

Resolving Civil Disputes

What is a Civil Dispute?

Civil dispute claims can arise when:

- There is a disagreement over the obligations of parties to a contract, or
- Damage has occurred to another person's property and there is a dispute over the liability and/or the cost of returning the property to the original condition.

Disputes can also arise from the actions or decisions of public officials.

Resolution of a Civil Dispute

There are many ways to resolve a dispute. These can include negotiation between the parties, mediation (where an independent person is appointed to assist the parties to reach agreement), or having the matter referred to an independent forum, such as a Court, for a decision.

In New Zealand there are a number of forums available to enable disputes to be resolved if the parties cannot agree:

- **Disputes Tribunal** (formerly the Small Claims Tribunal). This Tribunal hears civil disputes where the amount in dispute is under \$15,000, or up to \$20,000 by agreement.
- **District Court.** Legal proceedings can be brought to the District Court where the amount in dispute is up to \$200,000.
- **High Court.** The High Court is the appropriate place to commence proceedings involving a claim over the sum of \$200,000, or special types of proceedings, for example, disputes that relate to land.
- **Specialist Courts and Tribunals.** There are also a number of specialist tribunals or disputes resolution bodies that can assist with particular types of disputes – for example, Ombudsman schemes.

We can advise you about the dispute resolution and forum options that best suit your circumstances.

Disputes Tribunal

Although lawyers cannot appear on your behalf in the Disputes Tribunal, we frequently assist clients in preparing applications to the Disputes Tribunal and in determining the merits of their case ahead of filing.

District Court

District Court proceedings are commenced by one party filing a "Notice of Claim," which sets out their side of the

story and what they say should happen to resolve the dispute.

The person bringing the claim (known as the Plaintiff) then serves a copy of their Notice of Claim on the person that they are claiming against (known as the Defendant).

Once the Defendant has been served with the Notice of Claim, the Defendant has 30 working days to prepare and serve on the Plaintiff a "Notice of Response." This sets out the Defendant's side of the story and their responses to the allegations set out in the Notice of Claim.

If the Defendant does not prepare and serve a Notice of Response within 30 working days, then the Plaintiff can ask the Court to enter judgment by default against the Defendant.

Following the exchange of the Notice of Claim and the Notice of Response, the parties exchange bundles of evidence known as Information Capsules. The Information Capsules are intended to provide to the other party all of the evidence that you would rely on if the matter was to proceed to a full court hearing.

Once this process has been completed, the matter can either be settled or withdrawn by the parties, or set down for a Judicial Settlement Conference (Judge-led mediation) or a Hearing, depending on the circumstances.

We can assist you with all stages of proceedings in the District Court.

High Court

Proceedings brought in the High Court are also generally commenced by the Plaintiff filing a Statement of Claim outlining their position, to which the Defendant is required to respond.

The process following the filing of the Statements of Claim and Defence is a bit different to the District Court process, but we can assist you with this process.

How can we help?

At ARL Lawyers we have many years experience in assisting clients by:

- Advising on the best course of action
- Preparing and filing the required documentation
- Representing you at judicial settlement conferences, mediation and/or arbitration and/or defended hearings

If you need assistance or would like more information, please contact a member of our Disputes Resolution Team.