

The Small Claims Division of the Local Court deals with civil disputes involving monetary claims up to \$20,000. 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.

Online Court (OLC)

Where both parties have been registered as online court users many preliminary steps can be done through the Online Court (OLC).

You will receive an email from the Court confirming that the case has been activated for OLC.

After a defence is filed the Registrar will allocate a date of listing for the Pre Trial Review.

The Pre Trial Review provides an opportunity for the parties to identify the issues that are in dispute and to attempt to settle the case. If settlement cannot be achieved, the Pre Trial Review allows the Court to make case management orders that allow parties to prepare their case for hearing.

Unless the Registrar makes a direction for the parties to appear in person at Court the Pre Trial Review process can be managed through the OLC.

You should contact the other side to make offers of settlement and to discuss the issues in dispute before the Pre Trial Review date.

If the matter is not settled you can complete information necessary for the Pre Trial Review through the OLC. You must provide details of the witnesses who are likely to provide statements at the hearing and describe any other documentary material that you intend to rely on at the hearing.

You may then submit a "Request" through the OLC to the Registrar. A Request is an application for the Registrar or Court to make case management orders.

This includes orders regarding the date to be allocated for the hearing of the case together with the date when you are required to file with the Court and serve on the other side a copy of your evidence.

The other party may either consent to the orders that you seek or submit a counter request if they seek different orders.

If the parties reach an agreement on the case management orders then the Registrar can make orders and set the case down for hearing.

If you fail to respond to requests, or messages sent by the Registrar then the Registrar may make orders including costs orders against you. Where parties do not agree on the case management orders to be made the Registrar may direct the parties to appear at Court for the Pre Trial Review to hear arguments and make orders.

If you do not comply with case management directions you may not be able to rely on evidence at the hearing.

Small Claims hearing

You must attend the Court for the hearing of the case either in person, or, if prior approval is granted, by teleconference. The Magistrate or Assessor determines the way in which the hearing is conducted. Unless a direction was made at the Pre Trial Review the hearing will be conducted on the witness statements and documents filed and served by the parties and arguments presented by the parties. Unless the Registrar or Court makes a direction at the Pre Trial Review there is no need for witnesses to attend Court or be cross examined.

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 by Local Court Rules.

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: www.lawaccess.nsw.gov.au
Ph: 1300 888 529
- Community Justice Centres on 1800 990 777
- If you need an interpreter, contact the NSW Government Translating and Interpreter Service:
www.tisnational.gov.au
ph: 131 450

