



Provincial Court of British Columbia

After you file your *Notice of Claim* or *Reply*, attending a settlement conference is usually the first step in a small claims case.

The settlement conference is a chance for the disputing parties to meet with a judge to discuss the case and see if it is possible to settle it without having a trial. If settlement is not possible, it is used to prepare for trial.

The person who begins a lawsuit in small claims court is called the claimant. The person being sued is called the defendant. Claimants and defendants may also be called the parties to the lawsuit.

Attending

You do not usually go to the courthouse for a settlement conference. Instead, you attend remotely. You use a computer or phone and Microsoft Teams to take part in a video or audio conference with the judge and the other party. Be sure to read the rules and guide for attending remotely before your conference.

To ask to attend the settlement conference in person you must complete an application and file it at the court registry before the settlement conference.

[Participating remotely](#)

[Notice 21 Remote Attendance in the Provincial Court](#)

[SM CL 02 Default Method of Attendance for Court Appearances Under the Small Claims Rules](#)

[Form 16 request to attend in person or change the date](#)

Changing the date

If you do not attend a settlement conference after receiving notice of the date, the judge can dismiss your claim if you are a claimant, or make a payment order against you if you are a defendant.

If you want to change the date of your conference, you must do one of two things:

1. If the other party agrees to change the date, you file a form at the court registry
2. If the other party does not agree, you file an application at the court registry to change the date. You must do this at least seven days before the settlement conference

[Form 16 request to attend in person or change the date](#)

Preparing for a settlement conference

At the settlement conference a claimant should be ready to show the judge and the defendant how they will prove that the defendant did something wrong and caused the claimant expenses or other loss as well as how they will prove the amount of their claim.

At the settlement conference a defendant should be prepared to tell the judge and the claimant what they agree and disagree with in the claim. They should be ready to show the judge and the claimant how they will prove the facts they believe to be correct.

It is a good idea to talk to a lawyer about your case before the settlement conference. A lawyer can assess your chances of success if your case goes to trial. They can also tell you about additional evidence you will need, and suggest reasonable possibilities for settlement.

SM CL 03 provides information about limitations on the document size and restrictions on providing material electronically.

[SM CL 03 Affidavits & Exhibits and Documents For Settlement Conferences For Use in Small Claims Proceedings](#)

What may happen at a settlement conference

A settlement conference is a less formal proceeding than a trial. The judge may be wearing business clothes. You can have a lawyer attend the settlement conference with you remotely, but it is not necessary.

Things said at a settlement conference are confidential. They cannot be used as evidence in a trial.

The judge may ask each party, beginning with the claimant, to briefly explain the problem. This is a chance to give a short summary of the facts. Do not make a long, detailed

presentation.

The judge may ask questions to clarify the legal issues and each party's goals. They may spend time helping you discuss settlement possibilities. If you and the other party agree on a way to settle the lawsuit, the judge can record your agreement or make the orders you agree on, putting an end to the lawsuit.

If you seem unlikely to agree, the judge will discuss what you and the other party need to do to get ready for a trial. The judge can make orders that you exchange copies of documents or other evidence, and other orders about how the trial will proceed.

The judge will likely ask how many witnesses you are planning to bring to court for the trial. Knowing this helps them estimate the amount of court time needed for your trial. If the time estimate is one day or longer (a half day in some courthouses), you may be required to return to court for a trial conference to make sure that you are ready for trial.

The judge's role

The role of a judge at a settlement conference is different from their role at a trial.

The judge may speak frankly about the strengths and weaknesses they see in each party's case. Sometimes it can help to hear what an impartial judge thinks about the likely outcome of a trial. It can help you decide whether your expectations are realistic. The judge may also speak firmly to ensure the conference is fair and both parties have a chance to talk without interruption.

The judge may help the parties with "reality testing" by asking how they are going to prove their case at a trial, and whether they can get the evidence they will need. You can expect the judge to identify which issues are relevant to the case, and point out issues that are not relevant even though they may be important to a party. The judge may try to refocus the parties on the legal requirements of the case. Judges do not give legal advice.

People are generally happier with negotiated agreements than with decisions made by a third party, even a judge. Judges will usually try to mediate during a conference, assisting the parties to reach agreement. However, no one is required to settle at a conference.

If it is clear that one or both parties are not willing to discuss possible settlement, the judge will not attempt to mediate. In that case, the judge may end the settlement conference without listening to each party's grievances. They may simply direct that the matter be set for

trial (or for a trial conference to prepare for the trial), and perhaps talk briefly about the evidence the parties will need at trial.

The *Small Claims Rules* allow a judge at a conference to decide any issues that do not require evidence. In some circumstances this may include dismissing a claim, counterclaim, reply or third-party notice. The judge has a duty to ensure that court time is not spent on a trial when a party has no prospect of success.

Some examples of when a claim could be dismissed at a conference include:

- When a law prevents a claim from being made
- When a limitation period (the time limit for filing a claim) has expired
- When the Provincial Court does not have legal authority to deal with the claim, for example, when the claim is for libel (written defamation), slander (spoken defamation), or malicious prosecution
- When a claim has been brought against the wrong party

The judge at your settlement conference will usually not be your trial judge if a trial is needed.

[*Small Claims Rule 7\(14\)*](#)

Next steps

If you do not settle all of the issues in your case at a settlement conference, the next step could be a trial conference or a trial.

To prepare for the trial, the judge is likely to ask what your evidence will be and how you will prove your claim or defend the claim against you. The judge will ask how many witnesses you will be presenting in the trial. They need to know this in order to estimate how long the trial will take.

At a settlement conference the judge may make orders, including:

- For the parties to exchange copies of documents, expert reports, photographs or other evidence
- For one of the parties to be examined by a medical doctor if the claim is for damages for personal injury
- For the parties to exchange lists of witnesses with a short summary of what each witness will say (often referred to as a “Will Say” statement)
- For the parties to exchange any case law that may support their position
- To set deadlines for anything to be done

In certain situations, a judge at a settlement conference may dismiss a claim, counterclaim, reply or third party notice. The judge has a duty to ensure that court time is not spent on a trial when a party has no prospect of success.

Prior to your trial, go to the Small Claims BC website to find information about what you need to do before your trial, such as the process for:

- Issuing a summons to your witnesses to ensure they come to court, as the judge will not usually consider letters or written statements as evidence in the hearing
- Having experts (like a certified mechanic or doctor) give evidence at your trial and the timelines applicable, such as the requirement to serve a summary of their evidence on the other parties before the expert gives evidence
- Arranging an interpreter
- Making an application, including an application to change a court date or a deadline, or to use alternative service if you are having issues serving someone

You must also ensure that you have contacted the court registry ahead of the trial about any technology you need to present your evidence (such as videos).

[Evidence \(Small Claims BC\)](#)

[Interpreters \(Small Claims BC\)](#)

[Applications \(Small Claims BC\)](#)

[Small claims trial conferences](#)

[Small claims trials](#)

Finding a lawyer or getting legal advice

Information about getting a lawyer and how to get legal advice and legal assistance.



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