

Instructions — Small Claims Action

Briefly, the following steps are listed for your information to start or defend a small claims action:

1. The amount demanded in the complaint cannot exceed \$7,000 excluding costs, and the Defendant must be able to be served within the county issuing the complaint.
2. A written complaint must be prepared and SWORN TO before the Court. A complaint is a brief, concise statement of the facts making up your complaint. You must include the dollar amount requested, and/or the return of specific property, and the date of the transaction. You must prepare a praecipe or directive for the Sheriff's office, constable, or process server. For each person you are suing, you will need 2 copies of the complaint, 2 copies of the Notice to Defendant, and 1 praecipe. The forms are self explanatory and easy to fill out. All papers necessary are available at the Small Claims Division of Justice Court. A copy of the pamphlet prepared by the Attorney General **must be given to the Plaintiff and a copy attached to the Notice to Defendant.**
3. After the papers are properly filled out, take them back to the clerk at justice court to be SWORN TO, and for filing. The filing fee is \$30 for the Justice Court. There are additional costs for service of the papers by the Sheriff's office or process server. The costs may vary from area to area and will include mileage costs. A deposit is generally required before service is done. If there are additional mileage costs, you will be billed for the excess. Any deposit money not spent will be refunded to you. If you obtain a judgment in court, you may be entitled to a full reimbursement of the fees you paid to pursue this case in court.
4. The Defendant or opposing party will be notified of the lawsuit and date of trial by service of the papers by the Sheriff or process server. After the papers are served, the Notice to Defendant will be returned to the Court with an accounting of the fees spent. If the Notice to Defendant is returned to the Plaintiff, the Notice must be returned to the Court immediately.
5. If the "Notice to Defendant" is not served at least 5 days prior to the date of trial, a new trial date will be set by the Court and given to the Sheriff or process server for re-service. This "reset" procedure will be done as many times as is necessary to serve the Defendant and allow 5 days after service before the trial date.
6. If the parties reach an agreement or solution prior to trial, both parties are required to notify the Court.
7. If a counterclaim is filed, it must be filed with the Court and served on the Plaintiff at least 72 hours prior to the date of the trial. Service of the counterclaim, on the Plaintiff, is made by the Sheriff or process server in the same manner as the service of the Notice to Defendant.