

## ***Small Claims Court***

**THIS PAMPHLET** contains basic information on this particular legal topic for your general information. If you have specific questions, contact the Legal Assistance Office.



### **Legal Assistance Office** Client Services Division

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## **Small Claims Court**

### **What is Small Claims Court?**

The Small Claims Court is a special civil division of the District Court where individuals or businesses can settle relatively small disputes or disagreements. The maximum amount you may sue or be sued for in Small Claims Court is **\$6,000**. Procedures are simple, informal, and inexpensive. There are no juries and you may appear before the Judge with or without an attorney. This is normally the most appropriate remedy for disputes of money less than \$6,000.

### **Should you file a Small Claims case?**

Before you file a claim, you should contact the person or business you plan to sue and attempt to settle your dispute out of Court. This effort may save you both time and money.

You should consider whether or not the person or business you plan to sue has any money or assets to pay your claim, if you should win. Otherwise, you may have difficulty collecting a Court judgment. Remember, it is up to you—not the Court—to take further legal action against the person or business if he or she does not pay the judgment.

### **How much does it cost to file?**

Since a claim in Small Claims Court does not require an attorney, the only cost you will incur is the filing fee, which varies depending on the monetary amount of damages you seek. For claims up to \$1500, the filing fee is \$55. For claims from \$1,501 to \$3,000, the filing fee is \$129. Finally, for claims from \$3,001 to \$6,000, the filing fee is \$218. If you cannot afford to prepay this fee, you can fill out an Affidavit of Substantial Hardship form and ask the Judge to delay payment. You may obtain this form from the Clerk of the Court.

### **Who can use the Small Claims Court?**

Any individual who has reached the age of 19, a partnership, or a corporation may file a claim, with or without an attorney. If a partnership files without an attorney, the person representing the partnership must be a partner or employee of the partnership. If a corporation files without an attorney, the person representing the corporation must be an officer or full-time employee of the corporation.

### **How do you file a Small Claims case?**

You or your attorney should go to the Small Claims Division of the District Court in the county where the person or business you wish to sue lives or has an office and file a Statement of Claim (Complaint) form. The Clerk of the Court has this form. The Dale County Small Claims Division can be reached at (334) 774-5003. The Coffee County Small Claims Division can be reached at (334) 347-2519. The Houston County Small Claims Division can be reached at (334) 677-4800.





After you file a complaint, you become the "Plaintiff" and the person you are suing is the "Defendant." You must furnish the Court the correct and complete address of the Defendant. The Clerk of the Court will assign your case a number and you should use this number whenever you contact the Court concerning your case. You must pay a filing fee at the time the claim is filed. The Clerk of the Court cannot give you legal advice.

**What happens after the claim is filed?**

The Clerk of the Court will send a copy of the Complaint and a Defendant's Answer form to the person or business you have named as the Defendant.

Once served with a Complaint, the Defendant has 14 days to complete the Answer form and to file it with the Clerk of the Court.

If the Defendant fails to file an Answer within 14 days after being served, you may ask the Clerk of the Court to enter a Default Judgment against the Defendant.

**If you are the Defendant, what should you do after a claim has been filed?**

You may choose to settle with the Plaintiff before the date the claim is set for trial. If you do settle, the claim may be dismissed, with no judgment entered against you. If you choose not to settle or you are unable to settle, you must answer the Complaint within 14 days after being served, admitting or denying all or part of the allegations. Remember, your answer must be filed within 14 days or a Default Judgment may be entered against you. As the Defendant, you may also choose to file a Counterclaim, which is a claim that you have against the Plaintiff.

All parties to a Small Claims case are encouraged to try to reach a settlement agreement prior to trial.

All settlement agreements should be in writing and should state who is to pay the Court costs. If the Defendant does not agree to pay the Court costs as part of the settlement, the Plaintiff will be responsible. If a settlement agreement is reached before the trial, the Plaintiff must immediately notify the Clerk of the Court so that the suit can be dismissed.

**What should both sides do to prepare for the trial?**

If both parties cannot reach an agreement, the Plaintiff and Defendant should gather all papers, receipts, bills, sales tickets, estimates, photographs, and any other evidence related to the claim.

You should write down the details and facts of the case to assist you present your side of the story at the trial.

As the Plaintiff or Defendant, you may bring any witnesses you feel can help explain your case. If there is any reason to believe a witness will not voluntarily appear, you may ask the Clerk of the Court to issue a witness subpoena requiring that person to appear. You will be required to pay a witness subpoena fee.



If you do not feel confident and prepared to represent your interests at trial, you should contact an attorney. Both sides have a right to be represented by an attorney, though each party will be responsible for their own costs.

### **What happens at the trial?**

Be punctual and show up on time! If you are late, the Judge may dismiss your case (if you are the Plaintiff) or enter a Default Judgment against you (if you are a Defendant). If something comes up which would prevent you from being on time or appearing at the trial, you **MUST** inform the Clerk of the Court as soon as possible and request a continuance (delay) of the trial.

A trial in Small Claims Court is an informal hearing before a Judge. There is no Jury. When the case is called, the Plaintiff will present his or her evidence and witnesses. The Defendant will then present his or her evidence and witnesses.

After hearing both sides of the case and considering the evidence, the Judge will make a decision and render a judgment based on the law and the facts presented.

### **What can you do if you disagree with the Court's judgement?**

If either party disagrees with the decision, he or she may appeal the case by filing a Notice of Appeal form with the Clerk of the Court within 14 days after the date of the judgment. The Clerk of the Court has this form.

The appeal will be heard in the Circuit Court. The party filing the appeal must be prepared to pay a filing fee and to post a bond to cover any unpaid Court costs. You may need the assistance of an attorney if you choose to appeal because the simplified procedures of Small Claims Court do not apply in Circuit Court.

### **If the Plaintiff wins, how does he or she collect the judgement?**

If the Defendant does not pay the judgment (after the appeal time has run--14 days) it is up to the Plaintiff to take one of the following actions:

**Execution-** Obtain a Court order authorizing the sheriff to seize property belonging to the Defendant and sell it to satisfy the judgment; or

**Garnishment-** Obtain a Court order to garnish (withhold) the wages of the Defendant to satisfy the judgment.

Both execution and garnishment require an additional filing fee. The Clerk of the Court has the necessary forms. Because either method of collection is legally complex, you may wish to have an attorney explain the procedure and assist you in filing the appropriate forms. The Clerk of the Court cannot give you legal advice.



**If the Defendant loses the case and the Plaintiff files an execution or garnishment proceeding, what can the Defendant do?**

If the Defendant does not understand the proceeding, he or she should contact an attorney for assistance. If you are the Defendant, you have certain legal rights and an attorney can explain these rights to you. The Clerk of the Court cannot give you legal advice.

For more information and for a copy of the Alabama Small Claims Rules, visit [http://judicial.alabama.gov/library/rules\\_small\\_claims.cfm](http://judicial.alabama.gov/library/rules_small_claims.cfm)



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