



PROVINCIAL COURT OF SASKATCHEWAN

Plaintiff Information -- Starting Your Action

Note: This material is for informational purposes only and is not to be construed as legal advice. It is intended to give a general overview of matters involving civil claims in the Provincial Court.

Should you require advice specific to your situation, please consult a lawyer.

A Case Preparation Worksheet has been enclosed to help you with your legal matter. This is for your personal use and does not have to be shared with anyone else. It will help you organize your thoughts and the information that you may require when you try to resolve your claim.

1. **Write a Demand Letter**

You should first send a demand letter to the Defendant (the person you wish to sue), briefly stating the nature and amount of the claim and a deadline to settle (at least 10 days, if not more). You should also advise that if no settlement is achieved, you are going to file a claim in the Provincial Court.

Your letter should be dated and show the name and address of the party it was sent to. Keep a copy for court in the event a trial becomes necessary. A sample demand letter is attached on the final page of this document.

2. **Properly Name the Defendant**

You must be very careful when it comes to naming the Defendant (the person you wish to sue). *If it's not exactly right, you may win your case, but then be unable to collect your money.*

For example: You hired Henry Brown Drywalling Ltd. to drywall your basement. The walls cracked, so you decide to sue Henry Brown Drywalling Ltd. You win the case, but the company refused to pay, so you ask the Sheriff to seize and sell the company's goods. Now you find that the company's real name is "HB Drywalling Ltd." and all their property is registered in that name. You have a judgment against the wrong party.

The rules about names are strict, but they are not complicated. Here are some of the rules you need to know:

- a) If you are claiming against an individual:

Use the person's legal name, avoiding nicknames and shortened versions. For example, use "Robert", instead of "Bob", unless you know "Bob" is the legal name. Avoid the use of initials. If you obtain a judgment and register it against property in the Defendant's name, Information Services Corporation (Land Titles) will not accept names with initials.

- b) If you are claiming against a company:

Usually you can tell if you are dealing with an incorporated company because its name will end in "Limited", "Ltd.", "Corporation", "Corp.", "Incorporated", or "Inc.". To get the correct name contact:

CORPORATE REGISTRY
1301 1ST AVENUE
REGINA, SK.
S4R 8H2
TELEPHONE: 1-866-275-4721
FAX: (306) 787-8999
EMAIL: corporateregistry@isc.ca
WEBSITE: www.isc.ca/corporateregistry

Staff at the Corporate Registry will advise you of the full and correct name and address of the company. What you are looking for is proof of the Defendant's (the party you wish to sue) corporate status. This information is contained in a document called the "*Corporate Registry Profile Report*". This will be required to prepare your claim. This document will also give you the address of the registered office of the corporation where you may serve your claim. If the Plaintiff (the person who is suing) is a company, you must also provide proof of the Plaintiff's corporate status. There is a small fee for the search and report.

- c) If you are suing a business that is not an incorporated company:

You will want to name both the business and the name of the owner, for example, "John Smith, carrying on business as John Smith's Plumbing".

- d) If you are suing more than one Defendant:

You may name more than one Defendant if the claims against each of them are related. You must name each Defendant correctly. For example: Mary's Landscaping Ltd. purchased supplies on credit from your business. You had the director of the company, Mary Green, personally guarantee the company's debt. The debt is unpaid. You would sue Mary's Landscaping Ltd. and Mary Green personally.

3. Bring the following Information for the Provincial Court Clerk

- the correct name and address of the Plaintiff and Defendant;
- full details of the events, dates, locations, etc.;
- a draft statement of claim;
- a document and photograph list, organized by date, beginning with the first document in time, and attach to it proof of corporate status (Profile Report from the ISC) if you are suing a corporation or starting the action as a corporate Plaintiff, as well as the original documents, invoices, contracts, cancelled cheques, estimates, or any other documents that you intend to use to prove your claim.

4. Pay the Court Fees

The fee payable for issuing a summons is \$100

After payment a Judge will review your Statement of Claim and issue a summons for service upon the Defendant. You will then receive a package with material for you to serve (provide to) the Defendant. This is what will give the Defendant notice of your claim and have them come to Court.

5. Further Information

Contact information for the Provincial Court offices is located on the Saskatchewan Law Courts website www.sasklawcourts.ca at "Court Locations andittings" under "Provincial Court" tab.

Sample Demand Letter

July 1, 2018

TGIF Plumbing and Heating Ltd.
27 Pine Tree Ave.
Regina, SK.
S4S 4H8

Attention: George Smith, Manager

Dear Mr. Smith:

I am writing to notify you of my intention to take your company, TGIF Plumbing and Heating Ltd., to Small Claims Court.

As you know from my previous phone calls, I have been unhappy with the furnace that your company installed in my home on October 17, 2017. At that time, I paid your invoice of \$6,745.00 in full. However, it was soon apparent that the furnace was not installed properly. It ran very noisily, but did not put out any heat. Also, your employees damaged walls in the entrance to the house and stairwell to the basement when bringing the furnace in.

I paid \$1,500.00 for another heating company to come to my house and put the furnace in working order. The cost of drywall repair and repainting the damaged walls was \$500.00. My total additional cost was \$2,000.00.

In order to avoid a Small Claims action against your company, I demand payment of \$2,000.00 within 14 days of the date of this letter. It is my hope that we can resolve this matter without the need for legal action. However, failure to respond to this letter will leave me no option but to pursue this matter in Court.

Yours truly,

Jane Doe
123 Any Street
Regina, SK.
S4W 1B1