

Expand the small claims court to protect access to justice

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Our new premier has promised to find efficiencies and reduce spending without cutting jobs or services. This goal can be advanced in the justice sector with one easy change: raise the limit for small claims court cases to \$50,000.

This simple change will improve access to justice by making civil litigation speedier and less expensive and by freeing up resources in our clogged up Superior Court.

Right now, an Ontarian who needs to sue somebody for any amount over \$25,000 has to do so in Superior Court. This applies to virtually ever kind of court case other than family and criminal law, and includes all property, employment, personal injury and contract disputes.

A Superior Court proceeding is a lengthy, expensive and complex ordeal likely lasting several years and with several procedural roadblocks along the way to a settlement or trial. These obstacles include exchanging formal lists of documents, out-of-court examinations for discovery (the Canadian version of depositions for anyone who watches *Suits*), motions, a mediation, and a pretrial meeting with a judge. Once the parties have spent months or more likely years completing these steps, they will be able to get a trial date — probably more than a year away. All of these steps require a huge spend on legal fees.

Compare this to the procedure of the small claims court: a lawsuit is started, a settlement conference with a deputy judge is held and if the case does not settle, a trial date is set automatically by the court in a few months. Small claims court is certainly not as fancy or formal, but it gets the job done at a fraction of the expense in much less time. Everything can be comfortably completed in under a year.

Access to justice for civil claims is fundamental to both social justice and economic efficiency. We need a system that can deliver timely and affordable adjudication for cases of all sizes. Our Superior Court system is excellent at dealing with larger cases — say cases worth more than \$250,000 — where a high level of procedure and formality is commensurate with the issues in dispute. Where we have trouble is dealing with the smaller cases.

Not having an affordable, accessible forum for Ontarians to have disputes resolved is unfair to those of modest means, who are either unable to pursue legitimate claims, or who have a large part of their claim consumed by legal fees necessitated by a system whose procedures are disproportionate to the matters at issue. It is also economically inefficient for business.

Expanding the jurisdiction of the small claims court would have the added benefit of relieving our overburdened Superior Court, thereby benefitting the justice system as a whole.

And if we need a model, Alberta is already one step ahead of us. In 2014, the province increased its small claims limit to \$50,000. We should follow suit right away.