

REASONS FOR CLAIM AND DETAILS

Explain what happened, including where and when. Then explain how much money you are claiming or what goods you want returned.

If you are relying on any documents, you **MUST** attach copies to the claim. If evidence is lost or unavailable, you **MUST** explain why it is not attached.

What happened?

1. The Plaintiff claims:

Where?

When?

(a) Special damages in the amount of \$8,000.00;

(b) General damages in the amount of \$10,000.00;

(c) Pre-judgment interest pursuant to Section 128 of the Courts of Justice Act, RSO 1990, c C.43;

(d) The costs of this action, and HST on costs; and

(e) Such further and other relief as this Honourable Court deems just.

2. The Plaintiff waives any amounts over \$25,000.00.

3. The Plaintiff resides in the City of Toronto.

4. The Defendant, 99999 Ontario Inc., carrying on business as My Gas Bar, is a corporation incorporated under the law of the Province of Ontario with its head office in the City of Toronto, in the Province of Ontario and at all material times was an occupier of a service station at 999 North Street, in Toronto (the service station).

5. The Defendant, Gas Bar Limited, is a corporation incorporated under the laws of the Province of Ontario with its head office at the City of Toronto, in the Province of Ontario, and was at all material times the owner and occupier of the service station.

6. On Saturday, March 14, 2016, the Plaintiff stopped at the service station to buy gasoline.

7. The Plaintiff parked his vehicle at the northern-most filling island, and put gasoline into his vehicle.

8. After pumping gasoline, the Plaintiff walked backed to his vehicle around the northern side of the filling island, to go into the service station office to pay.

9. As the Plaintiff walked past the filling island, he suddenly slipped and fell on black ice, suffering serious personal injuries.

10. The Plaintiff states that the incident occurred as a result of the negligence, breach of contract and the breach of the Occupiers' Liability Act of the Defendants, and the servances, agents and employees of these Defendants, the particulars of which are as follows:



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- (a) They failed to see that the service station was reasonably safe for persons entering it;
- (b) They failed to keep the service station free of ice and snow;
- (c) They failed to sand or salt the area around the filling island at the service station;
- (d) They failed to regularly inspect the area around the filling island to ensure that it was kept in a safe condition for people using the service station;
- (e) They knew or should have known that ice was likely to form given the weather conditions that prevailed on the day of the incident;
- (f) They failed to take reasonable care, or any care, to ensure that the Plaintiff, Danny Gill, would be reasonably safe while using the service station;
- (g) They permitted or allowed ice to accumulate on the paved surface surrounding the filling island, thereby creating a danger and a trap to persons using the service station;
- (h) They failed to take reasonable steps, or any steps, to implement a program or a procedure for the routine removal of ice from the service station;
- (i) They employed incompetent servants, agents and employees;
- (j) They failed to instruct properly, or at all, their servants, agents, or employees in the proper methods and procedures to be followed to prevent the accumulation of ice;
- (k) They failed to supervise properly, or at all, the removal of ice;
- (l) They caused or prevented the area where the Plaintiff was walking to become or to remain a danger and a trap to the Plaintiff;
- (m) They had at the service station salt and sand available for use, but failed to apply it;
- (n) They failed to take such care as in all the circumstances was reasonable to see that the Plaintiff was safe while on the premises.

11. As a result of this incident, the Plaintiff suffered serious, lasting and permanent personal injuries including a fracture of the right distal tibia into the ankle joint and tearing of the muscles, tendons, ligaments in the lower right extremity.

12. As a result of the incident, the Plaintiff also suffered headaches, dizziness, shock, anxiety, depression, emotional trauma, insomnia, weakness, diminished energy and stiffness, which continue to the present.

13. The Plaintiff sustained and will continue to sustain pain and suffering, loss of enjoyment of life and loss of amenities.

14. The Plaintiff was unable to participate in recreational, social, household and athletic activities to the extent which he participated in such activities prior to the incident.



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15. The Plaintiff's ability to walk on slopes and uneven ground is impaired because of the incident.

16. As a further result of the incident, the Plaintiff has undergone and will continue to undergo in the future, hospitalization, therapy, and rehabilitation. In addition, the Plaintiff has received and will continue to receive medication.

17. The Plaintiff has also incurred and will continue to incur expenses, including expenses for hospitalization, medication, therapy, rehabilitation, home care, the use of special equipment, medical treatment, and other forms of care, the full particulars of which are not within the Plaintiff's knowledge at this time.

