SUPREME COURT
OF VICTORIA

A guide to **representing yourself** when **Starting a civil proceeding** in the Supreme Court of Victoria

This guide was recently updated and is currently being evaluated.
We would value your feedback!
Please email your thoughts and suggestions to unrepresented@supcourt.vic.gov.au.

Supreme Court contact details

Supreme Court staff can answer questions about how the civil proceeding process works.

They cannot give legal advice, or help you prepare or present your case.

General enquiries

Phone: 03 9603 9300
Mon-Fri 9.30am-4pm, closed public holidays

Self-represented Litigant Coordinator: 03 9603 9240

Email for self-represented litigants: unrepresented@supcourt.vic.gov.au

Website: supremecourt.vic.gov.au

Registry office address for appointments with the Self-represented Litigant Coordinator
Principal Registry
Level 2, 436 Lonsdale Street
Melbourne VIC 3000
Mon-Fri 9.30am-4pm, closed public holidays

Court locations
Visit the Supreme Court website for court locations throughout Victoria. Check your Court documents to make sure you attend the correct location for your hearing. Also check the Daily Hearing List.

Security
You must go through security screening before entering a Supreme Court building. Items not allowed include anything explosive, sharp or a potential weapon, including cans and glass bottles. Alcohol is also not allowed.

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About civil proceedings

Types of civil proceedings heard in the Supreme Court

The Supreme Court hears many different types of civil proceedings. Usually, the matters heard are complex or involve large amounts of money. Sometimes the matter is heard in the Supreme Court because the law requires it.

The Supreme Court frequently hears civil proceedings such as:

- commercial disputes over contracts
- mortgage default claims
- property disputes
- negligence claims (for example, involving personal injury or property damage)
- defamation claims
- claims in relation to deceased estates
- employment disputes
- insolvency disputes.

In addition, the Court hears appeals against decisions made by the County Court, Magistrates' Court, Children's Court, Coroners Court, Victorian Civil and Administrative Tribunal (VCAT), and government bodies in Victoria.

It also hears:

- judicial reviews, and
- appeals against a decision made by a judge, associate judge or judicial registrar in the Supreme Court of Victoria.

Which part of the Court hears civil proceedings?

The Supreme Court of Victoria has two main parts: Court of Appeal and Trial Division. The Trial Division has four parts: Commercial Court, Common Law Division, Criminal Division and Costs Court. Most civil proceedings are heard in the Commercial Court and Common Law Division. Each type of civil proceeding is managed differently depending on the law that applies and the Division and List that manages that type of case.

This guide gives information that applies to almost all civil proceedings.

See our website for guides that give specific information on common types of civil proceedings. Where possible, use these guides instead.

This guide does not cover proceedings started under the Corporations Act, as the process varies greatly depending on a number of factors. Contact the Self-Represented Litigant Coordinator to discuss your situation.

About this guide

This guide is for people who want to start a civil proceeding in the Supreme Court and may not have a lawyer.

Read this guide to find out:

- what types of civil proceedings the Supreme Court hears
- what it means to represent yourself in a court proceeding
- court fees that apply
- stages in the process and what you do at each stage
- documents you need to provide
- forms you need to complete.

The Appendix has links to the forms and resources you may find helpful. Forms are also available in hard copy from the Principal Registry.

This guide contains general information only and is not intended to be legal advice.

The content in this guide is based on the *Supreme Court (General Civil Procedure) Rules 2015* and *Supreme Court (Miscellaneous Civil Proceedings) Rules 2018*. The Rules set out the process you must follow.

LEGAL WORD

Division – a part of the Supreme Court. The Court has two main parts: Court of Appeal and Trial Division. The Trial Division has four parts: Commercial Court, Common Law Division, Criminal Division and Costs Court.

List – an area of the Supreme Court that deals with cases that rely on similar laws, managed by judges with particular knowledge in these areas, for example the Judicial Review and Appeals List. See our website for descriptions of the different lists. From the home page, click on the Law and Practice tab, then select Specialist areas of law.

Stages in the civil proceeding process

A civil proceeding usually goes through these stages:

Stage 1: Start your proceeding
Stage 2: Serve your documents on the defendant
Stage 3: Defendant may respond to your documents
Stage 4: Attend the directions hearing
Stage 5: Get your case ready for the judge
Stage 6: The final hearing (trial)
Stage 7: The decision

Sometimes the Court orders parties to attend a mediation – a confidential discussion held between parties with the help of a skilled independent mediator.

