

Will I have to pay interest on the claim?

If interest is claimed in the Statement of Claim, it is payable unless the Court orders otherwise. If you disagree with the amount of interest claimed by the plaintiff, you must make this clear in your **Notice of Defence**. If you are ordered to pay the claim by instalments, no additional interest is payable as long as you comply with the instalment order.

What if I have a claim against the plaintiff?

If the plaintiff has already served you with a Statement of Claim, any claim which you may have against the plaintiff is known as a **Counterclaim**. You can make a Counterclaim even if you settle or pay the claim.

If you have a claim against the plaintiff:

- (a) for \$10,000 or less
- (b) to perform work, return, repair or replace goods, or
- (c) in respect of your mutual rights and obligations as owners of units within a block of units

you must fill in a **Counterclaim** form, which is on the back of the Notice of Defence. At the same time as you file a counterclaim, you must also file a **Notice of Defence** or a **Notice of Admission** in relation to the plaintiff's claim.

What happens if there is a Court hearing?

As explained above, if the claim is not settled or withdrawn, a date will be fixed at a pre hearing conference for the claim to be heard.

For information about what happens at Court, see the brochure **SMALL CLAIMS 3: Pre-hearing Conferences and Attending Court**

For further information on small claims

Contact the nearest Local Court office:

Cnr Cavenagh St & Harry Chan Ave, DARWIN	8999 6298
Court House, First Street, KATHERINE	8973 8959
Law Courts, Parsons St, ALICE SPRINGS	8951 5710
Court House, Paterson St, TENNANT CK	8962 4377
Court House, NHULUNBUY	8987 1378

See other brochures in this series:

SMALL CLAIMS 1: Making a Small Claim
SMALL CLAIMS 3: Pre-hearing Conferences and Attending Court
SMALL CLAIMS 4: Enforcing Judgment against Debtors.

If you live in a unit and have a dispute with the owners of other units where you live, or with the body corporate, you may also bring a small claim.

For information see the brochure **UNIT TITLES: Settling Disputes.**

SMALL CLAIMS 2

What to do if you receive a Small Claims



The Northern Territory of Australia
Department of Justice

Defending a small claim

If someone has made a claim against you in the Small Claims Division of the Local Court, this brochure can help you decide what action you need to take.

Reading this brochure carefully can save you time and money.

For further information on small claims, contact your nearest Local Court office.

What happens if I cannot settle a dispute?

If you are in dispute with someone about money owing, work done, services supplied, or goods sold or repaired, or even if your dispute concerns the block of units where you live, you may find yourself facing a claim in the Small Claims Division of the Local Court.

It is obviously in the interests of everyone involved (the "parties") that disputes are settled as quickly and reasonably as possible and preferably before they result in Court action.

If, however, you are unable to resolve your differences when faced with a Letter of Demand or in discussions with the creditor or "plaintiff" (the person bringing the claim), you may receive formal notice of their claim in a Court document called a **Statement of Claim**.

What should I do if a Statement of Claim is served on me?

If a Statement of Claim is served on you, you should do one of the following:

- (a) agree to settle the claim
- (b) decide to defend the claim
- (c) admit the claim in whole or in part
- (d) pay or offer to pay the claim.

You must do one of these things within 28 days from the time you get the Statement of Claim, otherwise the plaintiff can ask the Court to give judgment against you in your absence. If the Court gives judgment against you, the plaintiff may enforce it against your property.

What are the documents that I have been served with?

You will have received a Statement of Claim

The Statement of Claim tells you what the plaintiff claims against you it contains forms for:

- (a) **Notice of Defence**
- (b) **Notice of Admission**
- (c) **Offer to Pay**
- (d) **Counterclaim**

How do I settle a claim?

Contact the plaintiff and discuss the matter. You may wish to discuss the matter first with the Office of Consumer Affairs at:

- 1st Floor, Minerals House, The Esplanade, Darwin
Tel: 8999 1999
- 1st Floor, Belvedere House, Parsons Street,
Alice Springs Tel: 8951 5443.

Consumer Affairs staff will not be able to act for you in any Court case.

How do I defend a claim?

You fill in the **Notice of Defence** (which you received with the Statement of Claim) and file it in the Court where the claim was filed. The Court will then send you a notice to attend a Pre-hearing Conference to discuss the claim with the plaintiff and a Court Registrar.

Can I admit all or part of the claim?

Yes, you can admit either the whole claim or just that part which you consider you are liable for. To do this, you must fill out a **Notice of Admission** which is on the back of the Notice of Defence and file it in the Court.

Can I withdraw my admission?

Not unless the Court says you can.

Can I pay the claim?

Yes, you can pay money into the Court or to the plaintiff. If you pay the whole amount claimed into Court within 28 days from when you received the Statement of Claim, this will automatically end the Court proceedings and no judgment will be recorded against you.

You can pay to the plaintiff the whole amount claimed, but you should ensure that the plaintiff signs a receipt form and you must file this in the Court. Filing the receipt will also end the matter. You can get a receipt form from the Court. If you do not file the receipt, the claim will remain open for further action.

You can also pay into Court the amount which you consider that you owe the plaintiff. The plaintiff may accept or reject this amount as sufficient to satisfy the claim. You will be notified by the Court if the plaintiff accepts this amount.

Can I offer to pay the claim?

Yes, you can make an offer directly to the plaintiff or in the **Offer to Pay**. If you offer to pay less than the full amount claimed, it is up to the plaintiff to accept or reject your offer.

An offer implies that you are able to pay the sum offered in full in 14 days. If you wish to pay the sum within a longer period, you must specify that period in your offer. If the plaintiff accepts your offer, you will be notified.

Can I offer to pay the claim by instalments?

Yes, you may offer to pay the claim by instalments. You can make the offer directly to the plaintiff or in the **Offer to Pay**. It is up to the plaintiff to accept or reject this. If the plaintiff accepts, you must pay the first instalment within 14 days of being advised by the Court. On payment of each instalment you should ensure that the plaintiff signs a receipt. If you fail to pay any instalment for more than 14 days, the plaintiff may immediately enforce the whole amount remaining due.

Can I withdraw my offer?

Yes, you can withdraw your offer at any time before it is accepted.