows you to submit all required court forms online, see [rule 4.05.1](#). You will need to pay your court filing fees through the online service and a court-issued claim is sent to you by email from the court.

What happens if the Defendant objects to proceeding under the Simplified Procedure process?

The defendant can object to proceeding under the Simplified Procedure by saying so in the Statement of Defence [\[r. 76.02\(5\)\]](#). If this happens you must serve on the parties and file with the court a [Form 76A](#).

An action commenced under Simplified Procedure (Rule 76) will continue under Simplified Procedure, unless:

- i. The defendant objects that the claim is in excess of \$200,000 and indicates this in the Statement of Defence;
- ii. The defendant objects that the claim is not one of the types of matters that should proceed under Simplified Procedure and indicates this in the Statement of Defence;
- iii. The defendant makes a counterclaim, crossclaim or third party claim objects in excess of \$200,000 and states in their statement of defence that the matter is to proceed under ordinary procedure;
- iv. The action is assigned for case management under rule 77.05; OR
- v. Any party to the action delivers a jury notice in accordance with subrule 76.02.1 (2)

If the Defendant makes an objection to proceeding under Simplified Procedure and the objection is later found by a court to have been improper, the Defendant will suffer cost consequences [see [r. 76.13\(7\)](#)].

An action is defended when a defendant serves and files a Statement of Defence [\[Form 18A\]](#). A statement of defence must be delivered within 20, 40 or 60 days after service of the statement of claim, depending on where the defendant was served [\[r. 18.01\]](#). A defendant is entitled to ten additional days to file a statement of defence when a Notice of Intent to Defend [\[Form 18B\]](#) is served and filed within the prescribed time [\[r. 18.02\(2\)\]](#).

Despite the time limits for delivery of a Statement of Defence, the defendant may deliver a statement of defence at any time prior to being noted in default [\[r. 19.01\(5\)\]](#).

PRESCRIBED TIME FOR DELIVERY OF STATEMENT OF DEFENCE	CRITERIA
20 DAYS	If claim served in Ontario
40 DAYS	If claim served elsewhere in Canada or USA
60 DAYS	Anywhere else
Add 10 days to each time frame noted above	If Notice of Intent to Defend is filed within prescribed time
Anytime	Prior to being noted in default

Will we be required to go to mediation?

If the case is in Toronto, Windsor and Ottawa, you will be required to participate in mandatory mediation. Simplified Procedure cases are automatically subject to mandatory mediation in these three locations. For more information about the mandatory mediation process, see [rule 24.1](#) and the Fact Sheet: [Mandatory Mediation](#).

In other locations, you and the other parties may choose to have a mediation session to try to come to a cheaper and quicker resolution of your case.

For more information on mediation see the [Civil Cases: Suing and Being Sued](#).

What happens after all the pleadings are filed with the court?

Parties have a certain amount of time to serve and file pleadings under the civil court rules. The pleadings are:

- Statement of Claim
- Statement of Defence
- Counterclaim
- Crossclaim
- Third Party Claim
- Reply to Defences

Once the time for serving and filing pleadings has ended, the pleadings are “closed”. After the pleadings are closed, you must serve:

1. A form “Notice of Whether Action is Under Rule 76”. Complete [Form 76A](#) , and serve and file it together with an affidavit of service (if you have not already filed this form with the court).
2. A form “Affidavit of Documents”. Complete [Form 30A](#) or [Form 30B](#) and serve on the parties within 10 days of the close of pleadings.
3. Copies of all of the documents which are listed in your Affidavit of Documents “Schedule A”.

How do we exchange our “Affidavit of Documents”?

The “Affidavit of Documents” sets out all documents relevant to any matter in issue that are or have been in the party’s possession. You and each party must deliver an Affidavit of Documents to each party.

You must serve the “Affidavit of Documents” in the proper format within 10 days after the close of pleadings. Fill out [Form 30A](#) or [Form 30B](#) . Be sure to complete the whole form including Schedule “D” which is a list of the names and addresses of the persons who might be expected to have knowledge of the matters at issue in the action.

The Affidavit of Documents is made under “oath” or under “affirmation” before a person authorized to commission affidavits. There are serious consequences if you do not make full disclosure of all documents relevant to any matter in issue or if you do not provide a list of the names and addresses of persons who might reasonably be expected to have knowledge of the matters in issue. For example, if you do not list a person’s name in the “Affidavit of Documents” you will not be able to call that person as a witness at the trial.

