



Small Claims Courts

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Background

Small claims courts are intended to resolve civil disputes involving small amounts of money, without formal rules of [EVIDENCE](#) and long delays. The parties involved may present their own claims or defenses or may be represented by [COUNSEL](#); however, in a handful of states, attorneys are prohibited. The cases move quickly through the court dockets, the judges often render their opinions in the same day, and the parties are generally satisfied with the quick resolution of the controversy. However, there is a downside. All small claims courts have "limited jurisdiction" (authority to hear and adjudge a matter) involving not only the dollar amount but also the subject matter of the controversy. Secondly, if parties do not understand what they are doing in presenting their claim or defense, they could stand to lose, badly, and there is no going back.

Anatomy of a Small Claim Action

Resolving a dispute in small claims court is very much like conducting a mini-trial, although generally less formal. There is a claim and a defense, the presentation of evidence, and a judgment. Rules of procedure vary from state to state, but the overall process is remarkably similar.

Maximum Dollar Value of Case

The maximum dollar value of the dispute or claim varies greatly from state to state. Typically, the maximum amount plaintiffs may be awarded in a judgment ranges from \$3,000 in New York to \$7,500 in Minnesota. If the amount they are asking for in damages is more than the allowable amount in their state's small claims court system, they have two choices: either to either waive their right to any amount above and beyond the maximum allowable, or file their case in the next level of court.

Nature of Dispute or Controversy

Small claims courts are mostly intended to resolve minor monetary disputes. A limited number of state small claims courts permit other forms of remedy besides money, for example, evictions or requests for the return of [PERSONAL PROPERTY](#). However, individuals generally cannot use small claims courts to file for [DIVORCE](#), guardianship, [BANKRUPTCY](#), name changes, [CHILD CUSTODY](#), or "injunctive relief" (emergency relief, usually to stop someone from doing something). In many states, they cannot sue for [DEFAMATION](#) (slander or libel) or [FALSE ARREST](#) in small claims court. Finally, they cannot sue the federal government or any of its branches, agencies, or employees in their official capacities in small claims court.

Time Limitations

Each state has its own rules regarding how long individuals have to file suit, once they have been harmed or an event occurs that gives rise to a claim. The same time limits ("statutes of limitation") apply to small claims courts as to other courts. Generally, they have at least one year from the injury or event (or its [DISCOVERY](#), in some cases) to file their suit.

Procedure

To start the process, individuals should check with their local court clerk to find out where their small claims complaint should be filed: most states require that they file suit in a small claims court in the county wherein which the party being sued actually resides (or has business headquarters), rather than the one in which the plaintiff resides. Alternatively, some courts allow the suit to be filed in the district where the injury or event occurred (where "the cause of action arises").

Generally, the complaint itself may be handwritten or prepared on a special form available from the court itself, with "fill in the blanks" ease-of-completion. If individuals are composing their own complaints, they need to make sure that it contains, at a minimum, the following:

- The plaintiff's complete name and address
- The complete name and address of the party being sued
- The date of the injury or event which gives rise to the plaintiff's claim
- A brief statement of facts relating to the injury or the event, and the role that the party being sued played in it
- The type of harm that was suffered by the plaintiff as a result of it
- The amount of damages or other remedy the plaintiff seeks are asking

Individuals must also check local law to ensure that the party being sued is properly served with the complaint. In many small claims courts, a court clerk will take care of "service of process," but in many states, plaintiffs are responsible.

The court will notify plaintiffs of the date for their trials. Plaintiffs should request from the court clerk any available information that may help them with procedure (unless they have retained an attorney). Generally, plaintiffs are allowed to bring witnesses to [TESTIFY](#) in support of their claims. Some courts may accept affidavits (sworn statements) from persons who cannot appear in person; however, since the other side has no opportunity to "cross-examine" an absent witness, most courts will give only minor consideration to affidavits. Plaintiffs' most important witnesses are themselves. Be prepared, be professional, and be brief (but to the point). They need to have extra copies of all documents, not only for the judge, but also for the opposing party. Remember that they will most likely be cross-examined not only on their [TESTIMONY](#), but also and on the substance of any evidence they present.

Generally, there are no juries, and a judge or [MAGISTRATE](#) will decide the case. Often, the judgment is rendered immediately, and placed on the record. In other cases, individuals may receive written word of a decision and judgment within a few days. In some states, they may appeal a judgment, but not in all cases. The court is not responsible for collecting any judgment they have been awarded, but they can generally return to court for "post-judgment" proceedings if the other party fails to pay.

