



PROVINCIAL COURT OF SASKATCHEWAN

First Appearance and Case Management Conference

First Appearance

1. What is a First Appearance?

A First Appearance is an opportunity for the parties to meet for a short period of time with a Judge so that the Judge can determine whether the case will be proceeding. No witnesses are required to attend.

2. What Happens at a First Appearance?

If the Plaintiff fails to appear the claim will be dismissed.

If the Defendant fails to appear, Judgment will likely be entered against the Defendant.

If the Defendant has not filed a Reply and paid the filing fee or served a Reply on the Plaintiff, a Judgment may be entered against the Defendant.

If all Parties are in attendance the Judge will see whether or not the Parties may be able to resolve their dispute.

If resolution does not occur the judge may make certain orders directing the parties to take additional steps to move the matter to a conclusion, including negotiation at a Case Management Conference.

The First Appearance is also an opportunity for either party to ask any questions of the Judge that they might have about the small claims court process.

Case Management Conference

1. What is a Case Management Conference (CMC)?

A CMC is a settlement discussion held between the parties presided over by a Judge or Justice of the Peace. If a party has a lawyer representing him or her, the lawyer may also attend. It is not a trial. Therefore, no witnesses are required to attend and there will not be a determination of who should be successful.

This meeting happens after the Plaintiff begins the lawsuit by filing the Statement of Claim and serves the Summons, but before trial. The CMC can vary from 45 minutes to 2 hours.

An interpreter will not be provided by the Court for any court proceedings. If you are not fluent in the English language, it is your responsibility to bring an interpreter with you to court.

2. Why Have a CMC?

The CMC is a mandatory step in the Small Claims process for most of the civil claims filed. The purpose of this meeting is to try settling some or all of the issues in dispute before going to trial. This may mean that a trial is ultimately not necessary. However, if a trial is still needed, it might be shorter and simpler because some of the issues have been resolved at the CMC.

IT IS MANDATORY FOR THE PARTIES TO ATTEND THIS CONFERENCE. FAILURE TO ATTEND MAY RESULT IN YOUR CLAIM BEING DISMISSED, IF YOU ARE THE PLAINTIFF, OR JUDGMENT ENTERED AGAINST YOU, IF YOU ARE THE DEFENDANT. A JUDGE MAY DECIDE NOT TO PROCEED WITH A CMC AS SCHEDULED IF THE DEFENDANT HAS NOT SERVED A REPLY ON THE PLAINTIFF AND FILED A REPLY WITH THE COURT AND PAID THE REQUIRED FILING FEE.

3. What Happens at a CMC?

The CMC begins with the judge and the parties meeting together to discuss the case. In certain situations, the judge may even take turns meeting with the parties separately to discuss each side of the case. Exactly how a meeting proceeds may vary from case to case.

During this meeting the Judge will give the parties input on their case, including:

- the Judge's assessment of the strengths or weaknesses of each party's evidence
- the Judge's opinion of the statute or common law that might apply
- the Judge's suggestions for possible resolution

4. How Do I Prepare for a CMC?

It is important to come to the CMC prepared to deal with your case. This means that you must bring all relevant documents with you. It is helpful if these documents are organized by date. The person who comes to the CMC must have knowledge of the file and full authority to settle the matter.

5. Rules of a CMC

- a. The judge conducting the CMC will not be the trial judge so parties can speak freely.
- b. All settlement discussions are "off the record". This means that if a trial is necessary, the discussions from CMC cannot be used by either party at trial. This includes any of the opinions expressed by the judge on any issue.
- c. It is possible that there may be some points of agreement reached during the discussion. If so, the CMC Judge will advise the parties that these points will be communicated to the trial Judge.

6. What If The CMC Does Not Lead to Settlement?

If no settlement is achieved at the CMC, the matter will proceed to trial. The date for the trial will be set at the CMC.

If the case must proceed to trial, the CMC judge asks the parties for certain information about the trial. This includes:

- The number of witnesses the Plaintiff plans to call.
- The number of witnesses the Defendant plans to call.
- The need for any expert evidence or expert witnesses for either party, including the expert's name, occupation and title/position.
- Will either party be getting a lawyer to represent them at the trial?
- Are there documents that the parties must exchange?
- How are exhibits going to be presented? For example, photographs are better than bulky engine parts or a can of paint. If photographs are used, make sure the item photographed is available for inspection, if required.
- Are there any special requirements? For example, a witness from out of town who wants to give telephone evidence.

The CMC judge will conclude the meeting by ensuring that each party receives an information package entitled "Preparing for Trial". He or she will also give a brief explanation of the trial process and how to prepare.

Finally, the parties are free to continue settlement discussions on their own anytime after the CMC. If a settlement is reached, the Plaintiff should advise the Court in writing as soon as settlement takes place.