

## Small Claims Court

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The Small Claims Court in Alabama is a part of a county's District Court where individuals and businesses can settle legal disputes involving \$6,000 or less. Small Claims Court is set up to be simple, informal, and inexpensive. You can represent yourself in Small Claims Court. You do not have to hire a lawyer.

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### How do I start a Small Claims lawsuit?

- The first step is to prepare a Statement of Claim, also known as a Complaint.
- Get a Statement of Claim form. You can find one <https://eforms.alacourt.gov>, select **Small Claims** from the left-hand menu, then **SM-01** from the list. You can also get one at any District Court Clerk's office.
- Make sure that you have the correct name and address of the person or business you are suing.
- Fill out the Statement of Claim (Complaint) to explain how much the defendant owes you and why.

### What do I do with the Statement of Claim?

- Take it to the District Court Clerk's office in the county where the person or business you are suing is located or where the wrong occurred.
- The court clerk cannot give any legal advice.
- Courts charge a filing fee to file a lawsuit. You will either have to pay a filing fee or fill out papers to show that you cannot afford to pay.
- If you cannot afford to pay the fee when you file, ask the clerk for an Affidavit of Substantial Hardship form. The clerk will get it to the judge, who can delay payment until the end of your case.

### What happens next?

- After the clerk gets your Statement of Claim, the Court will see that a copy is sent to the defendant.
- After getting a copy of the Statement of Claim, the defendant has 14 days to get an Answer to the court. When the defendant answers, they may include a Counterclaim against you.
- If the defendant does not answer within 14 days, you can fill out papers asking the Court to enter a default judgment in your favor. You may have to go to Court to show how much money the defendant should have to pay.

### What happens if the defendant answers?

- If the defendant denies owing part or all of the money sued for, the Court will send a notice to the parties setting a trial date.
- To prepare for the trial, be sure to get together all papers that might help your case. This includes receipts, bills, contracts and photographs.

- Be sure to talk with any witnesses who have first-hand knowledge of what happened.
- If a witness is important to you but unwilling to appear, you can make the witness appear by having the District Court clerk issue a subpoena.
- To get a subpoena, you must go to the clerk's office well in advance of the trial date, fill out a subpoena request form, and pay a subpoena fee.

### **What happens at the trial?**

- You should bring any witnesses and any papers that help prove your case.
- You have the right to have an attorney represent you in Small Claims Court, but you are not required to have one.
- A Small Claims Court trial is relatively informal, and there is no jury.
- Get to court by the time on your notice. **It is important to be on time to court, or the judge may automatically rule against you.**
- The person suing (the plaintiff) goes first, presenting evidence and calling witnesses.
- The defendant gets to question the plaintiff's witnesses and present evidence and witnesses.
- Do not interrupt the other side, even if they say something wrong. You will have the chance to have your say.
- After both sides have testified, the judge will make a decision based on the law and the facts presented.
- The clerk will send you a written judgment.

### **What if you think the judge is wrong?**

- You can appeal the case by going to the clerk's office and filing a Notice of Appeal form within 14 days of the date of the written judgment.
- The Court charges a filing fee to file an appeal. It also requires a bond for court costs.
- If you cannot afford to pay the appeal filing fee when you file, ask the clerk for an Affidavit of Substantial Hardship form. Fill it in and give it back to the clerk. The clerk will get it to the judge, who can delay payment until the end of your appeal.
- You may need an attorney to help you at this point. The appeal will be heard by the Circuit Court, which is more complicated than Small Claims Court.

### **If I win, how do I collect my judgment?**

- If you win a money judgment, the other party has 14 days to pay the judgment.
- If they do not pay, you can then go to the clerk's office, pay a fee, and fill out an Execution or Garnishment form.

- An **Execution** requests a court order authorizing the sheriff to pick up any property belonging to the other party, and to sell it to satisfy the judgment.
- A **Garnishment** requests a court order withholding the other party's wages to pay the judgment.

### **What if I lost and the other party tries to collect?**

- If an Execution or Garnishment is filed against you, you may still be able to protect your wages or property.
- You should ask a lawyer to explain your legal rights to you. The court clerk cannot give you legal advice.

### **Caution!!!**

- If you sue or are sued in Small Claims Court, include all of any claim you have against the other party in your Statement of Claim or Counterclaim.
- **If you do not include all claims that flow from a common set of facts, you may not be able to file separate claims later.**

### **What if I am sued in Small Claims Court?**

- The Sheriff will bring you the Statement of Claim, or it will come by certified mail. The person or business suing you is called the plaintiff.
- You must fill out the Answer form enclosed with the Statement of Claim and return it so that the District Court clerk gets it within the 14 days you have to answer.
- If you believe the person or business suing you actually owes you money, you can get a Counterclaim form from the District Court clerk to make your claim against the plaintiff.
- You may want to call a lawyer to find out your legal rights, especially if the plaintiff has a lawyer.

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This brochure offers legal information, not legal advice. We try hard to make sure our brochures accurately explain your rights and options. However, this brochure does not apply the law to your personal facts. For this sort of legal advice, you should call a lawyer. To apply for free legal aid and assistance in Alabama, please contact Legal Services Alabama.



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