

Indiana Legal Services, Inc



Using the law to fight poverty, empower clients, and improve access to justice.

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Filing a Lawsuit in Small Claims Court

What is Small Claims Court?

A Small Claims Court is a court which handles smaller cases. Usually, it handles cases that are for \$6,000 or less. (However, in Marion County, the Small Claims Courts handle cases for \$8,000 or less). You can sue for money, or to get property returned to you.

Do I need an attorney in Small Claims Court?

Small Claims Courts are intended for people to handle cases without attorneys. However, you can hire an attorney if you want to. (Some businesses suing or being sued must be represented by an attorney).

Where do I sue?

You should file your Small Claims case in the county where the person you are suing lives or works, or where the matter that you are suing about happened. You can call the county clerk to make sure you are filing correctly and in the right place.

How do I file the suit?

Go to the Clerk's office and ask for the forms to file a suit in Small Claims Court. The cost may vary, so call ahead to see how much you will have to pay to file your claim. Be sure to have all the names and addresses of who you are suing, plus any contracts, leases, or other paperwork related to the matter you are suing over. List telephone numbers for the person you are suing.

What if I cannot afford the filing fee?

You can ask the court in writing to let you file the case without paying the filing fee. You will have to prove to the court that you cannot afford the filing fee.

What happens after I file?

After you file, the court will notify the defendant (the person you sued) about the case. If the defendant thinks he or she has a claim against you over the same matter, then he or she can file

a counterclaim. Both claims will generally be heard and decided at the same hearing. After the other person has had enough time to reply to the Court, a trial date will be set. You will need to attend the trial with all your information about the matter on the trial date.

What happens at the hearing?

Bring any witnesses (the Court can subpoena them for you if they don't want to come on their own), documents, and any other information you have about the matter, and be prepared to tell the judge your side to the story. You can ask that the hearing be tape-recorded so there is a record of the hearing. During the hearing, you, the witnesses, and the person you are suing will have a chance to testify. The judge might ask questions of any person testifying. The judge may make a decision at the end of the hearing, or may think about the case for awhile and send an answer to you by mail.

What if I can't be at the hearing?

Call the Court as soon as you find out that you cannot be at the hearing. You can request a continuance if you have a good reason for not being able to make it. If you don't show up and don't ask for a continuance, the judge will dismiss your case. If the person you are suing does not show up after being notified of the suit, then you can ask the judge to enter judgment in your favor, by default.

Can I appeal the judge's decision?

The loser of a small claims case may appeal the decision by filing an appeal with the Indiana Court of Appeals within 30 days of the decision. (In Marion County, you first appeal to the Superior Court).

You should consult an attorney for an appeal, because appeals are time-consuming and complicated. If you decide to appeal, contact an attorney as soon as possible to give the attorney enough time to file all the necessary papers.

Can I settle instead of sue?


You can settle your differences before the case comes to trial, even if it is on the same day. Get the agreement in writing, have everyone sign it, and file it with the Court, so that it can be enforced later if problems come up.

I won! What happens now?

You must give the losing party a reasonable chance to pay. If no payments are made after a reasonable time, you will have to go to Court again to seek a garnishment, or to get a payment schedule. If the suit was about property, you have to ask the Court to write you a "Writ of Replevin" which means the property must be given back to you. You need to arrange to pick up the property.

Last Revised 2/2015

LSC Code: 2020099

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Printed: August 26, 2019

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