The Affidavit of Documents must be filed with the court at least 5 days before the scheduled pre-trial conference.

Will we have discovery?

You and the other parties can choose to use the discovery process.

Discovery is a process that allows you to obtain information from the other party early in the litigation process. It helps parties find out the strength of the other side’s case. Knowing the facts early may help achieve settlements.

Oral discovery allows a party to examine another party under oath outside of the court room.

In Simplified Procedure cases, you can get up to three hours of oral discovery. This means that you have up to three hours to examine the other parties under oath outside of the court room.

For more information about the oral discovery process, see [rule 31](#) .

Do we have to discuss settlement?

Yes.

Within 60 days of the filing of the first Statement of Defence (or Notice of Intent to Defend) you must talk to the other party about:

- i. whether all the relevant documents have been disclosed; and
- ii. whether settlement of the issues is possible.

How do I bring a motion?

To bring a motion, you must file a Motion Form with the court. The form is called a Simplified Procedure Motion Form [[Form 76B](#)]. You must pay the court filing fee to file the Motion Form.

You can attend a motion by appearing at court in person on the motion date or you can also choose to bring a motion in writing. You can also ask for a telephone conference or video conference (but this will be granted only if these technologies are available in your court location) and the court permits.

If all the parties are agreeing to your motion, each party must file a written Consent.

Can I bring a summary judgment motion?

Yes. You can bring a summary judgment motion in a Simplified Procedure case.

You may consider bringing a summary judgment motion to ask the court to decide if there is a genuine issue requiring a trial. If the court decides that there is no genuine issue requiring a trial, the court may grant you judgment. If you are successful, this step can avoid additional litigation costs and the time of a trial.

A defendant can also bring a summary judgment motion. If the court decides that there is no genuine issue requiring a trial and grants the defendant's motion, your claim can be dismissed.

For more information about the process for summary judgment motions read [rule 20](#).

Do we have to attend a pre-trial?

Yes.

A pre-trial conference is a court hearing before a judge or case management master.

The reason for a pre-trial is to determine the current issues and the position of each party. The parties have a chance to discuss how to resolve the case.

If you and the other parties do not settle the case, the pre-trial judge or case management master will schedule a date for the trial.

You and the other parties and your lawyers must attend a pre-trial, in person or by telephone or video conference, as permitted or directed under rule 1.08.

How do I ask for a pre-trial?

To ask the court to schedule a pre-trial date:

- i. Serve on each party a form called "Notice of Readiness for Pre-Trial" [[Form 76C](#)];
- ii. File with the court the "Notice of Readiness for Pre-Trial" with proof of service (Affidavit of Service).

You must serve and file this Notice within 180 days of the filing of the first Statement of Defence or Notice of Intent to Defend.

This Notice is also used by the Court to "set the matter down" for trial.

For more information about the pre-trial process, see the flowchart: [Simplified Procedure](#).

When is a pre-trial conference held?

Within 180 days of an action being set down for trial, the parties must schedule with the registrar a date and time for the pre-trial which is acceptable for all parties. If the parties do not schedule a pre-trial within 180 days of the set down for trial, the registrar will schedule a pre-trial date (unless there is any earlier court order which provides otherwise).

The court will send you a Notice to let you know the date of the pre-trial.

What do I need to do before the pre-trial?

Five days before the pre-trial each party must serve on the other parties:

1. a copy of a Trial Management Check-list [[Form 76D](#)];
2. a statement setting out the issues (maximum of three pages) and your position on each issue.

Five days before the pre-trial you must file with the court a copy of:

1. the trial management plan proposed by the parties;
2. your Affidavit of Documents [[Form 30A](#) or [Form 30B](#)];
3. the documents which you are relying on for your claim (or defence);
4. any expert affidavit, other than a supplementary expert affidavit;
5. any other material needed for the pre-trial;
6. the Trial Management Check-list [[Form 76D](#)];
7. a statement setting out the issues (maximum of three pages) and your position on each issue;
8. an Affidavit of Service to prove that all parties were served with the Trial Management Checklist and with the statement setting out the issues (maximum of three pages).

How do I ask for a trial?

The court will schedule a defended action for trial after the pre-trial is held.

Can a Jury Notice be filed under Simplified Procedure?

