



PROVINCIAL COURT OF SASKATCHEWAN

Plaintiff Information – Should I Sue?

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.

Pursuing a court action requires time and effort on your part, as well as some expense. There is also no guarantee of collecting on any judgment you might obtain. If the Defendant has no assets, no job and no prospects of either, you should think seriously about proceeding. Before doing so, there are a few questions you should ask yourself.

1. Is obtaining the judgment necessarily the end of the process?

The simple answer is no. If you win, the court provides you with a judgment. Sometimes, getting a judgment is just the beginning of a long process because if the Defendant does not voluntarily pay, you must then take steps to enforce the judgment.

You should realize that enforcing your judgment is not the responsibility of the courts. There are some court procedures you can use to collect the money - like tools to do a job - but it is up to you to use them. Once a judgment is obtained, any enforcement steps must be taken through the Court of Queen's Bench, which is not the court which issued your claim. The Provincial Court where you obtained the judgment has nothing further to do with your case.

Enforcement remedies are at your expense. Although some of the costs are added to the amount the Defendant owes you, you have to pay those costs to begin with. Some examples of Court of Queen's Bench enforcement remedies are dealt with below.

2. What do I have to do to collect?

Assets such as cars, trucks, recreational vehicles, and even bank accounts can all potentially be seized following judgment. The seizure is done by the Sheriff (a court official located at the Queen's Bench courthouse). Other sources of income, such as commissions, accounts receivable or contract payments, may also be garnisheed or seized.

However, you must be aware that our law protects certain property from seizure. As well, assets may already be subject to a security interest held by another creditor, such as a bank. In both cases, your ability to seize and sell assets of the debtor will be limited or even prohibited. For further information in this area, please go to www.sasklawcourts.ca, click on the “Court of Queen’s Bench” tab, and choose “Enforcing Orders”.

3. Limitation Periods

You cannot wait indefinitely to start a court action. Saskatchewan has enacted *The Limitations Act*, a copy of which is available on the Saskatchewan Publications Centre website at: <http://www.publications.gov.sk.ca> . If a claim has gone beyond the limitation period, you may be unable to proceed. For most actions, the period is two years, but you should refer to the *Act* to be sure.