



# 5th Judicial Circuit Court of Andrew & Buchanan County, Missouri USA

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## How to Use the Small Claims Court?



THE SMALL CLAIMS COURT WAS ESTABLISHED TO HELP PEOPLE HANDLE CLAIMS OF \$5,000.00 OR LESS WITH OR WITHOUT AN ATTORNEY.

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- [Case.net](#)
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### How to Use the Small Claims Court?

#### FOR THE PLAINTIFF

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#### 1. DO YOU NEED TO BRING YOUR PROBLEM TO COURT?

Before you decide to sue someone for money you believe is owed you, there are several things to consider.

First, have you tried to settle your problem with the defendant? There are many alternatives to going to court. You should confront the person you believe owes you money and request he pay. This can be done in person, over the telephone or by writing a letter (if you write a letter, keep a copy for yourself.) Also, there are consumer protection agencies in some areas which can be of service to you. If you can settle your problem, it may be faster, easier and cheaper than going to court. You have nothing to lose by trying. However, if you cannot settle the problem, the Court is available to hear your claim.

Second, you must decide if you think you are able to protect and defend your own interest. Ask yourself such questions as: Can I explain my problem and make myself understood in court? Does the person I want to sue have a claim for money against me? (If the answer to this last question is "yes," remember that the other side has a right to tell the Court about it and have the judge decide who is owed what.) If you feel you need a lawyer, you may bring one. **MOST IMPORTANTLY, YOU MUST KNOW WHETHER YOU WILL BE ABLE TO COLLECT ANY MONEY IF YOU WIN. YOU WILL SAVE TIME AND MONEY BY WAITING TO FILE YOUR LAWSUIT UNTIL YOU HAVE ALL INFORMATION WHICH WILL BE NECESSARY FOR COLLECTING THE JUDGMENT. PLEASE READ THE SECTION ON "COLLECTING" THOROUGHLY. DO YOU KNOW WHERE THE DEFENDANT WORKS OR BANKS?**

#### 2. PREPARING YOUR CLAIM

- a) You must decide where to sue. **THIS IS ONE OF THE MOST IMPORTANT QUESTIONS YOU SHOULD ASK.** Ask the clerk if you are in the right court and the right county.
- b) The first thing to do is correctly state the name and address of the person or company you wish to sue.
- c) State your claim as simply and as precisely as possible on the form provided by the clerk. For example, "I paid Mr. Smith \$25.00 for plumbing work and he never did the work." The clerk will use this form to draft a petition based on the facts you give.
- d) Pay the filing fee and the costs of serving the summons on the defendant.

After you have filed your claim, the Court will issue a summons and deliver it to the Sheriff with a copy of the petition and the Sheriff will attempt to serve the defendant at the address you provide. This is why it is important for you to have the correct address for the defendant. The summons will state the date and time the defendant is to come to court and the reason they are being sued.

The cases will be set by the Court during the court's normal hours (8:00 a.m. to 5:00 p.m.). If the Sheriff is able to serve the defendant, your next step is to be in court on the date set by the Court when you file your suit, ready to present your claim. However, if the Sheriff is unable to serve the defendant at the address you provided, the Court will notify you and your next step will be to locate another address for the summons to be served on the defendant. This will cost you an additional fee. Ask the Small Claims Clerk for assistance.

#### 3. PREPARING FOR COURT

- a) Get together everything you need — books, papers, documents, and/or cancelled checks. Put them into the order that you need for presentation to the Court.
- b) Make sure all the witnesses who are necessary for you to present your case are in the courtroom on time. If you have any witness who does not want to come to court, you have the right to "subpoena" him. A subpoena is a legal method to require his presence. The clerk will issue the subpoena at your request. It must be personally served on the witness. This must be done before your court date. There will be a small additional fee for this service.
- c) On the day you were told your claim would be heard, **BE THERE!** If you are not there, your case may be dismissed.

When it is time for your case to be heard you should present your case in an orderly manner. Try to keep all the facts in order and show the judge any letters or other documents which help you support your claim. Don't get





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## How to Use the Small Claims Court?

### FOR THE DEFENDANT

#### 1. IF YOU ARE BEING SUED

If you have received a notice in the mail that you are being sued, **DO NOT THROW IT AWAY. KEEP IT AND BRING IT TO COURT.** If you do not appear on the day and time stated in the summons, **A JUDGMENT MAY BE TAKEN AGAINST YOU.**

If you do not agree that you owe the money, prepare to go to court and present your side of the story. Bring with you all the necessary papers and any witnesses you might need. If your witnesses do not want to come to court, you may ask the clerk to issue a subpoena to force the witness to appear. There will be a small fee charged for this service. Practice your presentation before you come to court.

If you feel you need a lawyer, you may bring one.

#### 2. OUT-OF-COURT SETTLEMENTS

If you and the plaintiff are able to settle the matter by yourselves, you should do so. If you settle, notify the clerk of the court promptly.

#### 3. HOW TO FILE A COUNTERCLAIM

If you think you have a claim against the person who sues you, the law gives you a right to countersue him. Some counterclaims must be filed with the court within ten days after you receive notice that the plaintiff has sued you, and the others may be brought at any time up to and including the time of hearing.

a) If your claim does not arise out of the same transaction or occurrence as the plaintiff's claim, within ten days after you receive your summons you should appear before the clerk and file your counterclaim on forms provided by the clerk.

b) If your claim arose from the same transaction or occurrence as plaintiff's claim, you may appear before the clerk and file your counterclaim on forms provided by the clerk, or you may raise your counterclaim at the hearing.



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## How to Use the Small Claims Court?

### FOR BOTH PARTIES

#### 1. APPEAL

If you do not like the Court's decision, you have only ten days to file your notice of appeal. The appeal forms may be obtained from the circuit court clerk. Ask the clerk for assistance.

#### 2. COLLECTING

A judgment entered in your favor is only the first step in obtaining the money owed to you.

After the judge has decided in your favor and you have waited 10 days from the date decided the case, you may start trying to collect the judgment. However, if the losing party has filed an appeal and has posted a bond you must wait until the appeal has been retried by the judge before you attempt to collect your judgment.

There are several ways to collect your judgment. The losing party may agree to pay you voluntarily, either all at one time or in installments. If he will not pay voluntarily, you may start collection proceedings on forms provided by the circuit court clerk. In return, tell the clerk where the losing party works or does his banking in order to speed the collection process. You must obtain and provide the clerk all information necessary to collect the judgment. If you are unable to find any helpful information, you may wait and try again at a later date. Your judgment is good for 10 years. You may request collection proceedings at any time during those 10 years.