

SMALL CLAIMS COURT INFORMATION

CLAIMS MUST NOT EXCEED \$5,000.00

PLEASE NOTE: THE CLERK OF THE COURT CANNOT PROVIDE ANYONE LEGAL ADVICE. Any legal assistance you might need in filing your claim must be obtained from an attorney. If you do not have an attorney you may contact:

- Gulfcoast Legal Services - (941) 746-6151
- Legal Aid of Manasota - Bradenton - (941) 747-1628 Sarasota - (941) 366-0038
- Lawyer Referral Service - 1-800-342-8011
- Citizen Dispute - (941) 749-3660 or www.12circuit.state.fl.us

Fees for filing a Small Claims case:

Claims less than \$100	\$55.00
Claims of \$100 - \$500	\$80.00
Claims of \$501 - \$2,500	\$175.00
Claims of \$2,501 - \$5,000	\$300.00
Issuance of Summons.....	\$10.00

The Clerk can accept cash, personal or business checks, cashier checks, money orders, Master Card, Visa, or Discover Card. All checks payable to: Clerk of Court. Please do not send cash through the mail

WHAT DO I DO FIRST:

- Consult with an attorney for any legal questions you may have or contact one of the agencies above.
- Read the Florida Statutes and Rules of Procedure on Small Claims.
- Review and print the forms you may need -
- Review and expect to pay the fees that are required - **Fees: Must be paid at the time of filing.**
- Have all your paperwork filled out and copies made before you come to the Clerk of Courts office.
- Know how you want to get service on the defendant and what the correct address is.
- If you cannot get service, you will not have a court date.

HOW DO I FILL OUT THE Statement of Claim form?

Type or legibly print, in blue or black ink only

PLAINTIFF: This is the name and address of the person filing the lawsuit. If more than one plaintiff are filing the claim, each plaintiff must sign before filing.
 If you are a Plaintiff filing Out of State, there may be an additional **fee**.
 If you are an individual doing business under a Fictitious Name, so state.
 If you are a Corporation, the President or an Officer of the Corporation must sign the Claim, or Power of Attorney may be given to an employee to represent the Corporation in Court.
 If the Court determines that the Plaintiff is engaged in the business of collecting claims and holds such claim being sued upon, by purchase, assignment, or management arrangement in the operation of such business, the Court may require such Corporation to provide counsel in the prosecution of the case. (Florida Rules of Civil Procedure 7.050)

DEFENDANT: This is the name and address of the person(s) you are suing. The Defendant(s) complete name and address should be furnished at time of filing your Claim.
 If you are suing a husband and wife, you should not sue as Mr. and Mrs., but indicate each of their full names. If you are suing a Corporation or an individual doing business under a Fictitious Name (d/b/a), indicate this on your Claim.
 If you are suing a Corporation, you must know the name of the President or Registered Agent in order to obtain proper service on the Defendant(s). This information might possibly be obtained

from the Secretary of State, Corporate Filing Division, Tallahassee, FL 32304, by calling (850) 245-6500, or by logging on to **www.sunbiz.org**.

STATE YOUR CLAIM: This is where you write or type out your reason for filing the case. You will need to put how much your claim is for. Do not include court costs or service fees. You will bring the Original plus one copy for each defendant you are going to serve. Make sure that you keep a copy for your records. It is not necessary to attach numerous documents at the time of filing. If the Defendant(s) contests the case, you will be able to submit documents or exhibits at the time of final hearing.

HOW DO I GET THE DEFENDANT TO APPEAR? PRE TRIAL NOTICE/SUMMONS

You will have to fill out one of these for each defendant to be served. You must include the Name and address to be served. You will have to provide the Clerk with one Original and two copies for each defendant. The Clerk will assign a Court date and issue the summons. The service packet will then include one original Summons plus one copy of the summons with a copy of the Claim attached. The third issued copy of the summons will be your notice to appear in court. **This will be the only notice you will receive of the Pre trial Date scheduled.** The copies are served and then the original is what is returned to our office for the Court file.

Remember that there is a fee for the Clerk to Issue each Summons which is separate and in addition from any fees associated with the below service method options.

SERVICE: You can choose any of these methods to get service.

1. **Certified Mail** - See Clerk Fees for current pricing information. This is with restricted delivery prepared and mailed by the Clerk of Court. ***Certified Mail can only be considered effective service when the Defendant(s) address is in the State of Florida.*** If the defendant refuses certified mail from the post office, the pre-trial conference will not be held. Please note that the defendant may refuse delivery of the certified mail and this will delay your case from being resolved.

2. **Personal Service by Sheriff's Department** Fees for this service vary from county to county. Service is to be done by the Sheriff in the county where the defendant(s) are to be served. You will have to contact the Sheriff in that county for the service fees and acceptable forms of payment. If you are having a Sheriff located in another County attempt service on the defendant(s) you may submit the appropriate fee payable to that County Sheriff and a pre-addressed stamped envelope and we will gladly forward your summons to that Sheriff.