The mediator cannot force anyone to resolve a dispute, but can help parties explore options, negotiate and reach a settlement agreement. The Court may order parties to go to mediation at any stage.

Civil proceedings started by writ or originating motion

Civil proceedings usually start by:

- writ, or
- originating motion.

These are legal words to describe the type of document you use to start the process.

Some proceedings **can only** be started by originating motion. This is often required when:

- there is no defendant, or
- you are making an application to the Court under a particular Act, or
- the *Supreme Court (General Civil Procedure) Rules 2015* or the *Supreme Court (Miscellaneous Civil Proceedings) Rules 2018* tell you to use an originating motion.

Time limits

Almost all civil proceedings must be started within a certain time limit, which varies. Check the time limit that applies in your case.

The *Limitation of Actions Act 1958* gives the time limits for most civil proceedings started by writ.

Also check the relevant Supreme Court rules and the particular law (Act) that gives you the power to start a civil proceeding in the Supreme Court.

IMPORTANT INFORMATION

TIP

It can be difficult to work out if you need to start your civil proceeding by writ or originating motion, and the time limits that apply. Consider getting some legal advice if you are not sure.

LEGAL WORD

Writ – a type of document that starts a civil proceeding. A writ is used unless an originating motion is required.

Originating motion – a type of document that starts a civil proceeding. This is often required when:

- there is no defendant, or
- you are making an application to the Court under a particular Act, or
- the *Supreme Court (General Civil Procedure) Rules 2015* or the *Supreme Court (Miscellaneous Civil Proceedings) Rules 2018* tell you to use an originating motion.

What it means to represent yourself

Representing yourself in court means you take responsibility for the tasks that a lawyer would otherwise do for you.

People who represent themselves in Court are known as self-represented litigants.

In the Trial Division of the Supreme Court, individuals are allowed to represent themselves. Companies must be represented by a lawyer. If you are the sole director of a company and you wish to represent your company, you must get the Court's permission. Contact the Self-represented Litigant Coordinator if you need to discuss your situation.

Some things you may need to do yourself include:

- become familiar with legal language and legal concepts
- read and understand relevant legislation, rules of procedure and case law
- prepare your case, working out the law that applies and where you believe there was an error in applying the law
- prepare a written statement that explains your arguments in a logical way
- gather relevant documents that support your case
- present your case to the judge, explaining each of your arguments and answering questions about them from the judge, the other party or their lawyer
- understand and follow the correct court procedures.

The Court prefers any documents you prepare to be typed, not handwritten. You will be relying on these documents during your proceeding. If they read well and look professional it may help everyone involved get a better understanding of the case you are making.

IMPORTANT INFORMATION

Who can help me?

Principal Registry
Registry staff can provide information and guidance on how a civil proceeding works.

Self-represented Litigant Coordinator
The Supreme Court has a Self-represented Litigant Coordinator who specialises in helping people who do not have a lawyer. They can give information and guidance on Court procedures, but are not allowed to give legal advice. You can make an appointment with the Coordinator to discuss the court process and check you have the right documents. See page 2 for contact details.

Duty Barristers' Scheme
You can apply to have a barrister (a lawyer who specialises in presenting cases in court) to help you, for no cost. This is a one-off service to complete a task, such as to appear for you in Court. In legal terms, this free help is called pro bono. The Duty Barristers' Scheme is provided by the Victorian Bar.

You cannot apply directly to the Scheme but must be referred to the service by the Court, after a proceeding has started. To be considered, contact the Self-represented Litigant Coordinator. You must confirm that you have tried all other ways to get free legal help and that you cannot afford to pay for a private lawyer or barrister.

Free and low-cost legal help
See the Appendix for a link to organisations that provide free or low-cost legal services and information.

Court fees and costs

Legal proceedings in the Supreme Court can be very expensive.

You need to pay court fees at different stages unless you have a fee waiver (see below). If you lose your case, you may need to pay some or all of the other party's costs. This includes what they spent on lawyers and any other expenses, such as the cost of expert reports.

Be aware – these costs can be substantial.

If you cannot afford a lawyer to represent you in court and do not qualify for legal aid, see the Appendix for a link to organisations that provide legal information and free or low-cost legal services.

