

SMALL CLAIMS COURT: DO YOU EVER NEED A LAWYER?

by Milena Celap

You've read up on small claims court and you've picked up some forms. You read that the small claims court was designed for "lay persons", people like you who are not trained in legal matters. You consider that everything from procedure to forms was established with the everyday person in mind. You are supposed to be able to handle it yourself. So, do you ever need a lawyer to handle your small claims court case?

This article presents examples of situations in which you may consider using the services of a lawyer for your small claims court case.

First, you may wish to consult with a lawyer if you are uncertain as to how to approach your case. If you are not sure whether you have a case at all, or the prospect of success in your case, you can only get such an opinion from a lawyer. Also, if your case is very complex, a lawyer may save the day.

Second, if your case involves several thousand dollars, you may not wish to risk proceeding on your own as there is a considerable amount of money to

lose. Hiring a lawyer may be well worth it.

Third, you may decide to hire a lawyer to assist you with the preparation of court documents. This is a practical solution if you have difficulty setting out the facts of your case because you are inexperienced or emotional about it.

Fourth, you may decide that a lawyer should negotiate a settlement on your behalf. This is a useful approach if you cannot be objective about your case. Further, if you have no experience negotiating, you may appreciate having a lawyer represent your interests.

Fifth, you may decide to use the services of a lawyer for trial. This may be a useful strategy if the opposing party is using the services of a lawyer, particularly because it evens out the playing field.

Small claims court is designed for people without legal experience. However, there are people who are not comfortable representing themselves or who wish to hire a lawyer to handle their case. If you find yourself in such a situation, you can retain a lawyer for

any part of the case with which you need help. In addition, although paralegals cannot give legal advice, they can prepare documentation and represent you in small claims court at a lower cost. Remain flexible in your approach to keep your costs affordable.

If you decide to brave it alone, as many do, here are some useful tips:

- ✓ Prepare your case thoroughly
- ✓ Review all evidence carefully
- ✓ File documents by court deadlines
- ✓ Show up early to the right courthouse
- ✓ Dress in a way that shows respect for the court (business clothing is great)
- ✓ Always be respectful to everyone involved - even your opposing party
- ✓ Negotiate a settlement whenever you can and remember that a good settlement is said to be one with which neither party is entirely happy!

Milena Celap is co-author of the comprehensive easy-to-read book, *Small Claims Court for the Everyday Canadian* (with Pamela Larmondin), published by Self-Counsel Press: www.self-counsel.com.