

# IDAHO SMALL CLAIMS



prepared by  
**MOUNTAIN HOME AFB  
GUNFIGHTER LEGAL OFFICE**



## WHAT IS SMALL CLAIMS COURT?

**Small claims court** is an informal court where you can sue for up to \$5,000. Small claims court is part of the magistrate's division of the district court, and a magistrate serves as the judge in a small claims trial. Small claims hearings are official court cases, which are designed to be quick and inexpensive.

The rules of procedure for small claims court are found in Title 1, Chapter 23 of the Idaho Code.

## WHO CAN USE SMALL CLAIMS COURT?

Any individual, corporation or partnership can file a small claims suit or be sued as a defendant in one. Small claims actions do not use juries or attorneys. You can talk to an attorney before or after your hearing to get information or advice, but the attorney cannot appear with you in court.

## WHEN TO USE SMALL CLAIMS COURT

Small claims court is for money debts, personal injury, or personal property damages, up to \$5,000. However, a small claims court cannot award damages for pain and suffering or punitive damages. Examples of when you may use small claims court include: a landlord refuses to return your security deposit; a dry cleaner loses or damages your clothing; a store refuses to refund your money when it sold you defective goods; or someone owes you money on bad checks or past-due bills.

## HOW TO START A SUIT

You must file your small claims suit in the small claims court in the county where the defendant resides or in the county where the dispute arose.

You will need to obtain a small claims complaint from the court clerk or from [www.courtselfhelp.idaho.gov](http://www.courtselfhelp.idaho.gov). The complaint must include complete names and addresses, the amount you are seeking, when it became due, and a brief statement of why the amount is owed.

The court clerk will explain the various ways the complaint may be served on the defendant.

## HOW MUCH DOES IT COST?

There is a \$69.00 filing fee to start a small claims action. This fee must be paid before the suit can begin. There is also a small fee for serving the notice of the complaint on the defendant. If you win your suit, you may be entitled to recover the costs of filing the suit and serving the complaint, in addition to the amount of your original claim.

Service of process must be completed within 30 days after you file the claim. Once the defendant is served he or she has twenty days to respond with a document called an "answer." If the defendant does not comply with this requirement, you may win the case by default, although you will still be required to prove your case to the satisfaction of the court. After the defendant files an answer, the court will schedule the matter for trial or mediation.

## PREPARING FOR TRIAL

Be sure you find out the exact date and time of your trial. Show up on time!

Gather all papers, documents, pictures, or other items of evidence that relate to your case. Contact and interview any witnesses who may be able to support your case. Make sure your witnesses know the exact date and time that they must appear for trial.

A defendant who does not wish to contest the plaintiff's claim may make an out-of-court settlement with the plaintiff before the trial. If this is done, the plaintiff should file a dismissal with the court before the trial date.

If you fail to attend your trial you will lose by default. Call the court clerk to arrange a "continuance" if you must miss your scheduled trial date.

## WHAT TO DO AT TRIAL

There are no juries or attorneys at the trial. It is simply an informal hearing before a judge. Arrive early so you have time to find the small claims courtroom.

When you come to court, you should be polite to the judge, the court clerks, and other people in the courtroom, including the defendant. Do not bring children with you unless they are old enough to stay in their seats and sit quietly. While court is in session and you are waiting for your case to be called, do not visit with other people around you. Turn your cell phone or pager off and remove your hat before entering the courtroom. Do not bring food or drink into the courtroom.

When your case is called, you will be asked to present your case. The judge may help you by asking questions. Because there are usually a large number of small claims cases to be heard you will have a limited time to present your case. You may be able to find out how much time you will have by contacting the court clerk before the trial. Prepare your case in advance! Decide what points you will stress in your testimony, what

evidence you will present and who, if anyone, you will call as witnesses. When in court, focus on the most important facts and speak simply, clearly, and precisely.

If you or one of your witnesses will need an interpreter at your hearing, you must call the court clerk before the day of your hearing to ask for an interpreter. You do not have to pay for an interpreter. Generally, a friend or relative will not be allowed to interpret for you.

## COLLECTING THE JUDGMENT

If the judge decides in your favor, he can order the defendant to pay the money that is owed. The judge's decision in the case is called a "judgment."

If the court awards a "judgment" in your favor, ask the defendant to pay you immediately. If the defendant is not present, let them know that a judgment has been awarded and request payment.

If the defendant refuses to pay, you may obtain a writ of execution from the court clerk once the time for appeal (30 days) has passed. The writ will allow the county sheriff to seize any property or wages of the defendant not exempt from execution. A private attorney may assist you with this procedure.

## CAN YOU APPEAL IF YOU LOSE?

Either party may appeal the decision of a small claims court. If you decide to appeal, you must file your appeal within thirty (30) days, and the appeal will be heard by a lawyer magistrate, in the magistrate division, as a new trial. You must also pay \$81.00 filing fee. At the magistrate court level, you can be represented by an attorney, if you desire.

**\*This handout is general in nature. It is not a substitute for legal advice from an attorney regarding individual situations. (August 2021)**

**For additional information on this and other legal topics, see the Air Force Legal Assistance Website:**  
<https://aflegalassistance.law.af.mil>