

# A Guide to Alabama Small Claims Courts

This guide is designed to help anyone who is suing or being sued in small claims court. This guide answers questions people frequently ask, and it describes procedures used in most small claims courts. Check with the Small Claims Court Clerk in the county where the person or business that is to be sued lives or has an office before filing a claim to verify filing fees and associated court costs. The law prohibits small claims clerks from giving legal advice. Contact an attorney for legal assistance.

[Click here to view the Small Claims Court forms.](#)

## BASIC CONSIDERATIONS AND QUESTIONS

### *What is the Small Claims Court?*

Small Claims Court is a division of the District Court designed to settle disputes between individuals as well as businesses. The maximum amount an individual or other entity may sue or be sued for is \$6,000. Procedures are simple, informal and inexpensive. There are no juries and, parties can represent themselves.

### *Should You File a Small Claims Case?*

Before an individual or entity files a claim, contact the person or business that is to be sued and attempt to settle the dispute out of court. This attempt, if successful, will save time and money.

### *Who Can File or Defend a Claim?*

With certain exceptions, anyone can sue or be sued in small claims court. Generally, all parties can represent themselves.

An individual can sue another individual or a business. A business, in turn, can sue an individual or another business.

To file or defend a case in small claims court, an individual must be (a) at least 19 years old or legally emancipated, and (b) mentally competent.

## IF YOU'RE THE PLAINTIFF...

### *Have You Asked for the Money or the Property?*

Before a suit is filed in small claims court, attempt to contact the defendant and ask for the money and/or property in writing. Always keep copies of any letters and other written communications. Send written communications by mail, and ask the post office for a return receipt that can be kept as evidence of service.

### *Where Do You File?*

A case must be filed in the Small Claims Division of the District Court in the county in which the defendant lives or has an office. File a Statement of Claim (Complaint) form with the Clerk. A filing fee must be paid at the time of filing. Contact the Clerk for the amount of the filing fee. An Affidavit of Substantial Hardship may be filed to ask the judge to delay payment.

## IF YOU'RE THE DEFENDANT...

### *What Should You Do After You Receive the Statement of Claim (Complaint)?*

After a suit is filed in small claims court, attempt to contact the plaintiff and settle the claim before the trial date. All settlement agreements should be in writing. If unable to resolve the matter directly with the plaintiff, file the Answer within 14 days after being served with the Complaint. Plan to appear at the date, time, and place set for the hearing.

### *What if You Owe All or Part of the Plaintiff's Claim?*

Attempt to write the plaintiff before the hearing. Offer to pay the amount in weekly or monthly payments. Next, ask the plaintiff to dismiss the case without prejudice (with the result that the plaintiff can re-file the claim if the money is not paid), and write out a settlement agreement with the plaintiff.

### *What If the Plaintiff Owes YOU Money?*

If the defendant believes the plaintiff has caused injury or owes him/her money for any reason, a Counterclaim can be filed against the plaintiff in the same small claims court action. If a claim is filed against the plaintiff, the same basic rules and procedures generally apply.

## PLAINTIFFS AND DEFENDANTS: PREPARING FOR TRIAL

### *Gather Documents*

Gather all papers and documents (e.g., bills, receipts, photographs, letters, contracts, etc.) which support the claim. Write down the details and facts of the case to assist in supporting the claim.

### *Arrange Witnesses*

Anyone with first-hand knowledge of the claim may be of help. If there is any reason to believe a witness will not voluntarily appear, ask the clerk to issue a Subpoena (Order to Appear). A witness subpoena fee is required.

### *What Should be Done if a Settlement is Reached Before Trial?*

Both sides are encouraged to settle the claim prior to trial. Any such agreement should be in writing and should include who is to pay court costs. If the defendant does not agree to pay the court costs as part of the settlement of the claim, the plaintiff is responsible. REMEMBER: If a settlement is accepted before trial, the plaintiff must notify the clerk, in writing, that the case is to be dropped because it has been settled.

## WHAT HAPPENS AT TRIAL

### *Be On Time*

The Judge may dismiss the case or enter a default judgment if either party is late. If something comes up which would prevent either party from being on time or appearing at the trial, the party **MUST** inform the clerk as soon as possible and request a continuance (delay) before the date of the trial.

### *Presenting the Claim or Defense*

When the judge is ready to hear the case, the clerk or judge will call the names of all plaintiffs and defendants in the case. The plaintiff, defendant, and any witnesses, should then go forward to the table in front of the judge. The plaintiff will present evidence and witnesses first, and then the defendant will present evidence and witnesses.

### *Judgment*

After hearing both sides of the case and looking at the evidence, the judge will make a decision and render a judgment based on the law and the facts presented.

### *Default Judgment*

Sometimes, one of the parties doesn't come to the small claims hearing. If the defendant doesn't appear, the judge will consider the plaintiff's evidence and decide the case, even if the defendant is absent. If sufficient evidence is provided, the judge may award the plaintiff some or all of the amount claimed, and possibly also court costs and interest.

If the plaintiff doesn't appear at the hearing, the court may dismiss the case.

## AFTER THE TRIAL

### *What Can You Do if You Disagree with the Court's Judgment?*

If either party disagrees with the decision, a Notice of Appeal form can be filed with the Clerk of the Small Claims Court within 14 days after the date the judgment is entered.

The appeal will be heard in the Circuit Court. The party filing the appeal must be prepared to pay a filing fee and post a bond to cover any unpaid court costs.

### *Collecting the Judgment*

It is up to the plaintiff to collect the judgment if the defendant does not pay. The following actions can be taken by the plaintiff:

- Execution – Obtain a court order authorizing the sheriff to pick up any property belonging to the defendant and sell it to satisfy the judgment; or,
- Garnishment – Obtain a court order to garnish (withhold) the wages of the defendant to satisfy the judgment.

Both of these actions require an additional filing fee.

### *After the Judgment is Paid*

After the judgment debt has been paid in full, a Satisfaction of Judgment should be filed with the Small Claims Court.

# Definitions

**Appeal** - New hearing of all of the claims by a different judge of a higher court.

**Defendant** - The person or business against whom a claim is filed.

**Defendant's Answer** - The legal paper filed by the defendant admitting or denying all or part of the plaintiff's claim.

**Defendant's Counterclaim** – The legal paper filed by the defendant telling the Court and Plaintiff about a claim he/she has against plaintiff.

**Execution** – A court order authorizing the sheriff to pick up any property belonging to the other party, and to sell it to satisfy the judgment.

**Garnishment** - A court order withholding the other party's wages to pay a judgment.

**Judgment** – A final determination by the Court of the right and claims of the parties in an action.

**Party** - A person named as a plaintiff or a defendant in a small claims court action (may be a natural person, or a fictitious legal entity such as a corporation or limited liability company).

**Plaintiff** - The person who files a claim against another person or business.

**Settlement** -An agreement reached by the parties to a dispute — often involving a compromise of one or more claims — that resolves the dispute. It typically states the terms (including total amount and payment dates) to which the parties have agreed.

**Statement of Claim (Complaint)** – The legal paper filed by the plaintiff briefly describing the claim against the defendant.

**Subpoena** - A court order that requires a named person to come to court to testify as a witness.

## DISCLAIMER:

The content in this guide is offered only as a public service to the web community and does not constitute solicitation or provision of legal advice. This information should not be used as a substitute for obtaining legal advice from an attorney licensed or authorized to practice in Alabama. Consult a suitably qualified attorney regarding any specific legal problem or matter.