Otherwise, consider paying for some legal advice even if it is only to help you with a particular part of the process. For example, it is highly recommended that a lawyer help you prepare your:

- writ and statement of claim, if you are starting your proceeding by writ, or
- originating motion (and affidavit if you are filing one), if you are starting your proceeding by originating motion.

Court fees

You need to pay court fees at various stages of your proceeding, using PayPal, a credit card or debit card. **See the fees table on our website called Prothonatory's Office Fees**, under the Fees tab. You may need to pay court fees for:

- Starting a proceeding (commencement fee)
- Filing an interlocutory application (e.g. stay application)
- Setting down (confirming a date) for the hearing
- Hearing fees per day or part day.

Your fees will depend on the type of proceeding and the division that hears your matter. If you have questions about what fees apply, contact the Self-represented Litigant Coordinator.

Fee waivers and concession rates

You may be eligible for a fee waiver if you can prove that paying the fees would cause you financial hardship. In some circumstances, you may be automatically entitled to a fee waiver. However, you must still apply for it. This includes if you are:

- represented by Legal Aid, a community legal centre or under a pro bono scheme administered by or on behalf of the Victorian Bar, the Law Institute of Victoria or Justice Connect
- serving a prison sentence or are in a detention facility
- under 18 years of age.

If you have a Commonwealth Health Care Card, you can apply to pay the concession rate. This is the only type of concession card the Court accepts. If you do not have this card, and do not have a fee waiver, you pay the standard fee.

Read the *RedCrest Electronic Filing User Guide* for instructions on how to apply for a fee waiver or pay the concession rate. If you have questions about using RedCrest, contact the Principal Registry.

IMPORTANT INFORMATION

NOTE

You pay fees online in RedCrest, using:

- PayPal
- credit card, or
- debit card.

Fees normally change on 1 July each year.

TIP

The Law Institute of Victoria has a free referral service that helps you find a private lawyer. See the Appendix for a link to 'organisations that may be able to help you'.

TIP

If you have a current Commonwealth Health Care Card you can apply to pay the concession rate shown in the fees table. If you do not have this card, and do not have a fee waiver, you pay the standard fee.

LEGAL WORD

Costs – fees for lawyers' professional services and disbursements (out-of-pocket expenses), such as court fees, fees for expert reports, medical reports and photocopying. If you are representing yourself and you win, you cannot claim the time you spent working on your case as a cost.

Fee waiver – permission from the Court to not pay the court fees.

Financial hardship – decided after taking into account your day-to-day living expenses, liabilities and assets.

Preparing to start your civil proceeding

Get to know legal terms

See the Important Information box for common legal words and terms.

Get to know Court procedures

Read the following documents carefully, as they provide important information and guidance:

- *Civil Procedure Act 2010*, especially sections 7 to 26 and sections 41 to 42
- *Supreme Court (General Civil Procedure) Rules 2015*
- The Court's practice note for the list that relates to your matter – for example, practice note SC CL6 Trusts, Equity and Probate List
- Practice Note SC Gen 7 – Transcript in Civil Proceedings.

Get to know your obligations

As a party in a civil proceeding, you need to understand what's known as overarching obligations, which are in sections 16 to 26 of the *Civil Procedure Act 2010*.

Do your legal research

Make sure you understand the law that applies to your case by doing some legal research. Read about cases similar to yours, and note any cases where the law you are relying on has been applied in a way that you think proves your arguments. You may want to refer to these cases in your submissions (your arguments for why your case should succeed). You might also include these cases in your 'List of authorities', which the Court may ask you to prepare in Stage 5. You can find cases from all courts on the AustLII website.

Get the documents you need

You will need different documents depending on whether you are starting your civil proceeding by writ or originating motion. See the Appendix for links to the forms.

If starting your proceeding by writ, you need the following documents in Stage 1:

- Writ (Form 5A)
- Proper Basis Certification
- Overarching Obligations Certification.

If starting your proceeding by originating motion, you need **one** of the following forms. See Stage 1 for details on which form to use. This document is your 'originating motion'.

- Form 5B (the most commonly used form)
- Form 5D
- Form 5E

You also need:

- Proper Basis Certification
- Overarching Obligations Certification.

IMPORTANT INFORMATION

TIP

See the Appendix for links to forms, legislation and resources you may find helpful.

LEGAL WORD

Plaintiff – A person or company who brings a civil case against another in a court.

Defendant – the person or company against whom a civil case has been brought.

Party – a participant in a legal proceeding. In civil proceedings the parties are usually the plaintiff(s) or defendant(s).

