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# Small Claims Court

• Illinois •



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# FAQ's

## What is a Small Claims Court?

Small Claims Court is a place where you can sue a person or business if the amount you are seeking is \$10,000 or less. The case may be based on an agreement or the fact that someone has harmed you or your property. Examples of cases that can be filed in Small Claims Court include:

- Someone physically injured you or damaged your property and refuses to pay for your loss
- Your landlord refuses to return your security deposit
- Someone owes you money for work you have done but refuses to pay you
- You paid for work to be done, but the work was done poorly, and the contractor refuses to fix it

## What can I get from Small Claims Court?

- Small Claims judges can order a judgment only for money.
- The judge cannot require a person or business to do something or stop doing something, or to return property.

## What should I consider before filing a Small Claims Complaint?

Try contacting the other person or business to solve the problem out of court. If you are successful, you save time, effort, and expense. Call or write to the other party to explain your position and the settlement you want.

Also, consider whether the Defendant has money, income, or property. If the Defendant does not have any money, you may not be able to collect even if the judge decides the Defendant owes you money.

## Does it cost to file a Small Claims Complaint?

**YES.** There is a fee to file a Small Claims Complaint and to serve the Small Claims Summons. If you cannot afford to pay the filing and serving fees, you can ask the court to file for free or at a reduced cost by filing the Application for Waiver of Court Fees found at:

<https://www.illinoiscourts.gov/forms/approved-forms/forms-approved-forms-circuit-court/fee-waiver-civil>

# Eligibility

## Who can file a Small Claims Complaint?

- Any person 18 years or older may file a Small Claims Complaint with or without a lawyer. People under 18 must have a lawyer.
- A corporation can also file a Small Claims Complaint. However, it must be represented by a lawyer.

## Where do I file my Small Claims Complaint?

- Generally, you must file in the county where the Defendant lives or where the events of the case happened. For example, where the accident occurred or where the contract was signed.
- A business may be sued in any county where it does business or has an office. You can find out their locations by visiting the business' website or calling them.
- Filing your claim in the wrong county may result in the judge dismissing your case or transferring it to the correct courthouse. If you are not sure which county is right, talk to a lawyer.

## Who do I file a Small Claims Complaint against?

You cannot collect money against a Defendant who is incorrectly named on the Small Claims Complaint. To start, decide if your lawsuit is against a person or a business:

- If it is against a person, use the individual's full name to the best of your knowledge.
- If it is against an incorporated business, use the full legal name and address of the business.
- If it is against an unincorporated business, sole proprietorship, or general partnership, you should name the owner of the business itself as the Defendant, along with the abbreviation "d/b/a" (doing business as). For example: David D. Donald d/b/a Donald Towing.



# Eligibility

## What forms do I need?

For each Small Claims Court case filing, you will need to at least submit the following two forms.

**Small Claims Complaint:** This form asks the court for a money judgment and gives information needed to begin the case.

- At the top of the Small Claims Complaint, write your name as the Plaintiff and the name of the person or business you are suing as the Defendant. You must include the correct legal name, address, and phone number of the Defendant. Please note that the Defendant's legal name may be different from the name you know it by.
- In paragraph 5 of the Small Claims Complaint, write the facts that explain why the Defendant owes you money. You must also include the amount of money you are asking for (must be \$10,000 or less). You do not need to include court costs. The judge may award court costs to the party that wins. At the bottom of the Small Claims Complaint, you must sign it.
- If the Small Claims Complaint is based on a written document (like a lease or contract), you must attach a copy to it. The copy must be readable. If you do not have a copy, you must explain why it is not available in the Small Claims Complaint.



**Small Claims Summons:** This form tells each Defendant that you are asking the court for a money judgment.

If you are suing an individual:

- If you are suing more than one Defendant, complete a separate Small Claims Summons for each Defendant.
- You must fill out the top of the Small Claims Summons the same way you filled it out on your Small Claims Complaint. You will also need the address of the Defendant.
- The Small Claims Summons must include your contact information and the address where the Defendant can be served with the Small Claims Summons.
- Get the first court date when you file the Complaint and enter that date in Section 4.
- You will need to decide how to serve the Defendant. You can have the Sheriff or a special process serve the Defendant.

