



Small Claims E-Filing

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CCLA - Paralegal Education Day
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Pilot project

Ontario launches e-filing for small claims

Written by Jon Cook
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About a third of Ontario small claims disputes never see a courtroom and now filers won't even have to interact with a live person.

This week, the Ministry of the Attorney General launched an e-filing pilot project that allows small claims litigants to file their applications online and receive court-issued documents by e-mail.

British Columbia was the first province to institute an e-filing system in 2008 followed by Newfoundland in 2010. According to B.C.'s Ministry of Justice, 21,521 small claims documents were e-filed in the 2012-13 fiscal year, representing 21 per cent of all eligible documents (103,056).



Ontario has launched an e-filing pilot project for Small Claims Court.

Ontario's service is so far only available in Brampton, Oshawa, Ottawa, and Richmond Hill, but the ministry is aiming for a full province-wide rollout sometime early next year.

Laura Craig, counsel in the civil policy and programs branch of MAG, says the e-filing service is geared to handle "liquidated claims," which are ones where there is a set amount that has been agreed upon on by both parties.

SCC e-filing

- 6-month pilot project
- Now: e-filing at every SCC in Ontario
- As of 2015, ~2000 SCC claims had been filed online with Ontario system

Who's used it?

Rules of the Small Claims Court

Electronic Filing, Issuance of Documents

1.05.1

- (1) If these rules permit or require a document to be filed electronically, the software authorized by the Ministry of the Attorney General for the purpose shall be used for the filing.
- (2) If these rules permit or require a document to be issued electronically, the software authorized by the Ministry of the Attorney General for the purpose shall be used for the issuance.
- (3) *A document issued using the authorized software is deemed to have been issued by the Small Claims Court.*

Requirement for Signature

- (4) *If a document is filed or issued electronically, a requirement in these rules that the document contain a person's signature is satisfied if the authorized software indicates on the document that the document has been electronically filed or issued, as the case may be.*

[...]

Filing, Issuance Outside of Business Hours

- (6) A document that is filed or issued electronically outside of regular business hours is deemed to have been filed or issued, as the case may be, on the next day that is not a holiday.

Rules of the Small Claims Court

Requirement to Keep Original

- (7) A person who electronically files an affidavit or other signed or certified document in accordance with these rules shall,
 - (a) keep the original document *until the third anniversary of the electronic filing, until the clerk requests that the original document be filed or until these rules require that the original document be filed, whichever is earliest; and*
 - (b) file the original document on the clerk's request.

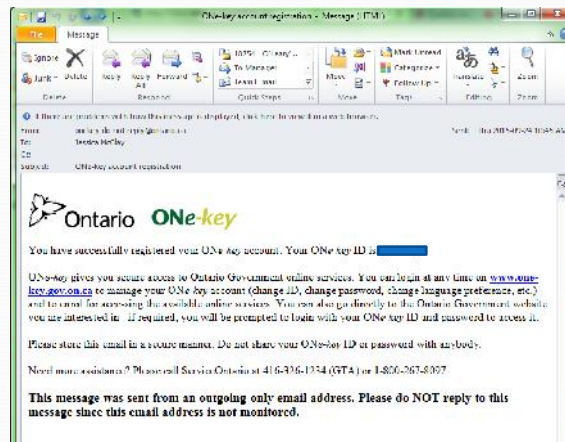
[...]

What can you file?

	YES	NO
Document	<ul style="list-style-type: none"> Plaintiff's Claims under the Small Claims limit of \$25,000.00 and supporting documents for claim <u>Amended</u> Plaintiff's Claim that has <u>not</u> been served on the Defendant(s) Affidavit of Service for Plaintiff's Claim Request for Default Judgment for a claim issued electronically (once 20 days have elapsed) and Affidavit for Jurisdiction if required Request for Assessment of Damages for a claim issued electronically (once 20 days have elapsed) Notice of Motion for an Assessment of Damages in writing 	<ul style="list-style-type: none"> LTB and other tribunal matters Settlement conference materials Enforcement-related documents Files over 5 MB (claim document) and 10MB (supporting documents), or files for which >20MB of documents must be uploaded Consent to Act as Litigation Guardian (system requires filers to certify that no party is under a disability)

How to file (1)

1. Sign up for a One-key account with ServiceOntario



How to file (2)

2. Visit ontario.ca/smallclaims

→ Small Claims services are not easy to find on the One-Key/Service Ontario login!