Filing a document – giving it to the registry, where it officially becomes part of the Court file – you do this using RedCrest.

Serving a document – formally delivering it to a person or company. There are rules about which documents need to be served in person and which can also be served by email or post. See order 6 of the *Supreme Court (General Civil Procedure) Rules 2015*.

Directions hearing – a short hearing held to work out matters of timing, such as dates for when certain things need to happen in the process and who does them.

Practice note – a document that details Supreme Court procedures, instructions, rules, processes and information. As well as general practice notes that apply to all Supreme Court proceedings, some lists have their own practice notes with specific information for their list.

Create a RedCrest account for filing documents

You file documents with the Court using the online system RedCrest. You need an email address to create a RedCrest account. If you do not have an email address and cannot get one, contact the Self-represented Litigant Coordinator to discuss your situation.

You are notified in RedCrest when any documents you file are ready for you to serve with the Court's seal (official stamp) on them. The notification has a link to where you can download and print copies.

Read the *RedCrest Electronic Filing User Guide* for information and instructions. If you have questions about using RedCrest, contact the Principal Registry.

Check if you need to order a transcript

A transcript must be arranged by the parties and paid for in advance for all final hearings and sometimes for other hearings. Read Practice Note SC Gen 7 (Transcript in Civil Proceedings) for details of when and how to get the transcript. Contact the Self-represented Litigant Coordinator if you want to discuss your situation.

Know how to stop your appeal

You can stop a civil proceeding, however be aware that you may need to pay the defendant's costs up to that point, unless:

- you and the defendant agree you do not have to pay their costs

or

- the Court orders that you do not have to pay their costs.

If you started your proceeding by writ, in some circumstances you will need to get the defendant's agreement or the Court's permission to discontinue the proceeding. Contact the Self-represented Litigant Coordinator to discuss your situation.

If you started your proceeding by originating motion, you can stop the proceeding at any time if you have the permission of the Court or the defendant agrees.

The process is as follows: complete a Notice of Discontinuance form and sign it. Ask the defendant to sign as well, to show they agree. Then file the form in RedCrest, wait for a notification from RedCrest that a copy with the Court's seal (official stamp) is available. Download and print the sealed copy and serve it on the defendant.

If the defendant will not sign the form, contact the Self-represented Litigant Coordinator to discuss your situation.

IMPORTANT INFORMATION

TIP

Whenever you contact the Court, quote the proceeding number for your case. You are given this number when your documents are accepted by the Court in Stage 1 of the appeal process. It looks something like this: **S ECI 2019 54321.**

TIP

Before you file documents, the Court encourages you to contact the Self-represented Litigant Coordinator. The Coordinator cannot give legal advice, but can talk to you about Court process and check you have the right documents.

LEGAL WORD

Hearing transcript – a written copy of the exact words spoken during a hearing.

Costs – fees for lawyers' professional services and disbursements (out-of-pocket expenses), such as court fees, fees for expert reports, medical reports and photocopying. If you are representing yourself and you win, you cannot claim the time you spent working on your case as a cost.

Stage 1: Start your proceeding

Civil proceedings are usually started by writ or originating motion. These are legal words to describe the type of document you may use to start your proceeding.

See Important Information box for when to use each type of document.

Starting a proceeding by writ

Complete and file:

- Writ (Form 5A)
- Proper Basis Certification
- Overarching Obligations Certification.

Writ (Form 5A)

In the top left corner of this form, put the Division and List for your proceeding. Complete the Statement of Claim section if you have enough information. The Statement of Claim must include:

- the legal basis for your claim and essential facts of your case (you do not need to provide evidence at this stage – evidence is presented at the trial)
- enough detail for the defendant to understand what the case is about
- the relief or remedy you are seeking (what you want the Court to order).

More details on what to include are in Orders 5 and 13 of the *Supreme Court (General Civil Procedure) Rules 2015*.

Number each paragraph. This makes it simpler for you, the defendant and the judge to refer to a particular point. For example, the judge might say during the trial: "In paragraph 15 you say…"

If you do not yet know the legal basis for your claim and essential facts, file a separate page with the information you know, and give it the title 'Indorsement of Claim'. This is a temporary substitute for the Statement of Claim. The Indorsement of Claim must include the:

- nature of your case
- reason why you are starting this proceeding, and
- order you want the Court to make.

Include enough information for the defendant to understand what the case is about and why it involves them.