# Eligibility

If you are suing a business:

- First, find out if it is incorporated. Do this by going to the Illinois Secretary of State's website at [https://www.ilsos.gov/departments/business\\_services/business\\_searches.html](https://www.ilsos.gov/departments/business_services/business_searches.html). If you find the business in the database, look for the full legal name of the business.
- The business may also have a Registered Agent. A Registered Agent is a person or company who agrees to accept legal papers for an Illinois business. If a business has a Registered Agent, you must serve the Registered Agent. Put the name of the business and the name of the Registered Agent, if any, on the Small Claims Summons below "Defendant's address and service information."
- Second, if the business is not in this database, you must serve the owner. The owner can be served at their place of business or home. Put the name of the owner on the Small Claims Summons below "Defendant's address and service information."
- Proceed as if you are suing an individual.

**Application for Waiver of Court Fees: You only need this form if you cannot pay the filing fee. You file the Application for Waiver of Court Fees to ask the court to file for free or at a reduced cost.**

# Procedures

## What should I do after I fill out the Small Claims Complaint and Small Claims Summons?

### Step One: File The Forms

- You must electronically file (e-file) court documents with the Circuit Clerk unless (1) you are an inmate in a prison or jail and you do not have a lawyer, (2) you have a disability that keeps you from e-filing, or (3) you qualify for an exemption from e-filing.
- To e-file, create an account with an e-filing service provider. Visit <https://efile.illinoiscourts.gov/EFSPs-Page/> to select a service provider. Some service providers are free, while others charge a processing fee. For instructions on how to e-file for free with Odyssey eFileLL, see the self-help user guides here: <https://www.illinoiscourts.gov/self-help/how-to-e-file/>

### Step Two: Serve the Other Party

Deliver copies of your Small Claims Complaint and Small Claims Summons to the Defendant.

To "serve" a form means to deliver it to the person you are suing. If you are suing more than one person, you must serve every person you are suing. You can serve each Defendant through the sheriff or a special process server.

# Procedures

## 1. Serve through the Sheriff

- You can have the sheriff serve the Defendant. If there are multiple Defendants, you must fill out a separate Small Claims Summons for each one. A deputy will hand-deliver the Small Claims Complaint and Small Claims Summons. They will then fill out the Proof of Service section on the Small Claims Summons. This is proof that the Defendant was (or was not) served.
- You can ask the sheriff in the county where the person to be served lives to serve your Small Claims Summons and Small Claims Complaint by E-File portal.
- By E-File portal: Visit the sheriff's website for information on the E-File portal. If your case is in Cook County, you can e-file your summons service request at <https://sheriffefile.ccsheriff.org/>

## 2. Serve through a Special Process Server

- If you do not wish to use the sheriff, you can use a special process server to serve the Small Claims Summons instead.
- For information about how to use a special process server, see How to File and Send a Motion to Appoint Special Process Server at <https://www.illinoiscourts.gov/forms/approved-forms/forms-approved-forms-circuit-court/motion-to-appoint-special-process-server>.

The person who serves the Small Claims Summons and Small Claims Complaint will fill out the Proof of Service section on the Small Claims Summons. They will then file it with the Circuit Clerk. If the sheriff or special process server files the Proof of Service with

the Circuit Clerk, call the Circuit Clerk to find out if it has been filed. If it has been filed, ask the Circuit Clerk how to get a copy.

If the sheriff was not able to serve the other party, ask for the reason. This can happen for a number of reasons. For example: no one was home when the sheriff came; the wrong address was given; OR the Defendant is avoiding service by refusing to answer the door. After learning why the Defendant was not served, you will need to try again. To do this, you fill out another Small Claims Summons, check the box for "Alias Summons," and ask the sheriff to try to serve the Defendant again. Pursuant to the IL Code of Civil Procedure, you must complete the summons service to proceed to the next step.