3. Choose filing method:

The screenshot shows the 'Start a new claim' section of the Ontario Small Claims Court website. It offers two methods for filing online:

- Use the filing wizard:**
 - for first-time and inexperienced filers
 - easy to follow: step-by-step wizard will guide you through the filing process and help you complete and submit the required forms online
 - Button: **Filing wizard**
- Upload completed forms using the quick file option:**
 - for legal professionals and experienced filers
 - choose this option if you have already completed the Plaintiff's Claim form and are ready to upload your documents
 - Button: **Quick file**

How to file (3)

4. Verify conditions & fill in basic claim, party, and court information

The screenshot shows the 'Step 1 - File a Plaintiff's Claim' form on the ServiceOntario website. The form includes the following information:

- ServiceOntario** header with 'Next' and 'Clear' buttons, and a 'Save a draft' link.
- Ontario** logo and contact information: Telephone: 1-800-48C-4962, Email: smallclaimsonline@ontario.ca, Locations: Ontario court locations and contact information.
- Step 1 - File a Plaintiff's Claim** title.
- Fields marked with an asterisk (*) are mandatory.
- Please verify that all apply to the case:**
 - None of the plaintiffs or defendants have a legal disability under the [Rules of the small claims court](#), i.e., they are not:
 - a minor
 - mentally incapable (under section 8 or 45 of the Substituted Decisions Act, 1992)
 - an absentee (under the [Absentees Act](#))
 - The plaintiff is not the subject of a vexatious litigant order (under section 140 of the [Courts of Justice Act](#)) in which the plaintiff has been prohibited from bringing a court proceeding.
 - I understand that, in accordance with the [Rules of the small claims court](#), I must keep a copy of all affidavits and other signed or certified documents related to this claim for 3 years, and must provide to the court if requested.
 - The interest claimed does not exceed 30% per year.
 - I understand that I must provide hard copies of my e-filed documents to the court if a hearing is required (e.g., a settlement conference).
- I agree with all of the conditions above.

How to file (4)

5. Pay filing fee
 - Credit card: Visa, Mastercard, Amex,
 - Online Interac: through RBC, TD, BMO, or Scotia
6. Upload your claim document and supporting documents
 - Claim form: PDF only
 - Supporting documents: DOC, DOCX, PDF, TIF or JPG (e.g. Form 4A Consent re Litigation Guardian) – no audio files, videos, etc.
7. A directory will be created online for your claim. Your issued claim will be emailed to you.

After e-issuing

- The issued claim and partly completed AOS will be emailed to you within 2 business days.
- Serve as normal under *Rules of the Small Claims Court*. File your Affidavit of Service (online).
- File request for Default Judgment
 - Online form automatically calculates pre-judgment interest rate on interest rates <35%
- If a settlement conference is required, hard copy of claim and affidavit of service must be filed (14 days before settlement conference)
- Ensure you keep originals for the required 3-year period!

If problems, call...

R. 1.05.1

Date of Filing, Issuance

(5) The date on which a document that is filed or issued electronically is considered to have been filed or issued, as the case may be, is the *date indicated for the document by the authorized software*.

Inconsistencies

(9) In the event of an inconsistency between a document filed electronically by a person using the authorized software and information provided by the person using the authorized software other than the electronically filed document,

(a) the *electronically filed document prevails*; and

(b) the clerk may request written clarification from the person respecting the inconsistency.

Thus...

In case of technical difficulties with issuing claim, consider taking a screen capture so that you can explain your problem to the Small Claims clerk.

Further notes

- More online filing may be coming:

MAG Strategic Plan 2014-19:

“Priority #1 – Modernize and streamline processes and supporting technology while maintaining core ministry functions

The ministry will work to modernize and streamline its processes to become more efficient and deliver the best possible value to Ontarians. Such modernization will require improving our technology to ensure we have the right infrastructure in place to support desired reforms. A main focus of this priority will be to **enhance electronic access to justice services** and electronic interactions within the justice system.”

- Access to Justice note: fee waiver is not available online

THANK YOU

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