As of January 1, 2020, you cannot file a jury notice in a Simplified Procedure case.

If you need to file a jury notice [[Form 47A](#)] in an action listed in [rule 76.02.1\(2\)](#), you must also file a Notice Whether Action under Rule 76 [[Form 76A](#)] and your action will then proceed under the Ordinary Procedure of the Superior Court of Justice.

What do I need to do before a trial?

If you are proceeding to a trial, at least 10 days before trial, if you are the party who served and filed the “Notice of Pre-Trial Readiness” you must:

1. serve on each party a copy of the trial record;
2. file the trial record and an Affidavit of Service with the court.
3. Pay the court filing fee.

For information about how to prepare a trial record, see [rule 76.11 \(4\)](#).

Will I need to get a lawyer?

A party is not required to get a lawyer unless the party is under a disability or is acting in a representative capacity.

A party under a disability is a person under the age of 18 years, or is a person who is mentally incapable within the meaning of the *Statutory Decisions Act, 1992*, whether he or she has a guardian or not, or an absentee within the meaning of the *Absentee Act*.

Corporations must be represented by a lawyer, unless the court allows otherwise.

Even if you don't have to be represented by a lawyer, you may want to consider consulting with a lawyer since a lawyer can advise you about your options.

How do I find a lawyer?

If you wish to consult an Ontario lawyer, you may contact the Law Society Referral Service operated by the Law Society of Ontario. The Law Society Referral Service can provide you with the name of a lawyer in your area, who will provide a free initial consultation of up to 30 minutes to help determine your rights and options. If you would like to be referred to a lawyer, you may submit a request to the Law Society Referral Service by completing the online request form at www.lawsocietyreferralservice.ca. A crisis line is available Monday to Friday, 9:00 am to 5:00 pm. The crisis line is intended for people who are unable to use the online service, such as those in custody, in a shelter, or in a remote community without access to the internet. The phone number for the crisis line is 416-947-5255 (toll free 1-855-947-5255). Information about how to be referred to a lawyer through the Law Society's Referral Service is available at www.lsr.info. You may also use the Law Society's Lawyer and Paralegal Directory, which may be viewed at www.lawyerandparalegal.directory.

If you are experiencing financial difficulties, it may be possible to obtain assistance from Pro Bono Ontario (PBO), a not-for-profit organization that offers free legal assistance over the phone as well as in person. You can learn more by visiting PBO's website at: <https://www.probonoontario.org/>.

In addition, JusticeNet is a not-for-profit service that connects those who cannot afford standard legal fees with lawyers offering their services at reduced rates. For more information, visit their website at: <https://www.justicenet.ca/>.

What happens if I do not take steps to have my action resolved?

If you do not take steps to have your action concluded, the court will automatically dismiss your action. This process is the same for Simplified Procedure and for Ordinary Procedure cases.

As of January 1, 2015:

- actions not set down for trial or concluded **within five years** from their start date will be automatically dismissed, unless ordered otherwise
- actions that have been struck off of the trial list and not restored to the list **within two years** will automatically be dismissed, unless ordered otherwise
- the Registrar will not provide notice that an action will be dismissed
- once an action is dismissed, the Registrar will serve an Order Dismissing Action for Delay (Form 48D)
- actions started before January 1, 2015 will be dismissed as set out under rule 48.14(11), (12) and (13)

If you are unable to have your action set down for trial within five years, or placed back on the trial list within two years, you can keep your action from being dismissed if you:

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

If you have the consent of all parties, you can draft a timetable that:

- identifies the steps you need to complete before the action can be set down for trial or restored to the trial list,
- shows the date(s) by which you need to complete the steps, and
- shows a date (no more than seven years after the claim) before which the action must be set down for trial or placed back on the trial list.

If all parties consent to the timetable, you can file the timetable and draft order with the court. You need to file the timetable and draft order at least 30 days before the five or two year deadlines.

If all parties do not consent to a timetable, you can bring a motion for a status hearing to ask the court for an order allowing the action to move forward. This motion may be brought at any time before the five or two year deadlines.

At which court location should I start my Simplified Procedure claim?

You can start your court claim in any county unless a statute or civil court rule requires your case to be heard in a particular county.

For a list of court addresses for the Superior Court of Justice click here:
http://www.attorneygeneral.jus.gov.on.ca/english/courts/Court_Addresses/.