

HOW TO FILE & SERVE A SMALL CLAIMS COMPLAINT & SMALL CLAIMS SUMMONS

NOTE: If there are any words or terms used in these instructions that you do not understand, please visit Illinois Legal Aid Online at illinoislegalaid.org/lexicon/glossary. For more information about going to court including how to fill out and file forms, call or text Illinois Court Help at 833-411-1121 or go to ilcourthelp.gov.

What is 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; or
 - You paid for work to be done, but the work was done poorly and the contractor refuses to fix it.

What can I get in 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 the other party to explain your position and the settlement you want.
- 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.

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.

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

- Yes. There is a fee to file a *Small Claims Complaint*.
- There are also costs related to filing and serving the *Small Claims Summons*.
- If you cannot afford to pay the filing fee, 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 illinoiscourts.gov/documents-and-forms/approved-forms.

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*.
- 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.
 - To find the full legal name and address of an incorporated business, you can search the online database of the Illinois Secretary of State for the full legal name of the business at cyberdriveillinois.com/departments/business_services/corp.html.
 - Unincorporated businesses, sole proprietorship, or general partnerships will not appear in this database.
 - 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.
 - You can look for the name of the owner of the business on your agreement, the website for the business, signs for the business, or advertisements.
 - If the unincorporated business operates under an assumed name (advertising name, such as "Action Plumbing"), you may be able to find out the name of the owner (whom you must name as the Defendant) by consulting the county clerk or local municipality.

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.

Find Illinois Supreme Court approved forms at: illinoiscourts.gov/documents-and-forms/approved-forms.

- 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.

What forms do I need?

- **Small Claims Complaint:** This form asks the court for a money judgment and gives information needed to begin the case. The email address (if you have one) and mailing address you put on the (*Form Name*) is where important legal documents will be sent to you. You should use an email account that you do not share with anyone else and that you check every day. If you do not check your email every day, you may miss important information, notice of court dates, or documents from other parties.
- **Small Claims Summons:** This form tells each Defendant that you are asking the court for a money judgment.
- **Letter to Sheriff:** You should use this form when suing a Defendant located outside of the county where you file your *Small Claims Complaint* or outside of Illinois.
- **Application for Waiver of Court Fees:** You only need this form if you cannot pay the filing fee (see immediately below). You file the *Application for Waiver of Court Fees* to ask the court to file for free or at a reduced cost.

Where can I find the forms I need?

- You can find the forms at illinoiscourts.gov/documents-and-forms/approved-forms.

How do I fill out my Small Claims Complaint?

- At the top of the *Small Claims Complaint*, write your name as the Plaintiff. Write the name of the person or business you are suing as the Defendant.
- The *Small Claims Complaint* must include the correct legal name, address, and phone number of the Defendant. If you sue an incorporated business, you must use its legal name. This 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 upon a written document of any kind (like a lease or contract), you must attach a copy of it to the *Small Claims Complaint*. The copy must be readable. If you do not have a copy of it, you must explain why it is not available in the *Small Claims Complaint*.

How do I fill out my Small Claims Summons?

- **If you are suing an individual:**
 - If you are suing more than 1 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*.
 - Ask the Circuit Clerk for the court date, time, and location (including courtroom or phone or video conference information) and enter that date in Section 3.
 - Ask the Circuit Clerk for the phone number and website for their office to list in Section 3.
 - To find the phone number for your Circuit Clerk, visit illinoiscourts.gov/courts/circuit-court/circuit-court-clerks/.
 - You will need to decide how to serve the Defendant. You can have the Circuit Clerk send the *Small Claims Summons* and *Small Claims Complaint* by certified mail. Or, you can have the Sheriff or a special process server serve the Defendant.
- **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 cyberdriveillinois.com/departments/business_services/corp.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."

