

**SMALL CLAIMS COURT
INFORMATION**

IMPORTANT: To Protect Your Rights read carefully this information, and any instructions to which you are referred.

Small Claims Court is a division of district court where cases may be heard that involve recovery of money or cancellation of any agreement involving material fraud, deception, misrepresentation, or false promise. The Small Claims Court was established so citizens could present their own cases to the court without the assistance of an attorney.

Claims may be filed in Small Claims Court if:

1. The amount claimed does not exceed \$15,000, and
2. No more than six years has elapsed since the date of the debt or date of the last payment. (This time period may vary under certain circumstances.)

In Small Claims Court you:

1. Need NOT hire an attorney. (The judge will assist both parties in presenting their case.)
2. Do not have the right to trial by jury.
3. Do not have the right to appeal the decision of the judge.

You may elect to have your case heard in district court in which case you:

1. May find it necessary to hire an attorney.
2. May have the right to a trial by jury.
3. Have the right to appeal the decision of the judge.

If a claim is filed in Small Claims Court:

1. The Plaintiff may not change his or her mind and have the case moved to District Court.
2. The Defendant may have the case heard in Small Claims Court, or have the case moved to District Court by filing the REMOVAL TO DISTRICT COURT (Form 3) within 20 days of receipt of the Claim Affidavit and serving a copy of Form 3 on the Plaintiff. See Instructions for Form 3 for additional filing and fee requirements. ***NOTE:*** If the Defendant elects to remove the action to district court, the district court must award attorney's fees to a prevailing plaintiff.

WHERE A CLAIM IS FILED:

- a. If the defendant is a corporation or a partnership, a claim must be filed in any county in which the defendant has a place of business or in any county in which the subject matter of the claim occurred.
- b. If the claim is for collection of a check written without sufficient funds or without an account, a claim must be filed in the county where the check was passed or in the county of the defendant's residence or place of business.
- c. If the defendant is an individual and the claim is for collection of an open account on which credit has been extended:
 - (1) The claim must be filed in the county of the defendant's residence or place of business; OR
 - (2) If the amount of the claim is less than one thousand dollars and is not from a telephone or mail order transaction, the claim must be filed in the county where the transaction occurred or in the county of the defendant's residence or place of business.
- d. If the defendant is an individual and the claim is not made under b or c (above) the claim must be filed in the defendant's county of residence.
- e. If the defendant is an individual and the claim arose as the result of the defendant's lease of real property or as the result of a dispute over disposition of earnest money or other money deposit arising from a contract to purchase real property, in the county where the real property is located unless the plaintiff and the defendant consent in writing to a proceeding in a different county.
- f. If the plaintiff is a political subdivision and the claim is for a public utility debt, the claim must be filed in the county in which the political subdivision is located.

Generally, the defendant may elect to remove the action to a small claims court in the defendant's county of residence. However, if the claims involves a matter under c, e, or f above, the defendant **CANNOT REMOVE** the action to the county of residence.

IMPORTANT INFORMATION

1. Only the Court can change the time of the hearing.
Request for a change must be made to the Small Claims Division of the District Court.
2. Even if you get a judgement in your favor (you win), you might not get your money!
(If a person is unemployed, does not have any property of sufficient value, or is on some type of assistance, it may be impossible to collect.)
3. Take to the hearing all receipts and evidence related to the case and any witnesses that you wish to have testify on your behalf.

Keep track of all your costs related to the case (such as cost of serving papers).
If you win, the judge may order the losing party to pay your costs.

The judgment debtor (the losing party) has 14 days from the date of Notice of Entry of Judgment in which to pay the judgment sum. Failure to do so means the judgment creditor (the winning party) may start collection proceedings through the Sheriff.

PLAINTIFF - (The person initiating this action)

See important Instructions on the back of Form 2 – Claim Affidavit.

DEFENDANT - (The person being sued)

See important Instructions on the back of Form 4 – Defendant's Answer and Counterclaim