Special Considerations

When Individuals Are Sued in Small Claims Court

If individuals have been served with a complaint, it is imperative that they respond to the court within the time indicated. Not only do they have the right to "tell their side of the story" in their defense, but they may also, in some small claims courts, be permitted to "counter-claim." The counter-claim may be related to the original complaint (tending to diminish the complaint's value or truth), or it may be wholly unrelated but still properly raised against the person who has sued them. Defendants must check local procedure for details on the permissibility of counter-claims.

Defendants may raise the defense that they were not properly "served" with court papers according to local rules. They may raise the defense that the time for filing suit against them has expired. They may raise the defense that the person suing them has not stated a viable claim or cause of action. They may raise any other defense that they believe diminishes the value or the existence of the complaint against them.

Finally, individuals being sued need to study carefully the charges against them very carefully. First and foremost, they need to develop any facts that tend to show that they are not liable. Secondly, they need to develop any facts that tend to diminish or reduce the amount of damages the person claims they have caused. Third, they need to develop any evidence that will support their defense (or counter-claim) and/or that will corroborate their own testimony. Finally, they should practice their presentation: they will want their side of the dispute to be logical, to-the-point, and damaging to the claims against them.

Collecting on a Judgment

Before individuals sue, they should ask themselves whether it may cost them more than they may gain. Do the people they want to sue have steady employment, valuable real estate, or other [TANGIBLE](#) assets? In many states, judgments are collectible (with accrued interest) for ten years or more, so individuals may wish to wait, and attach assets of the judgment [DEBTOR](#) down the road in the future. If individuals want to sue a small business contractor, their state may permit them to file a copy of the judgment with the state licensing board. If the contractor does not post bond or pay it off, the license may be suspended or revoked. Finally, there is a danger that the judgment debtor may file for bankruptcy. Even if plaintiffs are listed as a [CREDITOR](#), they may only get pennies on every dollar of their judgment.

Small Claims for Small Business Owners

If individuals own a small business, small claims court may be helpful for collecting unpaid bills because owners do not need to go through bill collectors or lawyers, which could substantially reduce their [NET](#) profit. Often the debtor fails to appear in court, and creditors may be entitled to a [DEFAULT JUDGMENT](#). But again, creditors need to be wary of collecting in the future, especially if the judgment debtor is another small business that may not be around in a few years.

Small Claims in U. S. Tax Court

If individuals are faced with a dispute involving the U. S. Internal Revenue Service (**IRS**), the federal Tax Court maintains a special division for small cases. Their case will qualify for the small case division if the disputed amount that the IRS claims they owe for any one tax year is \$50,000 or less, including taxes and penalties. A case that qualifies for small claims handling is given an "S" designation. Most tax court cases are settled without a trial.

State Provisions

ALABAMA: In Alabama, the Small Claims Division of the District Court hears claims limited to \$3,000 or less.

ALASKA: In Alaska, the District Court Civil Division processes small claims that do not exceed \$7,500. Each county has a District Court.

ARKANSAS: In Arkansas, the Claims Court is a special civil division of the Municipal Court. Claims are limited to \$5,000 or less.

ARIZONA: In Arizona, every **JUSTICE OF THE PEACE** Court has a small claims division. Disputes must not exceed \$2,500. All cases are heard by judges or [HEARING](#) officers. No attorneys are allowed to represent clients in these cases. Justice Courts share [JURISDICTION](#) with the Superior Court in cases of landlord/tenant disputes where damages are between \$5,000 and \$10,000. They can hear matters regarding possession of, but not title to, real property.

CALIFORNIA: In California, individuals can file as many claims as they wish for up to \$2,500 in the Small Claims Court. However, individuals may only file two (2) claims in any calendar year for up to \$5,000. However, they cannot sue a guarantor for more than \$4,000. A guarantor is one who promises to be responsible for the debt or [DEFAULT](#) of another.

COLORADO: In Colorado, the County Court Civil Division processes small claims that do not exceed \$5,000. Each county has a District Court. No plaintiff may file more than two claims per month or 18 claims per year in small claims courts.

CONNECTICUT: In Connecticut, the Small Claims Court is a division of the Superior Court and has a maximum jurisdictional amount of \$3500. Attorneys are permitted. There are no rights of appeal. The official court form is "JD-CV-40." Individuals should call the Secretary of State at 860-509-6002 to find out if a [DEFENDANT](#) is a corporation and to get the address. There is a \$30 filing fee.

