



Debtor/Creditor & Small Claims Court **Helpful Tips**

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<http://www.dal.ca/faculty/law/dlas/public-legal-education.html>

Collections

Debt collectors often take very hard lines with respect to debts owing, and threaten to garnish wages, seize assets, etc... Do not be intimidated! Remember that if your client is judgment proof there is nothing that the creditor can do, and accordingly your client should not offer to pay any amount owing. Furthermore creditors **cannot** garnish wages or seize money or assets without a court order. The only exception being banks exercising 'self-help' remedies for debts owed to them, i.e. freezing a debtor's bank account

If you have a client who has some ability to pay you should encourage them to take advantage of the Debtor Assistance Program as opposed to them attempting to negotiate with a creditor directly.

By far the best way to stop a debt collector from contacting your client is to find a lawyer willing to represent them. Your local legal aid office should provide this service. Ensure that your client takes the Collection Agency form with them to their meeting with a lawyer.

Small Claims Court

Many cases in Small Claims Court are decided based on the facts. Accordingly it is extremely important that your client is able to present the necessary evidence to confirm their version of the events in question. In debtor/creditor matters relevant evidence may include: receipts, invoices, contracts, etc... Be sure to make three copies of any documentary evidence you wish to rely on at the hearing – one copy for you, one for the opposing party and one for the Adjudicator.

The only restriction on introducing evidence in Small Claims Court is that it must be relevant to the matter at issue. However, significantly more weight will be given to evidence presented by a live witness who can be cross examined by the opposing party as opposed to a written statement from a witness.

Witnesses can be subpoenaed to attend a Small Claims Court hearing. A subpoena is a court document that requires a person to give evidence at a court hearing. A subpoena may require a witness to provide oral testimony, bring certain documents to court or both. A subpoena may be necessary if a witness is unwilling to attend a court hearing. Subpoena forms can be obtained from the Small Claims Court. In your binder you will find a detailed guide on how to use subpoenas in Small Claims Court.

In addition to evidence it may be helpful to rely on similar cases that have been decided on the legal issues in your client's case. If you find a case that you think is helpful you may provide it the Court. Be sure to bring three copies of any cases you wish to submit to the Court – one for you, one for the opposing party and one for the Adjudicator.

Don't worry if you don't have any case law to support your case. As mentioned on the previous slide the most important aspect of the case to focus on is the facts.

First Meeting

Ensure that a potential debtor/creditor client brings the following information with them to the first meeting:

- i. A copy of any correspondence received from creditors;
- ii. Copies of any bills, receipts, invoices, etc... pertaining to the debt owing;
- iii. Proof of income from all sources; and
- iv. Copies of any Small Claims Court documents if applicable.

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Disclaimer

This document contains general legal information and not legal advice. **If you need advice about a specific legal problem then you should contact a lawyer.** If you will have difficulty affording a lawyer then you should contact [Nova Scotia Legal Aid](#) or [the Legal Information Society of Nova Scotia's lawyer referral service](#).

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