18. The Plaintiff has sustained a loss of income.

19. The Plaintiff is unable to perform handyman chores and housekeeping tasks for himself to the extent he was able to do so before the accident and resulting injuries, and he will require assistance in the future to complete such chores and tasks.

20. As a result of the negligence, breach of contract, and breach of the Occupiers' Liability Act of the Defendants, the Plaintiff has suffered other pecuniary damages up to the present and will continue to suffer pecuniary damages in the future, the full particulars of which are not known at this time.

21. The Plaintiff pleads and relies upon the Occupiers' Liability Act, RSO 1990, c O.2 as amended, and specifically, Section 3 thereof.

22. The Plaintiff pleads and relies upon the Negligence Act, RSO 1990, c N.1 as amended, and specifically, Section 1 thereof.

23. The Plaintiff proposes that this action be tried in the City of Toronto, in the Province of Ontario.

How much? \$ 20,000.00
(Principal amount claimed)

ADDITIONAL PAGES ARE ATTACHED BECAUSE MORE ROOM WAS NEEDED.

The plaintiff also claims pre-judgment interest from March 14, 2017 under:
(Date)

(Check only one box) **the Courts of Justice Act**
 an agreement at the rate of _____ % per year

and post-judgment interest, and court costs.

Prepared on: August 25, 20 17 _____
(Signature of plaintiff or representative)

Issued on: _____, 20 _____
(Signature of clerk)

CAUTION TO DEFENDANT:	IF YOU DO NOT FILE A DEFENCE (Form 9A) and an Affidavit of Service (Form 8A) with the court within twenty (20) calendar days after you have been served with this Plaintiff's Claim, judgment may be obtained without notice and enforced against you. Forms and self-help materials are available at the Small Claims Court and on the following website: www.ontariocourtforms.on.ca .
CAUTION TO PARTIES:	Unless the court orders or the rules provide otherwise, THIS ACTION WILL BE AUTOMATICALLY DISMISSED if it has not been disposed of by order or otherwise two (2) years after it was commenced and a trial date or assessment under subrule 11.03(2) has not been requested.



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Instructions for Making a Claim

You can now file your claim online. Please visit: www.ontario.ca/smallclaims.

Step 1: COMPLETE the **Plaintiff's Claim** form. Be sure to get the defendant's name right. Explain what happened in detail. Include dates and places. State how much money you want or what goods you want returned. Attach copies of any documents that help your case. Examples are contracts, repair bills and photographs of damaged goods. If you want interest on money you are claiming, ask for it on the claim form. You and the defendant may have a contract that sets an annual interest rate. If so, use that rate. If not, claim the *Courts of Justice Act* interest rate posted on the Ministry of the Attorney General web-site at www.attorneygeneral.jus.gov.on.ca.

If there is more than one plaintiff or defendant, complete an **Additional Parties** form (Form 1A) and put it right behind page one of your plaintiff's claim form. You can get the additional parties form from the court office or at the following website: www.ontariocourtforms.on.ca.

Step 2: FILE the plaintiff's claim and related documents by taking it or mailing it to the Small Claims Court office. You must also file a copy for every defendant. There is a fee. Cheques or money orders are payable to the Minister of Finance. The fees are listed at the court office and online at: www.attorneygeneral.jus.gov.on.ca. The clerk will return stamped copies of the plaintiff's claim to you.

Step 3: SERVE. You must deliver a copy of the filed claim and your documents to each defendant. This is called "serving" the defendants. There are rules about how this must be done. See the Small Claims Court "**Guide to Serving Documents**" at the court office or online at www.attorneygeneral.jus.gov.on.ca.

Is it worth it? It is important to consider whether the person or company you are claiming from is likely to be able to pay. If they:

- are unemployed;
- are bankrupt;
- have no money of their own;
- have no personal property and have nothing else of value belonging to them (such as a car) which is not subject to a lease agreement;
- have ceased to carry on business; or
- have other debts to pay,

the court may not be able to help you get your money. However, you may be able to get your money if you are prepared to accept small instalments over a period of time. See the Small Claims Court "**After Judgment – Guide to Getting Results**" at the court office or online at www.attorneygeneral.jus.gov.on.ca.

DO NOT FILE THIS PAGE.