DELAWARE: In Delaware, the Justice of the Peace Court handles both civil and criminal cases. Civil cases handled in the Justice of the Peace Court are those involving money debts, property damages, or return of personal property. The amount of damages that may be sought in the Justice of the Peace Court is limited to \$15,000.

DISTRICT OF COLUMBIA: In Washington, D.C the District of Columbia., the Small Claims Division of the Superior Court of D.C. hears cases that are only for the recovery of money up to \$5,000. The Small Claims Division of the Superior Court of D.C. hears cases that are only for the recovery of money up to \$5,000.00, not including interest, attorneys fees, and court costs. If both parties to an action agree, a Superior Court judge may settle a case by [ARBITRATION](#), regardless of the amount of the claim. DC Code 11-1321,1322; McCray v. McGee, 504 A.2d 1128 (App D.C. 1986.)

FLORIDA: In Florida, a County Court civil division handles small claims under \$5,000.

GEORGIA: In Georgia, a County Magistrate Small Claims Court handles money claims under \$15,000. Individuals may file a claim in Magistrate Court with or without an attorney. They may have an attorney represent them if they choose; this would be at their own expense. The court does not appoint attorneys for civil cases.

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HAWAII: In Hawaii, the Small Claims Division of the District Courts may only handle cases for the recovery of money where the amount claimed is no more than \$3,500. The Small Claims Division publishes its own procedural rules.

ILLINOIS: In Illinois, the County Circuit Court processes small claims of \$5,000 or less. The parties are not required to have lawyers but may choose to have one.

INDIANA: In Indiana, the Small Claims Division of the Superior Court hears claims limited to \$3,000 or less (\$6,000 in Marion and Allen Counties).

IOWA: In Iowa, the Small Claims Division of the Superior Court hears claims limited to \$4,000 or less.

KANSAS: In Kansas, the District Court hears small claims actions. Amounts at issue are limited to \$1,800. Lawyers are not allowed to represent parties in small claims proceedings prior to the entry of judgment. There is a \$19.50 filing fee for claims up to \$500, and a \$39.50 filing fee for claims from \$500 to \$1,800. The hearing is conducted informally before a judge. The judgment debtor has ten days after the judgment is entered to file an appeal. The judgment debtor has 30 days to either pay the judgment or file a "Judgment Debtor's Statement of Assets" with the court, which will forward it to parties.

KENTUCKY: In Kentucky, the Small Claims Division of the District Court hears cases involving small claims under \$1,500.

LOUISIANA: In Louisiana, the City Court hears small claims actions. Some [EVICTION](#) cases are heard in small claims court, if the rent at issue is sufficiently small. Amounts at issue are limited to \$3,000 (\$2,000 for movable property).

MAINE: In Maine, the Small Claims Court is a special civil division of the District Court. Claims are limited to \$4,500 or less.

MARYLAND: Maryland does not have a specific small claims court, but the District Court has exclusive jurisdiction for claims involving less than \$25,000. No formal pleadings are required for claims under \$2,500. Unfortunately, the trials in these courts are much more formal than in typical small claims courts. Therefore, individuals may wish to consider obtaining the services of an attorney before going into court. MD CJ 4-401, 405.

MASSACHUSETTS: In Massachusetts, small claims are heard in every District Court, in every Housing Court, and at the Boston Municipal Court. Small claim actions are limited to disputes under \$2,000.

MICHIGAN: In Michigan, individuals can sue for up to \$3,000 in the Small Claims Division of the District Court. Michigan does not allow attorneys in small claims court. Decisions are final and cannot be appealed. Filing fees are \$17.00 for claims up to \$600, and \$32.00 for claims from \$600 to \$3,000.

MINNESOTA: In Minnesota, the Small Claims Court is part of the District Court. Claims may not exceed \$7,500.

MISSISSIPPI: In Mississippi, individuals may sue in small claims court for up to \$2,500. There are no Internet resources for Mississippi small claims courts as of 2002.

MISSOURI: In Missouri, civil claims for \$3,000 or less may be filed in Small Claims Court. This court has very simple rules that allow parties to resolve disputes with or without a lawyer. Rules 140 through 152 govern all civil actions pending in the small claims division of the circuit court.

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MONTANA: In Montana, the Justice Court hears small claims actions of \$3,000 or less.

NEBRASKA: In Nebraska, small claims court is limited to civil (non-criminal) actions involving disputes over amounts of money owed, damage to property, or seeking the return of personal property. Judgments in small claims court may not exceed \$2,400.

