

**Citizens Guide to
Small Claims Court – Fifteenth Judicial Circuit
Ogle County, Illinois**

This form is provided to help you through your small claims case. If you feel you need legal advice or help, then you should consult a lawyer.

WHAT IS A SMALL CLAIMS CASE?

A case in which the “plaintiff”(person who starts the case) sues the “defendant”(person against whom the claim is made) for an amount not in excess of \$10,000.00. This may be for damages to your automobile, back wages, rent, or for any reason where the plaintiff thinks the defendant owes him not more than \$10,000.00 and he refuses to pay.

DO I NEED AN ATTORNEY?

No. Only a corporation is required to have an attorney, although you may choose to hire an attorney to represent you.

HOW DO I START A SMALL CLAIMS CASE?

You must complete a complaint form and file it with the Circuit Clerk. You should fill out this form carefully, stating the nature and amount of your claim, giving dates and other relevant information. If your claim is based upon a written instrument, you must attach copies of the complaint unless the instrument is unavailable to you. The complaint form should then be returned to the Clerk, who will give the case a file number, fix an “appearance date”(time and date when both plaintiff and defendant must first appear in court), and give you a summons. You must pay a filing fee and an additional fee if you demand a jury trial. There is no additional cost for having a trial before a Judge.

If the defendant resides in the State of Illinois, you may pay a fee and request the Clerk to mail the summons to the defendant by certified mail, or take the summons to the Sheriff’s office of the county the defendant resides in and request the Sheriff to personally serve the summons on the defendant. The Sheriff will require payment of their service fees in advance.

If the defendant resides outside of the State of Illinois, you must mail or deliver the summons, a copy of the summons, and a copy of the complaint to the Sheriff of the county where the defendant resides for personal service upon him or her.

The Judge cannot discuss the case with you prior to the trial, nor will the Judge discuss it after the decision has been

WHEN DO I GO TO COURT?

Both the plaintiff and defendant should appear in court at the time and date stated in the summons. If the plaintiff fails to appear, the case will be dismissed. If the defendant fails to appear or appears and admits owing the claim, the Judge will give the plaintiff a “judgment”(a decision and order by the Court that the defendant owes the plaintiff the amount they are claiming). If the defendant denies owing the claim, the case will be set for trial at a later date.

WHAT DO I DO AT THE TRIAL?

At the time of the trial, you should have with you in court all of your witnesses and any papers, records or photographs you want the Judge to see. At the beginning of the trial, first the plaintiff, then the defendant, may make an “opening statement”(a short statement of what they think the evidence will show.) After opening statement, the plaintiff will call their witnesses to the witness stand. The Court will place the witness under oath, and the plaintiff will ask them questions on “direct examination” (questioning by the side calling the witness.) The plaintiff may testify, and they can also require the defendant to testify. After the plaintiff has questioned all of their witnesses and is finished with their side of the case, then the defendant calls all of his or her witnesses. The defendant has a right to testify, and they can also require the plaintiff to testify as a witness.

Remember that the testimony of the witnesses should be in great detail. Your first question will be to

ask the witness their name and address. You know what happened, the Judge does not. Even though you have a good case, unless you can relate to the Judge what actually happened, you may lose. It may help you to write out the questions you plan to ask your witnesses before the trial.

After each witness has completed their testimony on direct-examination, they may be “cross-examined” by the other side.

Cross-examination is questioning a witness to see if they know what he or she is talking about and is actually telling the truth.

When you cross-examine a witness you should not argue with them or make a statement about their testimony, but only question them about what they have previously testified to on direct-examination. Taking notes during the direct-examination of a witness may later help you during your questioning on cross-examination. After the Court has heard all of the witnesses, first the plaintiff, then the defendant, may make a “closing argument” (each side sums up their case and tells the Judge what they think the evidence proved.) The plaintiff must prove their case the “greater weight of the evidence” if they are to win this case. Also, even though lawyers are not involved in the case, the Judge is still required to follow the rule of evidence. For instance, in order for the plaintiff to prove his damages, he must either show a paid bill (an estimate is not enough) or have testimony from a witness who can testify as to the specific damage and exact amount.

WHAT HAPPENS AFTER THE TRIAL IS OVER?

After the Court has heard all the evidence and closing arguments, the Judge will make his or her decision and enter a judgment either for the plaintiff or defendant. The losing side pays all court costs.

** If the judgment is for the defendant, the case will be dismissed.

** If the judgment is for the plaintiff, the defendant should arrange to pay the plaintiff the amount of the judgment, including court costs. The Court may direct installment payments.

WHAT IF THE DEFENDANT FAILS OR REFUSES TO PAY THE JUDGMENT?

You can research ways to enforce the judgment on helpful websites such as www.illinoislegailaid.org.

It may be advisable to employ an attorney if the defendant does not pay, as these steps to enforce a judgment are complicated, especially the procedure to collect by wage deduction.

CAN I HAVE A JURY TRIAL?

Yes, the person asking for a jury trial must pay a jury fee.

If you do not have a lawyer, you will be expected to handle your own case before the jury in the same way an lawyer would handle it for you.