- If you are suing more than 1 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*.
- The *Small Claims Summons* must include your contact information.
- Ask the Circuit Clerk for the court date, time, and location (including courtroom or phone or video conference information) and enter that date in Section 3.
- Ask the Circuit Clerk for the phone number and website for their office to list in Section 3.
- You will need to decide how to serve the Defendant. You can have the Circuit Clerk send the *Small Claims Summons* and *Small Claims Complaint* by certified mail. Or, you can have the sheriff or a special process server serve the Defendant.

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

Step 1: File your forms with the Circuit Clerk.

- You must file the *Small Claims Complaint* and *Small Claims Summons* with the Circuit Clerk.
- You must electronically file (e-file) court documents 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.
 - You will qualify for an exemption if: (1) you do not have internet or computer access at home and it would be difficult for you to travel to a place where you could use a computer; (2) you have trouble reading or speaking in English, or (3) you tried to e-file your documents, but you were unable to complete the process because the equipment or assistance you need is not available.
 - If you qualify for an exemption, fill out a *Certification for Exemption from E-Filing* found here: illinoiscourts.gov/documents-and-forms/approved-forms.
 - File the original and 1 copy of your forms and the *Certification*, with the Circuit Clerk's office in person or by mail.
- To e-file, create an account with an e-filing service provider.
 - Visit illinoiscourts.gov/service-providers.htm 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: illinoiscourts.gov/self-help/how-to-e-file/.

- If you do not have access to a computer or if you need help e-filing, take your forms to the Circuit Clerk's office where you can use a public computer terminal to e-file your forms.
 - You can bring your forms on paper or saved on a flash drive.
 - The terminal will have a scanner and computer that you can use to e-file your forms.

Step 2: Serve the other party with copies of your *Small Claims Complaint* and *Small Claims Summons*.

- 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 in one of three ways: through the Circuit Clerk (see Step 2a), through the sheriff (see Step 2b), or through a special process server (see Step 2c).

Step 2a: Serve through the Circuit Clerk

- You can have the Circuit Clerk serve the Defendant by mailing your *Small Claims Complaint* and *Small Claims Summons* to them by certified mail. The Circuit Clerk 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.
- Only the Circuit Clerk, not you, may mail the *Small Claims Complaint* and *Small Claims Summons*.
- This method is less expensive than the other ways to serve the Defendant. Pay the Circuit Clerk the fees for each party or give the Clerk a copy of your *Order for Waiver of Court Fees* (if you have one) to receive a full or partial waiver of the fees.
- If you think the Defendant will not sign the receipt (green card) that shows they got the forms, you may not want to use this method of service.
- If there are multiple Defendants, you must fill out a separate *Small Claims Summons* for each one.

Step 2b: 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.
- This method is more expensive than certified mail.

- Attach the *Small Claims Summons* to the front of the copy of your *Small Claims Complaint*.
- In person or by mail, ask the sheriff in the county where the person to be served lives to serve your *Small Claims Summons* and *Small Claims Complaint*.
 - In person:
 - Bring copies of your *Small Claims Summons* and *Small Claims Complaint* to the sheriff's office.
 - Pay the sheriff's fees for each party OR give the sheriff a copy of your *Order for Waiver of Court Fees* (if you have one) to receive a full or partial waiver of the fees.
 - By mail
 - Mail copies of your *Small Claims Summons* and *Small Claims Complaint* to the sheriff's office.
 - Include the *Letter to the Sheriff* found at illinoiscourts.gov/documents-and-forms/approved-forms.
 - Include a self-addressed and stamped envelope for the sheriff to mail the *Proof of Service* to you.
- Pay the sheriff's fees for each party OR mail the sheriff a copy of your *Order for Waiver of Court Fees* to receive a full or partial waiver of the fees.
- If the Defendant does NOT live in the same county or state where the case was filed:
 - Get the name, address, and telephone number of the sheriff for the county or the state where the Defendant lives.
 - Call the sheriff in that county or state to find out:
 - If it is the correct sheriff's department for the address where you want the other party served;
 - The address where you should bring or mail your *Small Claims Summons* and *Small Claims Complaint*;
 - The number of copies of your *Small Claims Summons* and *Small Claims Complaint* to bring or send; AND
 - The sheriff's fees for service and if they will honor your *Order for Waiver of Court Fees* (if you have one). A sheriff in Illinois must honor it. sheriffs outside of Illinois do not, but they may.

