



** This is basic information and does not constitute legal advice.*

A GUIDE TO FILING A CASE IN SMALL CLAIMS COURT

What is small claims court?

Small claims court can provide a relatively quick and inexpensive method to solve minor disputes. Most of the formalities that are normally associated with “going to court” are eliminated or simplified, and lawyers may not participate. The cases are heard in county court, by a county judge and the cases are limited to non-criminal disputes over things like money owed, damage to property, or the return of personal property. The amount of money you can recover in small claims court is limited to **\$2400**, so issues involving major property damage or issues where you are owed more than \$2400, should not be brought to small claims court.

How do I file a case in small claims court?

In order to start a small claims case, you must file a claim form with the clerk of the county court. The form is available at the county court, and you may simply fill it out there, or take it with you and have a lawyer, or anyone else you want, help you complete it.

Once you have completed the form and paid the **\$21.50** filing fee, the person (or business) you are suing must be “properly served” with a copy of the claim. You must know the proper name of the person (or business) you are suing, and whether they are simply a person, or if they are a corporation, partnership, or some other type of legally recognized organization. If the party you are suing is a corporation or some other type of organization, you will need to know who is authorized to receive this type of paperwork. In the case of a corporation, you can find this out by calling the Secretary of State at (402) 471-4079. If you fail to properly identify the party you are suing, your claim could be dismissed.

You will also have to provide the court with the address of the other party and decide whether to have the papers served to them by the sheriff or through certified mail (either of which you will be responsible to pay for, however you can recover these costs if you win).

You must file your claim in the county where the other party is from or does business in. If you fail to do this, your claim will be dismissed and you will lose your filing fees.

As an individual, you are limited to filing only two small claims per week and no more than 10 claims in a year.

How do I prepare my case for court?

It will be your job to convince the judge that your position and claim is valid. You will be allowed to bring witnesses and documents to support your case. In the case of witnesses, you may simply ask them to come and testify on your behalf. If the witness is reluctant to testify, you can make a written request to the court to compel them to attend the trial. If it is necessary for the court to compel the witness to appear, there will be additional costs which you must pay, so it is usually better to use witnesses who are willing to testify for you.

As for documents, most written or typed information will work: leases, receipts, cancelled checks, titles, letters, police reports, etc. can all be used as evidence.

How will my case be handled?

The clerk of the court will let you know the date that you need to appear in court. When you arrive on that day, let the staff know that you are there and ready for trial, and they will direct you to where you need to be. It is best to show up in nice, clean clothes and to try to be as polite to everyone as possible. Small claims cases are generally informal, but any time you are in a court of law, it is important to look and act like you are taking the proceedings very seriously.

You will have the opportunity to present your evidence first. Do this in a brief and orderly fashion. If you need to, write out what you are going to say before the trial and read it to the court. After you finish, the other party will have a chance to tell their story. If the judge asks you questions, answer them carefully and truthfully. Never argue with the judge, interrupt the other person, or make personal attacks against any person.

At the end of the trial, the judge will either decide the case right then, or the judge will “take the case under advisement” (basically a way of saying “think about it some more”) and let you know the decision at a later date.

What can result from a case tried in small claims court?

There are a number of possible results that can come out of a small claims filing.

- Settlement
 - If you and the other party can resolve the issue before your trial, you should notify the court in writing, stating the manner in which you have solved the dispute, and requesting to have the case dismissed. Your filing fees will not be refundable.
- Default
 - If the other party does not show up, the court may, after hearing your evidence, decide in your favor.
- Win
 - If you have persuaded the judge, you will get judgment in your favor and be able to recover the judgment amount plus your fees and costs.
- Lose
 - If you fail to convince the judge that you are right, you will not get judgment, and you will lose your fees and costs.

If you win your case, you will be responsible for collecting the judgment money. The court is not obligated to do this. The clerk of the court will have forms available for you to fill out that should aid you in collecting your judgment. Should you decide to file a claim in small claims court, remember to tell the truth, be clear, brief, and polite and things should go fairly smoothly.