

What if the Court gives judgment against the defendant?

If you are the defendant, you must do what the Court has ordered. A defendant who was not in Court when the order was made can apply to have the matter re-heard within 28 days from the date of service of the order. A person who applies for a re-hearing may be ordered to pay any costs involved, even if successful.

What if the Court gives judgment against the plaintiff?

If the Court makes an order against a plaintiff, the plaintiff must obey it. A plaintiff who was not in Court when the order was made can apply to have the matter re-heard within 28 days from the date of service of the order. A person who applies for a rehearing may be ordered to pay any costs involved, even if successful.

What if the Court gives judgment and the order is not obeyed?

Contact the Court staff for advice. There are a number of ways to enforce an order.

What if a person falls behind in paying instalments?

If a person is 14 days late with an instalment, the whole judgment becomes payable at the other party's option and can be enforced immediately.

Contact the Court staff for advice.

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 2: Defending a Small Claim
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.**

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SMALL CLAIMS 3

Pre-Hearing Conferences and Attending Court



The Northern Territory of Australia
Department of Justice

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Can I settle my claim?

Yes, you can settle at any time but you must let the Court know. The best way to do this is to sign an agreement and file it in the Court. This will stop further dispute.

What is a Pre-hearing Conference?

When you first go to Court, you will be required to attend a **Pre-hearing Conference**. This conference is run by a Court Registrar (officer). Its purpose is to provide an opportunity for the parties to discuss the issues in dispute and explore options for settlement of the claim. At this conference the claim may be settled.

If the parties cannot settle the claim, the matter will be listed for hearing in the Court as soon as possible. It is very unlikely that the matter will be dealt with in Court on the same day.

What is the aim of the Court hearing?

The hearing enables the Court to decide on the matter after each party has presented his or her case.

Do not expect the Court to assist you in presenting your case - the Court must remain unbiased towards all parties. However, the magistrate or Judicial Registrar may ask questions of the parties to make sure he or she understands what the claim and defence are.

Do I need to go to Court?

Yes, unless the Court has told you otherwise.

Where is the Court hearing held?

The Court hearing is held at the Court where the plaintiff filed the claim. If you are the defendant and you wish the claim to be heard elsewhere, contact the Court staff for advice.

Do I need a lawyer?

No, but you can be represented by a lawyer or an unpaid agent commercial agent, Articled Clerk or any other person the court allows. If your claim is for less than \$5000 then you must pay the costs of having a lawyer represent you, even if the Court decides in your favour. If your claim is between "\$5001 - \$10000 then the court may order costs for or against you if the Magistrate or Judicial registrar thinks it is an appropriate order to make. That order will only be made in exceptional circumstances.

Do I need witnesses?

Yes, if they are necessary to prove facts which support your case. It is a good idea for your witnesses to write down their evidence in the form of a statutory declaration. Court staff will tell you how these are made. A copy should be given to the other party, and your witness should hand the original declaration to the Magistrate or Judicial Registrar at the Court hearing.

What happens if my witness cannot go to Court?

At the Court hearing, you can hand to the Magistrate or Judicial Registrar a written statement from your witness, in the form of a statutory declaration. Court staff will tell you how this is made. After considering all the circumstances, the Magistrate or Judicial Registrar will decide how much weight he or she will give to the evidence in the statutory declaration. The circumstances would include the type of information, its importance, whether or not it is accepted by the other party, the reason for the witness not attending Court, etc. In some situations, the evidence in a statutory declaration may be given very little weight.

What must I take to Court?

Remember, if you are not prepared, you may lose the case. You must take to Court all documents that support your claim (if you are the plaintiff) or your defence (if you are the defendant), including:

- Contracts
- Receipts
- Bills
- Sale slips
- Photographs

- Quotes (these are necessary when you are disputing the cost of fixing something, a car for example; always get two quotes)
 - Anything that supports your case
- You should bring original (not photocopied) documents whenever possible.

DON'T FORGET TO BRING YOUR DOCUMENTS AND WITNESSES!

How do I present my case?

The plaintiff begins. If you are the plaintiff, you must tell the Court how the defendant came to owe you money or failed to properly complete work and so on. You must then prove your case by presenting witnesses and your documents and any other evidence. The defendant may ask questions of your witnesses.

The defendant then has a turn. If you are the defendant, you must tell the Court why it is that you consider you don't owe the plaintiff money, or why you consider that work performed by you was completed satisfactorily and so on. If you have any evidence or witnesses that support your case, you should present this to the Court. The plaintiff may ask questions of your witnesses.

What can the Court do?

When the Court has heard the case it will give its judgment. It can make a number of orders, including:

- the plaintiff's claim (or the defendant's counterclaim) be dismissed
- if the plaintiff's claim is successful -
 - the defendant pay money to the plaintiff either in full or by instalments
 - the defendant repair or do work on the plaintiff's goods
 - the defendant return or replace the plaintiff's goods
- if the defendant's counterclaim is successful, similar orders may be made against the plaintiff or the amount of the counterclaim may be deducted from the plaintiff's claim.