File your Statement of Claim as soon as possible. The Court cannot set a date for the directions hearing until you have filed a Statement of Claim and the defendant has filed a 'defence' in response to it.

IMPORTANT INFORMATION

LEGAL WORD

Writ – a type of document that starts a civil proceeding. A writ is used unless an originating motion is required.

Originating motion – a type of document that starts a civil proceeding. This is often required when:

- there is no defendant, or
- you are making an application to the Court under a particular Act, or
- the *Supreme Court (General Civil Procedure) Rules 2015* or the *Supreme Court (Miscellaneous Civil Proceedings) Rules 2018* tell you to use an originating motion.

Division – a part of the Supreme Court. The Court has two main parts: Court of Appeal and Trial Division. The Trial Division has four parts: Commercial Court, Common Law Division, Criminal Division and Costs Court. Most civil proceedings are heard in the Commercial Court and Common Law Division.

List – an area of the Supreme Court that deals with cases that rely on similar laws, managed by judges with particular knowledge in these areas, for example the Judicial Review and Appeals List. Our website has descriptions of the different lists. From the home page, click on the Law and Practice tab, then select Specialist areas of law.

Starting a proceeding by originating motion

Complete and file your 'originating motion' document. In most civil proceedings you use:

- Form 5B

In some cases you would use:

- Form 5D (if there is no defendant, where prescribed)
- Form 5E (for recovery of land under order 53 of the *Supreme Court (General Civil Procedure) Rules 2015*).

Complete and file:

- Proper Basis Certification
- Overarching Obligations Certification.

When your documents are accepted

After you file your documents in RedCrest, the Court will check they meet the requirements of the *Supreme Court (General Civil Procedure) Rules 2015*. The Court will advise if you need to make any changes. You will be notified in RedCrest when your documents have been accepted and no other changes are needed.

IMPORTANT INFORMATION

LEGAL WORD

Proper Basis Certification – a form certifying that your claim is not frivolous (not having a purpose or value), vexatious (causing or tending to cause annoyance, frustration or worry) or is an abuse of process (misuse of the regular court process).

Overarching Obligations Certification – a form certifying that you agree to act honestly, cooperate and make a genuine attempt to resolve the dispute.

CHECKLIST – STAGE 1

If starting by writ:

- ✓ File your writ (Form 5A) – include a Statement of Claim if you have enough detail, or an Indorsement of Claim if you do not (you must file a Statement of Claim as soon as possible – the directions hearing cannot go ahead without it)
- ✓ File Overarching Obligations Certification
- ✓ File Proper Basis Certification
- ✓ Make any changes the Court requests
- ✓ Expect a RedCrest notification once your documents are accepted.

If starting by originating motion:

- ✓ File your originating motion
- ✓ File Overarching Obligations Certification
- ✓ File Proper Basis Certification
- ✓ Make any changes the Court requests
- ✓ Expect a RedCrest notification once your documents are accepted.

Stage 2: Serve your documents on the defendant

Who to serve

You serve your documents on the defendant, or on each defendant if there is more than one.

What documents to serve

In Stage 1, you received a notification in RedCrest that your documents had been accepted. This includes a link to where you can download and print the writ or originating motion, which will now have the Court's seal (official stamp) on it. You serve this document on the defendant. You **do not** need to serve the Overarching Obligations Certification or Proper Basis Certification.

When to serve documents

There are time limits for when you must serve documents. These vary depending on your type of case.

Check the law that applies and the relevant Supreme Court rules for time limits.

How to serve documents

You (or someone acting on your behalf) must serve the writ or originating motion **in person** if you are serving an individual person. To do this:

- leave a copy of the document with the person to be served, or
- if the person does not accept the copy, put it down near them and tell them the nature of the document.

If you are serving a company, you can post your documents to the registered office of the company.

The Court may request you to swear or affirm an affidavit proving that you have served your documents.

If you have any questions about serving documents contact the Self-represented Litigant Coordinator.

CHECKLIST – STAGE 2

- ✓ Download from RedCrest and print the document accepted by the Court (it will have the Court's seal on it)
- ✓ Serve your document on the defendant or defendants.

IMPORTANT INFORMATION

TIP

Some documents must be served in person, but you do not need to do this yourself. You can ask a friend, family member or a professional to serve the documents for you. They must be prepared to sign an affidavit confirming they served the documents, if the Court requests this.

