

Procedural Fact Sheets (Civil) – Supreme and District Courts

Applications for Summary Judgment

What is summary judgment?

Either the plaintiff or the defendant can file an interlocutory application for summary judgment after the defence has been filed.

Summary judgment:

- Is a final judgment entered for one party against another party without a trial taking place.
- Will be awarded by the court in favour of a party if the court is satisfied that the undisputed facts, and the applicable law, show that if the proceeding goes to trial, that party will succeed in proving their case.
- Is very difficult to obtain because there are often disputed facts, or a complex question of law, that must be determined by the court at trial. To award summary judgment, the court must be satisfied that there is “no real prospect” that the other party will succeed in proving their claim or defence.

See [r 292](#) and [r 293](#) UCPR for more information about applications for summary judgment.

Making or defending an application

To make an application for summary judgment:

- Use [Form 9](#).
- File and serve affidavits establishing the facts relied on in proving the case.
- Prepare written submissions explaining the legal rules and how these should be applied to the facts to prove there is “no real prospect” that the other party will succeed in their claim or defence.

To defend an application for summary judgment:

- File and serve affidavit(s) establishing the facts relied on to show that there is a real prospect the party defending the application will succeed in proving their case at trial.
- Prepare written submissions explaining how the facts, and the relevant legal rules, show that if the proceeding goes to trial, there is a real prospect the party defending the application will succeed in proving their case.