NEVADA: In Nevada, the Small Claims Division of the County Court hears small claims actions of \$5,500 or less.

NEW HAMPSHIRE: In New Hampshire, Small Claims Courts are divisions of District Courts. Small claims are regulated by RSA 503. A small claim action may not exceed \$5,000. Attorneys are permitted.

NEW JERSEY: In New Jersey, small claim cases are heard in the Special Civil Part of the Civil Division of the Superior Court. These cases are for less than \$2,000. The Special Civil Part also hears cases between \$2,000 and \$10,000.

NEW MEXICO: In New Mexico, the County Magistrate Court is authorized to hear cases that do not exceed \$5,000.

NEW YORK CITY: In New York, the City, District, and Justice Courts in the state have Small Claims Parts that are authorized to hear cases that do not exceed \$3,000.

NORTH CAROLINA: In North Carolina, the County District Court is authorized to hear cases that do not exceed \$4,000.

NORTH DAKOTA: In North Dakota, the District Court is authorized to hear small claims cases that do not exceed \$5,000.

OHIO: In Ohio, civil claims for \$3,000 or less may be filed in Small Claims Court. This court has very simple rules that allow parties to resolve disputes without hiring an attorney. However, attorneys are permitted to represent parties if desired.

OKLAHOMA: In Oklahoma, the District Court small claims division handles cases that do not exceed \$4,500.

OREGON: In Oregon, the Small Claims Department of the Justice Court processes small claim actions involving disputes under \$5,000.

PENNSYLVANIA: In Pennsylvania, District Justice Courts hear claims that do not exceed \$8,000. The Municipal Court of Philadelphia may hear claims of \$10,000 or less. It also may hear rent only disputes in LANDLORD Tenant cases of an unlimited amount.

RHODE ISLAND: In Rhode Island, the small claims courts handle cases that do not exceed \$1,500.

SOUTH CAROLINA: In South Carolina, the Magistrate Court processes small claim actions involving disputes under \$5,000. This amount was raised to \$7,500 on January 1, 2001.

SOUTH DAKOTA: In South Dakota, the small claims court is authorized to hear cases for \$8,000 or less.

TENNESSEE: In Tennessee, the Court of General Sessions hears small claims actions involving disputes for \$15,000 or less. In counties of 700,000 or more people, the Court hears small claims disputes for up to

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\$25,000. However, there is no dollar limit for cases involving [UNLAWFUL DETAINER](#) and the recovery of personal property.

TEXAS: In Texas, a Justice Court handles small claims under \$5,000.

UTAH: In Utah, the District Court processes small claim actions involving disputes under \$5,000. Each county has a District Court. Small Claims rules and fees are covered under Title 78, Chapter 06 of the Utah Code.

VERMONT: In Vermont, the small claims courts handle cases that do not exceed \$3,500.

VIRGINIA: In Virginia, the small claims divisions of the general district courts hear disputes of \$1,000 or less. The general district courts, themselves, hear disputes of \$3,000 or less. Cases involving amounts between \$3,000 and \$15,000 may be heard by either the general district court or the circuit court. VA Code 16.1-122.1.

WASHINGTON: In Washington State, the District Court Civil Division processes small claims in amounts not exceeding \$2,500. Each county has a District Court. Note that small claims are not handled in municipal court. Procedural guidelines for small claims actions are found in the Revised Code of Washington (RCW) Chapters 3.66, 4.28, 12.40, and applicable provisions in the Civil Rules for Courts of Limited Jurisdiction, Rule 5 (CRLJ5).

WEST VIRGINIA: In West Virginia, the Magistrates Courts handle small claims with \$5,000 or less in dispute.

WISCONSIN: In Wisconsin, the District Courts handle small claims of \$5,000 or less. For landlords seeking eviction, the \$5,000 limit does not apply.

WYOMING: In Wyoming, the Justice of the Peace Courts hear small claims of up to \$3,000. Circuit courts hear cases of up to \$7,000.

Additional Resources

The Court TV Cradle-to-grave Legal Survival Guide. Little, Brown and Company, 1995.

Everybody's Guide to Small Claims Court. Warner, Ralph, Nolo Press, 1991.

Law for Dummies. Ventura, John, IDG Books Worldwide, Inc., 1996.

"*Small Claims Court.*" Nolo Press, 2002. Available at <http://www.nolo.com/lawcenter/ency/article.cf>.

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