## Step Three: Court Hearing

### Prepare for Court Hearing

- Decide and write down:
  - What you want to ask the judge to do for you
  - What you will say to the judge if asked to tell your side of the case
  - Questions you have for witnesses, including Defendants, if there are any
- Gather and make copies of pictures and documents you want the judge to see. Bring the original for the judge and one copy for you and each of the Defendants in the case.
- If you want the judge to hear from other people, those people will have to come to court and be witnesses. You cannot use a written statement from the witness instead of having them come in person.

# Procedures

## Showing up to Court in person or remotely

- Get to the courthouse at least 30 minutes early if it is an in-person hearing. Go to the courtroom number listed on your court forms.
- Or, if the court hearing is held via Zoom, log into the designated courtroom Zoom account with a password on time to check in with the courtroom staff and wait for your name and case number to be called.
- When your case is called, walk up or unmute yourself to speak to the judge and introduce yourself.

## Present Your Case in Court

- You, as Plaintiff, will present your case first. To present your case, tell the judge the facts and details of the case. If you brought witnesses, ask the judge to bring up your witnesses. Ask the witnesses questions about the case so that the judge can hear their answers. Give any evidence, such as paperwork or photos, to the judge. After each witness testifies, the Defendant can question that witness, including you.
- When presenting your case, be brief and stick to the facts. Say what happened in the order it happened. Do not interrupt or argue with any witness. Listen carefully so you can tell the judge why you disagree when it is your turn to speak.
- After you finish presenting your case, the Defendant will present their case. The Defendant may testify, ask questions of witnesses, and present physical evidence. You may question each of the Defendant's witnesses, including the Defendant. If the judge asks you questions, answer them clearly and directly. Show

respect to everyone in the courtroom, including the Defendant.

- After hearing both sides, the judge will make a decision called a judgment and put it in writing in the Small Claims Order or write their own order. The judge may award you all or part of the money claimed or find that the Defendant does not owe you any money.
- Get a copy of the Order before you leave the courtroom.
- The Order often requires the losing party to pay the winning party's court costs.
- Just because the judge gives you an Order, it does not mean you will be paid the money. If you are not paid, you must take steps to enforce the Order. For information on how to do this, see the Small Claims Citation forms.

## Step Four: After Court Order

- If you win the case, the Defendant owes you the amount on Order.
- If you lose, you have 30 days to file a Motion for the judge to reconsider the ruling or file an appeal to a higher court.
- You can use the Motion form found here for a motion to reconsider: <https://www.illinoiscourts.gov/documents-and-forms/approved-forms/circuit-forms/circuit-forms-motion>
- You can use the forms found here to file an appeal: <https://www.illinoiscourts.gov/forms/approved-forms/approved-statewide-forms-appellate-forms/motion>



# Local Resources

## Approved Standardized IL Statewide Forms

- Small Claims Complaint
- Small Claims Summons
- Application for Waiver of Court Fees
- Certification for Exemption from E-Filing
- Motion to Appoint Special Process Server
- Letter to Sheriff
- Motion to Reconsider
- Motion to Appeal

Find the forms described in this brochure on the official Illinois courts website: <https://www.illinoiscourts.gov/documents-and-forms/approved-forms/>

## Remote Appearance Guidance

You may be able to attend court from home by telephone or video conference. For detailed information, click the link below or contact your local circuit court clerk. <https://www.illinoiscourts.gov/self-help/court-by-phone-or-video>

## E-filing Service Provider Database and Guidance

Visit <https://efile.illinoiscourts.gov/EFSPs-Page/> to select a service provider. Some service providers are free, while others charge a processing fee. For instructions on how to e-file for free with Odyssey eFileIL, see the self-help user guides here: <https://www.illinoiscourts.gov/self-help/how-to-e-file/>

# Local Resources

## CASL Legal Services

If you have any questions about the contents of this brochure or if you would like to speak to an attorney, contact CASL Legal Services at (888) 764-6125 or request an appointment through our website. Eligibility for services is based on the applicant's household income and residency.



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