



PROCEDURES FOR HEARINGS IN THE SMALL CLAIMS DIVISION OF THE LOCAL COURT

Local Court of NSW Information Sheet

The Small Claims Division of the Local Court deals with civil disputes involving monetary claims up to \$10,000. Small Claims hearings are held before either a Magistrate or an Assessor. The Small Claims Division deals with disputes in a just, quick and cheap manner and with as little formality as possible.

Settling your Dispute

If a defence to the claim is filed parties should make genuine attempts to resolve the dispute through direct negotiations and mediation. Parties are encouraged to contact the Community Justice Centre to assist with mediation. Settling a dispute is likely to save you the time and cost of court appearances. If you do reach an agreement it may be possible to file consent orders with the court to make your agreement legally binding.

Pre Trial Review

The registrar will list defended proceedings for a Pre Trial Review. Parties may appear in person or be legally represented. If a party is legally represented that representative must have authority to settle the case.

One of the objectives of the Pre Trial Review is to assist the parties attempt settlement of the dispute. The court may propose that the parties attend a mediation session with the Community Justice Centre if they have not done so already.

If the matter is unable to be settled the court will attempt to identify the issues in dispute. Together with the parties pleadings the issues identified at the Pre Trial Review will determine the scope of issues to be determined at the hearing. The parties must use this opportunity to ensure that they understand each other's case and the evidence that will be necessary to present at the court. The court will deal with any other procedural matters that need to be resolved and then allocate a date for hearing and make case management orders.

Case Management Orders

The court will make case management orders that give directions for the preparation of the hearing. The standard direction is contained in Local Court Practice Note 2 of 2005. It provides that evidence must be in the form of written statements by the parties and other witnesses and other documentary material such as photos or business records that support the party's case.

Case Management Orders (continued)

All statements and documentary material which each party intends to rely upon at the hearing must be simultaneously exchanged with the other parties and filed with the court registry NO LATER THAN 14 DAYS before the hearing.

If a party fails to comply with this direction then the court may refuse to allow the material to be admitted as evidence at the hearing and may either dismiss the claim or strike out the defence.

There is no right for parties or witnesses to give oral evidence at the hearing unless the court at the Pre Trial Review makes a direction permitting a witness to be cross-examined.

Small Claims hearing

The Magistrate or Assessor determines the way in which the hearing is conducted. At the hearing each party is given the opportunity to make submissions based on the evidence exchanged. Most small claims hearings take less than an hour to complete.

Parties may appear with a legal representative, however, the informal procedures of the Small Claims Division make it easier for self represented litigants to conduct their case.

The rules of evidence and procedural rules relating to formal trials do not apply.

The court may award legal costs to the successful party following the hearing. Legal costs are limited to the amount that may be awarded for a default judgment.

If you reside a significant distance from the court where the Pre Trial Review or Small Claims hearing is to be conducted you may contact the court registry to ascertain whether video link or teleconferencing facilities are available.

Further Information

Further information and assistance regarding Local Court Small Claims Division procedures is available from:

- The Local Court registry
- www.lawlink.nsw.gov.au
- LawAccess NSW on 1300 7788 529
- Community Justice Centres on 1800 990 777

If you need an interpreter, telephone the NSW Government Translating and Interpreter Service on 131 450 – ask them to put you through to Law Access NSW.