LEGAL WORD

Serving a document means formally delivering it to a person or company. There are rules about which documents need to be served in person and which can also be served by email or post. See order 6 of the *Supreme Court (General Civil Procedure) Rules 2015*.

Stage 3: Defendant may respond to your document

The defendant may respond to your writ or originating motion by filing a Notice of Appearance and serving it on you. A Notice of Appearance is how a defendant officially lets you and the Court know they want to be involved in the proceeding.

The next step varies depending on whether you started your proceeding by writ or originating motion.

If you started your proceeding by writ
Within 30 days of filing their Notice of Appearance, the defendant may file with the Court and serve on you a 'defence'. This document outlines how they intend to defend the claims you made in your writ. The Court usually sets a date for a directions hearing once the defendant files their defence. Registry will email you and the defendant to advise this date.

If you started your proceeding by originating motion
If the defendant has served a Notice of Appearance on you, you must now 'summons' them to attend Court. The summons is an official Court document that requests them to attend the hearing. It also tells the defendant what the hearing is about.

First, get a date for your hearing. The process for doing this varies across the Court's divisions and lists. Check the practice note for the list that relates to your matter.

Once you have the date:

- complete a summons (Form 45A), and
- file it with the Court.

Once RedCrest notifies you that your summons has the Court's seal on it, download and print the summons. Serve it on the defendant.

CHECKLIST – STAGE 3

- ✓ The defendant may serve a Notice of Appearance on you
- ✓ If your proceeding started by writ:
  - the defendant may also serve on you their 'defence'
  - Registry will email you and the defendant the date for your directions hearing.
- ✓ If your proceeding started by originating motion:
  - get a date for your directions hearing (the process for doing this varies – check the practice note for your list)
  - complete and file the summons (Form 45A)
  - after being notified that your summons has the Court seal on it, download and print the summons
  - serve the summons on the defendant.

IMPORTANT INFORMATION

NOTE
A Notice of Appearance is how a defendant officially lets you and the Court know they want to be involved in the proceeding. There are time limits for when they must do this. These vary depending on the type of case and location of service.

NOTE
All parties are expected to attend any hearing ordered by the Court, including the directions hearing and final hearing (trial).

LEGAL WORD
Division – a part of the Supreme Court. The Court has two main parts: Court of Appeal and Trial Division. The Trial Division has four parts: Commercial Court, Common Law Division, Criminal Division and Costs Court. Most civil proceedings are heard in the Commercial Court and Common Law Division.

List – an area of the Supreme Court that deals with cases that rely on similar laws, managed by judges with particular knowledge in these areas, for example the Judicial Review and Appeals List. Our website has descriptions of the different lists. From the home page, click on the Law and Practice tab, then select Specialist areas of law.

Practice note – a document that details Supreme Court procedures, instructions, rules, processes and information. As well as general practice notes that apply to all Supreme Court proceedings, some lists have their own practice notes with specific information for their list.

Stage 4: Attend the directions hearing, if needed

A directions hearing is a short hearing to decide matters related to the timing of when things happen during the proceeding. This includes what has to happen, who does it and when it needs to be done.

It is only held if there is a defendant and the defendant has lodged a defence. Usually, a directions hearing is only held in proceedings started by writ.

If a directions hearing is scheduled, the Court expects the plaintiff and defendant to attend. If you cannot attend for any substantial reason, for example if you have a medical emergency, contact the Court immediately.

Following the directions hearing, the Court will send you a formal copy of the Court's orders detailing what you and the other parties need to do to prepare for the trial.

Depending on the complexity of the case, there may be more than one directions hearing.

CHECKLIST – STAGE 4

✓ Attend any directions hearings the Court may schedule

IMPORTANT INFORMATION

NOTE

The directions hearing is **not** when you present your arguments to the Court. This happens at the trial.

TIP

You only need to bring to the directions hearing the documents you filed in Stage 1, something to make notes on such as a notepad, tablet or laptop and your diary (so you can check if dates proposed are suitable).

TIP

Our website has samples of orders the judge would normally make at a directions hearing. These will give you an idea of what types of timetabling matters are discussed at a directions hearing.

Stage 5: Get your case ready for the judge

The Court will tell you what you need to do to get your case ready for the judge. This includes which documents to prepare and when you need to file them with the Court.

What you need to prepare depends on the case. Some things the Court may order you to prepare include:

- Affidavit
- List of authorities
- Outline of submissions
- List of witnesses.

