



THE CANADIAN  
BAR ASSOCIATION  
Saskatchewan Branch

## OFFICE OF THE PRESIDENT

April 15, 2015

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Regina, SK S4P 4B3

Email: [Neil.Karkut@gov.sk.ca](mailto:Neil.Karkut@gov.sk.ca)

Dear Sir,

Re: Small Claims Review Project

I write on behalf of the CBA Saskatchewan regarding Small Claims Review Project. In response to the request for feedback, our office can advise as follows.

The CBA invited our membership to provide feedback and we offer these general comments:

- The CBA Saskatchewan supports modernizing the small claims litigation process. Any reform of the small claims process should have the overarching goal of providing better access to justice to Saskatchewan residents. Access to justice (especially for self-represented litigants) is an important aspect of the rule of law and fostering public satisfaction with the court system in general. Small claims courts play a major role in providing access to justice within local Saskatchewan communities.
- The current limit of \$20,000 that applies to small claims litigation can sometimes stifle the ability of an aggrieved party to seek legal recourse in a cost effective manner. For example, if a person wishes to pursue a legal claim of \$35,000, the small claims route is not a suitable option; while the cost of pursuing legal recourse by way of a Queen's Bench lawsuit is also unattractive, as a person's *net recovery* can often be substantially eroded by the legal expenses incurred by pursuing contested Q.B. litigation. If the small claims limit were increased from its current level to \$40,000 or \$50,000 (and notably the small claims limit in Alberta was increased from \$25,000 to \$50,000, as of August 1, 2014), it would allow more affordable and procedurally simplified access to justice options to litigants with modest claims.
- In the respectful submission of the CBA, any reforms to the small claims 'costs regime' should be minimal: we discourage costs being awarded unless extraordinary circumstances exist in a given case. The specter of costs may deter uninformed self-litigants from pursuing legitimate claims.
- The small claims process might also be modernized in terms of the 'enforcement steps' a litigant must take after successfully obtaining Judgment. Currently, a successful

litigant must take steps to register their Judgment with a Sheriff's office (which are located at Queen's Bench courthouses). The post-judgment enforcement steps can be confusing and inconvenient for self-represented litigants, especially in rural communities. If a litigant could fill out the Sheriff's paperwork for registering for enforcement of a Judgment at the provincial courthouse location already familiar to him or her, it would simplify the process and reduce frustration with the litigation process.

The CBA Saskatchewan would like to thank the Ministry for providing our organization with the opportunity to comment on this legislative proposal. The CBA is a volunteer organization that is an essential ally to all members of the legal profession, and an important advocate for the profession. The CBA as an organization is committed to (a) enhancing the profession interests of a diverse membership of practitioners from both the public and private sectors, and (b) protecting the independence of the judiciary and the bar.

Yours truly,

A handwritten signature in cursive script that reads "Gail Wartman". The signature is written in black ink and is positioned above the typed name.

Gail Wartman, QC