3. **Personal Service by a Private Process Server** Cost varies; please consult the process server of your choice. A list of approved Process Servers for this Circuit can be located at

(<http://www.12circuit.state.fl.us/Portals/0/PDF/ProcessServers/ProcessServers.pdf>)

WHAT HAPPENS AFTER I FILE MY COMPLAINT?

You will be given a receipt that states the amount you have paid for filing and the case number assigned to your case. The date of your Pre-Trial Conference will also be given to you on your Pre-Trial Summons. Your appearance is MANDATORY.

WHAT HAPPENS ON THE PRE-TRIAL CONFERENCE DATE?

Please note that you may have an attorney appear on your behalf at the Pre-Trial Conference. A request for telephonic appearance will not be granted. You do not want to bring witnesses to the Pre-Trial Conference. If you fail to appear at the Pre-Trial Conference, your case will be dismissed and you will have to re-file your Claim and pay the appropriate fees again.

If the Defendant(s) fail to appear and you have properly served prior to that date, you will be

given a Final Judgment by Default.

If the Defendant(s) appear at the Pre-Trial Conference and does not contest the claim, you may settle at that time by mediation.

If the Defendant(s) appears and contest the lawsuit, the case will be scheduled for a Final Hearing. This is a later date, to be heard by a Judge. You may bring, or subpoena, witnesses for the Final Hearing. You will receive notice of the Final Hearing by mail.

WHAT HAPPENS IF WE SETTLE BY MEDIATION BUT THE DEFENDANT FAILS TO COMPLY AFTERWARDS?

If you have settled by mediation a signed a stipulation that has been filed for record this will settle and close your case out. However if the defendant fails to comply with the settlement agreement you may Re-open your case to file an Affidavit as to Default by Stipulation so that you may obtain a Final Judgment against the defendant. This may be done with an additional charge. You may obtain this form under our form section. Please also review our fees for small claims as this will be an additional charge for filing.

HOW CAN I GET MY MONEY?

A Judgment arising from an auto negligence lawsuit can result in suspension of the Defendant's license until the Judgment is paid. After the expiration of 30 days from filing the Final Judgment, you may forward a certified copy of the Judgment to the Bureau of Financial Responsibility providing the Judgment has not been satisfied.

Please be aware that it is the obligation of the Plaintiff to provide the Defendant with a Satisfaction of Judgment upon payment of the Judgment, pursuant to F.S. 701.04

WHAT DO I DO IF I AM THE DEFENDANT IN A SMALL CLAIMS ACTION?

You have a specific date and time to Appear in Court

You must appear at the pre-trial conference.

You can seek legal counsel. (See number above)

You can pay prior to court, receive a receipt of payment and ask the Plaintiff to enter a Voluntary Dismissal of the case.

DO I HAVE TO GO TO COURT?

Yes, you have to appear in Court or retain the service of an Attorney to do so for you.

WHAT HAPPENS IF I DON'T GO TO COURT?

The Plaintiff can take any and all steps necessary under the Law to collect the debt.

See below on Where do I pay.

The Court can automatically enter a Default Final Judgment against you without further hearing.

WHAT WILL HAPPEN IF I GO TO COURT?

If you are not contesting the Claim, You and the Plaintiff will have an opportunity to meet with a Court Mediator to see if some of the issues can be resolved.

If you are contesting the Claim, and do not want to attempt Mediation, then a Final Hearing will be set before the Judge and you will receive the Notice at the address provided.

HOW DO I GET MY WITNESSES TO THE FINAL HEARING?

If you have witnesses, they can either come to court with you or you may want to Subpoena them. See the forms provided for a Subpoena that can be filled out by you and issued by the Clerk. You will have to make arrangements for the Service. There is a fee for the Clerk to issue a subpoena and to have it served.

WHAT HAPPENS AT THE FINAL HEARING BEFORE THE JUDGE?

The Court will take testimony if needed, review any documents submitted for evidence, and render a verdict. If the Judge agrees with the Plaintiff, then a Final Judgment will be entered. If the Judge agrees with the Defendant, then you can ask the court for a Dismissal of the case.

I WANT TO PAY THE CLAIM, WHAT DO I DO NOW?

You will pay the Plaintiff directly, getting a receipt. It is the Plaintiffs obligation, not the Court or Clerk, to provide you with a Satisfaction of Judgment.

The Plaintiff can take the steps necessary under the law to collect the debt. Those steps could include an Order to Garnish wages, a Writ to take possession of any property or items that may be in your possession. Also if this is a Judgment arising from an Auto Negligence Lawsuit, the Plaintiff could take steps to have your license suspended.