Affidavit
An affidavit is a formal written statement, which sets out facts known to you. It must be signed under oath or affirmation, verifying that the information provided is true.

An exhibit is an attachment to your affidavit. You need to complete an exhibit cover sheet for each exhibit. See the Appendix for a link to a template cover sheet called Certificate Identifying Exhibit (Form 43A).

For more information watch the video on our website: *Completing an affidavit*.

List of authorities
A list of the cases, legislation and other sources (such as textbooks and journal articles) that you say support your case.

Outline of submissions
This is a written summary that includes:

- your facts of the case
- the law that applies (legislation and cases), and
- what relief or remedy you are seeking (what you want the Court to order).

CHECKLIST – STAGE 5
- ✓ Follow the Court's instructions about what to do
- ✓ Prepare for the hearing by watching the Court's videos

IMPORTANT INFORMATION

WATCH THE VIDEO
To help prepare for your final hearing (trial) and know what to expect in Court, see the videos on our website:
- *Preparing for a hearing*
- *Attending Court – the day of your hearing*

LEGAL WORD
Affidavit – a document that presents written evidence in a court case. It must be sworn to be true and correct in front of an authorised person, on oath or by affirmation. It is a serious crime to knowingly make a false statement. Attachments to an affidavit are called **exhibits**.

WATCH THE VIDEO
For information on how to complete an affidavit, watch the video on our website:
- *Completing an affidavit*

Stage 6: The final hearing (trial)

Finding out your trial date

The date for the trial may be decided at the directions hearing, if you had one. Either way, the Court will send you an order that confirms the date.

What to expect at the trial

To help understand what to expect at the trial, including what to bring with you, how to address the judge, where to sit and what you will need to do, see the Court's vide: *Attending Court – the day of your hearing.*

IMPORTANT INFORMATION

WATCH THE VIDEO

To help know what to expect on the day of your hearing, watch the video on our website:

- *Attending Court – the day of your hearing*

CHECKLIST – STAGE 6

- ✓ Attend the final hearing (trial)
- ✓ Know what to expect by watching the Court's video

Stage 7: The decision

When to expect the decision

The judge usually 'reserves' their decision (judgment). This means they do not give a judgment on the day of the hearing but at a later date. This gives the judge time to consider both parties' submissions and write reasons for their decision.

You can expect a decision within weeks or months of the trial, depending on the complexity of the case.

Finding out the decision

The Court will email you a date and time when you need to return to Court to get the judge's decision. This is called the 'handing down' of the decision. Plaintiffs and defendants are strongly encouraged to attend. However, if you do not attend the Court will email you the decision.

At the handing down of the decision, if you lose, the defendant may ask the Court to order you to pay their costs. If you win, you can ask the Court to order the defendant to pay your costs, if you had any.

If you lose your case

Any party who loses a case may be able to appeal the decision.

If the decision was made by a judge, or an associate judge given the power to act in the role of a judge for your proceeding, you appeal to the Court of Appeal.

The Trial Division and Court of Appeal are the two main parts of the Supreme Court of Victoria.

See the guide on our website for representing yourself in a Court of Appeal civil proceeding.

CHECKLIST – STAGE 7

- ✓ Attend the 'handing down' of the decision
- ✓ Know your options if you are not successful and want to appeal

IMPORTANT INFORMATION

NOTE

A case may be dismissed at any stage of the proceeding, including before the final hearing.

LEGAL WORD

Costs – fees for lawyers' professional services and disbursements (out-of-pocket expenses), such as court fees, fees for expert reports, medical reports and photocopying. If you are representing yourself and you win, you cannot claim the time you spent working on your case as a cost.

Appendix

A. Glossary

B. Organisations that may be able to help you

C. Where to find reference material

D. Forms

- Form 5A (for proceedings started by writ)
- Proper Basis Certification
- Overarching Obligations Certification
- Form 5B (the most commonly used form when the proceeding is started by originating motion)
- Form 5D
- Form 5E
- Form 45A - Summons
- Notice of Discontinuance

E. Guidance

- *Civil Procedure Act 2010* (sections 7 to 26 and sections 41 to 42)
- *Supreme Court (General Civil Procedure) Rules 2015*, Orders 4-6
- *Supreme Court (General Civil Procedure) Rules 2015*, Order 13
- Practice Note SC Gen 7 – Transcript in Civil Proceedings