Step 2c: Serve through a special process server

- If you do not wish to use the sheriff, you may be able to 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 illinoiscourts.gov/documents-and-forms/approved-forms.

Step 3: Confirm service

- The person who serves the *Small Claims Summons* and *Small Claims Complaint* will fill out the *Proof of Service* section of the *Small Claims Summons*. They will then either file it with the Circuit Clerk or mail it to you.
- If the Circuit Clerk mailed the forms to the Defendant, the receipt (green card) will be mailed back to the Circuit Clerk. You can call the Circuit Clerk to see if the receipt has been returned and whether it shows that the Defendant was served. You may be able to look up this information online if your Circuit Clerk offers this option.
- 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 or special process server mails the *Proof of Service* to you, make a copy for yourself.
 - File the original with the Circuit Clerk.
 - If you e-file the *Proof of Service*, it will already be stamped for your records.
 - If you have an e-filing exemption and you paper file your *Proof of Service*, have the Circuit Clerk stamp your copy.
- If you used the sheriff or a special process server, and they were not able to serve the other party, ask them why. This can happen for a number of reasons. For example:
 - No one was home when the sheriff or process server 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 or special process server to try to serve the Defendant again.

Step 4: How to get a court date.

- Ask the Circuit Clerk if you have to schedule a court date or if one will be scheduled automatically.
- If you need to schedule the court date, ask the Circuit Clerk how to do so. The Circuit Clerk may schedule the court date or you may have to speak with other court staff.

- When you get your court date, ask if the court will send notice of the court date to the other party or if you need to.

Step 5: Get ready for your court date.

- You may be able to attend the court date by phone or video. This is called a “Remote Appearance.” Call the Circuit Clerk or visit their website to find out how to do this. To find the phone number for your Circuit Clerk, visit illinoiscourts.gov/courts/circuit-court/circuit-court-clerks/.
- 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; AND
 - 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.

Step 6: Go to your court date.

- You may have received a court date or written appearance date from the Circuit Clerk when you filed your *Small Claims Complaint*, or you may have received a written notice later from the Defendant or Circuit Clerk. If you cannot find your court date and time notice, call the Circuit Clerk.
- If your court date is by phone or video:
 - Make sure to have the call-in or login information for your court date and make sure your technology is working.
 - Follow the instructions on the court notice you received. Call the Circuit Clerk or Circuit Court or visit their websites for specific technology instructions.
 - Follow these recommendations to appear by phone or video: illinoiscourts.gov/self-help/court-by-phone-or-video.
- Bring these items with you to court:
 - Copies of all the documents you filed with the Circuit Clerk.
 - Any witnesses you want to testify.
 - Any documents you want the judge to look at.

Make sure you know how you are to attend your court date.

Your court date could be in person, by phone or by video. If it is by phone or video it is called a “Remote Appearance.” Call the Circuit Clerk or visit their website for more information. To find the phone number for your Circuit Clerk, visit illinoiscourts.gov/courts/circuit-court/circuit-court-clerks/.

- A photo I.D.

- Get to the courthouse at least 30 minutes early.
- Go to the courtroom number listed on your court form. If your forms do not have a courtroom number, look for a list of cases at the courthouse, or ask the Circuit Clerk.
- Check in with the courtroom staff and wait for your name and case number to be called.
- When your case is called, walk up to the judge and introduce yourself.

Step 7: Present your case.

- 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, then you must then take steps to enforce the *Order*. For information on how to do this, see the *Small Claims Citation* forms at illinoiscourts.gov/documents-and-forms/approved-forms.

Step 8: After the *Small Claims Order* is entered

Find Illinois Supreme Court approved forms at: illinoiscourts.gov/documents-and-forms/approved-forms.

- 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 or the forms on the Appeals tab to file an appeal:
illinoiscourts.gov/documents-and-forms/approved-forms.