

HOW TO USE THE SMALL CLAIMS COURT

(Chapter 482 RSMo.)



THE SMALL CLAIMS COURT WAS ESTABLISHED
TO HELP PEOPLE HANDLE CLAIMS OF \$3000.00
OR LESS WITH OR WITHOUT AN ATTORNEY

FORM 48

FOR THE PLAINTIFF

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 that 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.

Finally, if you do bring suit and you do win, will you be able to collect any money? Read the section on COLLECTING. You might be able to save yourself time and money.

2. PREPARING YOUR CLAIM

(a) Decide where to sue. **THIS IS ONE OF THE MOST IMPORTANT QUESTIONS YOU SHOULD ASK.** Check with the clerk to be sure you are in the right court and the right county.

(b) Correctly state the name, address, and telephone number 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. X \$25.00 for plumbing work, and he never did the work."

(d) Pay the clerk the filing fee and the cost of serving the summons on the defendant.

After you have filed your claim, the court will mail a notice to the person you have sued (the defendant). Alternatively, the notice may be served by the sheriff. This notice will state the date and time the defendant is to come to court and the reason why he is being sued. This is why you need the correct address.

The notice will be sent by certified mail, and if the defendant signs for the letter, you will need to be in court on the date set by the court ready to present your claim. However, if the defendant does not sign for the letter, you may need to have the notice served by a process server, which will cost you an additional fee. Ask the clerk for assistance.

3. PREPARING FOR COURT

(a) Get together everything you need—books, papers, documents, and cancelled checks. Put them in the order that you need for presentation to the court.

(b) Make sure all the witnesses necessary for you to present your case are in the courtroom on time. If you have a 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 that help you support your claim. Don't get confused, don't get rushed. It is a good idea to practice your presentation the night before.

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 witnesses 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 others may be brought at any time up to and including the time of the hearing.

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

FOR BOTH PARTIES

1. APPEAL

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

2. COLLECTING

After the judge has decided in your favor, and you have waited ten days from the date the judge decided the case, you may start trying to collect, if the losing party has not filed an appeal and posted a bond.

There are several ways to collect your judgment. The losing party may pay you voluntarily, either all at one time or in installments. If he will not pay you voluntarily, you may start collection proceedings on forms provided by the clerk. Again, ask the clerk for assistance. In return, tell the clerk where the losing party works or does his banking in order to speed the collection process.