

Small Claims Court Information

Important: To Protect Your Rights carefully read this information, and any instructions to which you're 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 doesn't exceed \$15,000, **and**
2. No more than **six years** have elapsed since the date of the debt or date of the last payment. (The time period may vary under certain circumstances.)

In Small Claims Court you:

1. **Don't** need to hire an attorney. (The judge or judicial referee assists both parties in presenting their case.)
2. **Don't** have the right to a trial by jury.
3. **Don't** have the right to appeal the decision of the judge or judicial referee.

You may elect (choose) 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 or judicial referee.

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 (chooses) to remove the action to district court, the district court **must** award attorney's fees to a prevailing (winning) Plaintiff.
3. If the Defendant appeals a District Court Judgment to the Supreme Court, the Supreme Court shall award reasonable attorney's fees to the winning appellee.

How to calculate the Defendant's 20 day deadline:

1. **Count 20 days from the date you, the Defendant, received** the Claim Affidavit from the sheriff, process server, or other individual; **or**
Count **20 days from the date you, the Defendant, signed** the green return receipt.
2. **Count** every day, including Saturdays, Sundays and North Dakota state holidays;
 - Include the last day of the deadline, but if the last day falls on a Saturday, Sunday, or North Dakota state holiday, the deadline continues to run until the end of the next day that **isn't** a Saturday, Sunday, or North Dakota state holiday.
 - For example, if the last day of the deadline lands on a Sunday, the deadline extends until the end of the next day, which is Monday.

Where a Claim is Filed in North Dakota (N.D.):

- a. If the Defendant is a corporation or a partnership, a claim must be filed in any N.D. county in which the Defendant has a place of business, or in any N.D. 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 N.D. county where the check was passed, or in the N.D. 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 N.D. county of the Defendant's residence or place of business; **or**
 - (2) If the amount of the claim is less than \$1,000 and isn't from a telephone or mail order transaction, the claim must be filed in the N.D. county where the transaction occurred, or in the N.D. county of the Defendant's residence or place of business.
- d. If the Defendant is an individual and the claim isn't made under b or c above, the claim must be filed in the Defendant's N.D. 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 N.D. county where the real property is located, unless the Plaintiff and Defendant consent in writing to a proceeding in a different N.D. county.
- f. If the Plaintiff is a political subdivision and the claim is for public utility debt, the claim must be filed in the N.D. 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 North Dakota county of residence. However, if the claim involves a matter under c, e, or f above, the Defendant **Can't Remove** the action to their North Dakota county of residence.

Important Information:

1. Only the Court can change the time of a hearing.
Request for a change must be made to the Small Claims Division of the District Court.
2. Even if you get a judgment in your favor (you win), you might not get your money!
(If a person is unemployed, doesn't 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 you wish to have testify on your behalf.
Keep track of all your costs related to the case (such as the cost of serving papers)
If you win, the judge **may** order the losing party to pay your costs.
4. The Judgment Debtor (the losing party) has **30 days from the 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. **The Small Claims Court doesn't collect the judgment for the Judgment Creditor** (the winning party).

Parties:

- **Plaintiff** – The person initiating the Small Claims Court action.
 - See important Instructions on the back for **Form 2 – Claim Affidavit**
- **Defendant** – The person being sued.
 - See Important instructions on the back of **Form 4 – Defendant's Answer and Counterclaim**.