

# Small Claims Court in Alabama

Small Claims Court is a special court that helps people and businesses solve disagreements about fairly small amounts of money (\$3,000 or less). Read this information to see how Small Claims Court works.

If you have questions or need legal help, talk to a lawyer. The Court is not allowed to give legal advice.

## Common Questions

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### **Is it hard to sue in Small Claims Court?**

No. The rules in Small Claims Court are simple. The procedures are informal, and it is not expensive.

### **Do I have to have a lawyer to sue in Small Claims Court?**

No. You don't need a lawyer. And, there are no juries.

You can hire a lawyer if you want to, but you do not *have to*.

## If someone owes me money, should I file a claim in Small Claims Court?

First, contact the person or business that owes you money. Try to settle your disagreement out of court. This can save both of you time and money.

## If I win, will the Court collect the money for me?

No. If you win, it's up to you to collect your money. So if the person you sue does not have any money to pay you, it will be hard for you to collect your money.

## Can anyone use the Small Claims Court?

You must be:

- An adult (19 or older),
- A partnership, or
- A corporation.

## Are there special rules for partnerships and corporations?

Yes. If it's a **partnership**, the person who speaks for the partnership in court must be:

- One of the partners,
- An employee of the partnership, or
- A lawyer.

If it's a **corporation**, the person who speaks for the corporation in court must be:

- One of the corporate officers,
- A full-time employee of the corporation, or
- A lawyer.

## How do I start a small claims case?

Follow these steps:

1. You (or your lawyer) must go to the Small Claims Division of the District Court in the county where the person or business you want to sue lives or has an office.
2. Fill out a *Statement of Claim* (Complaint) form. (The court clerk can give you this form or download it from [www.listurlhere](http://www.listurlhere).)
3. After you fill out this form, take it to the Court Clerk's Office and pay a filing fee.
4. The Clerk will process your papers and assign a case number. But the Clerk cannot give you legal advice.

## What if I don't have enough money to pay the filing fee?

Fill out an *Affidavit of Substantial Hardship*. This form asks the Court to let you pay later. (The court clerk can give you this form or download it from [www.listurlhere](http://www.listurlhere).)

## Am I the Plaintiff?

The person who *starts* the case is the Plaintiff. The person or business you are suing is the Defendant.

## What information do I need to fill out the *Statement of Claim*?

You must provide the Defendant's complete and correct name and address. The Court needs this information to serve the Defendant.

## How will the Defendant know about this case?

The clerk will serve (by mail) a copy of your *Statement of Claim*. The clerk will also mail the Defendant

a *Defendant's Answer* form.

If the Defendant wants to tell his/her side to the Small Claims Court, s/he has 14 days after receiving your *Statement of Claim* to fill out and file the *Defendant's Answer* form.

### **What if the Defendant does not file an *Answer*?**

If the Defendant does not answer by the 14-day deadline, you can ask the clerk for a Default Judgment. This means the Court will make an Order saying the Defendant must pay the amount of your claim.

### **Does the Defendant have other options?**

Yes. The Defendant can:

- File an *Answer* and go to Court to let a judge decide your case.
- File a *Counterclaim*, which is a claim against you.
- Make you an offer to try to settle the case without going to Court.

### **Is it a good idea to settle with the Defendant?**

Yes. Settling with the Defendant can be a very good way to handle your case.

That's because:

1. You won't have to go to Court, and
2. You can be sure about how much money you will get.

### **If I can settle with the Defendant, do I need a written agreement?**

Yes. It's very important to put your agreement in writing. Your agreement should say:

- How much money will be paid,
- Who will pay,
- Who will be paid,
- When the payment(s) will be made, and
- Who will pay for the court costs.

You and the Defendant must sign and date the agreement. And keep a copy for your records.

If you make an agreement, tell the Clerk so your trial can be cancelled. [Do they also file a copy of the signed agreement?]

### **How do I get ready for my small claims trial?**

Whether you are the Plaintiff or Defendant, do these things to get ready for your trial:

- Organize all of your evidence (receipts, letters, photos, etc.)
- Write a summary of what happened. Use your summary to tell the judge what happened and when.
- Practice what you want to tell the judge. You will only have about 5 minutes, so just say the most important things.
- If you get nervous in Court, you can read from your notes.

### **What if I can't go to Court on the date of my trial?**

Talk to the clerk as soon as possible. Ask the clerk to postpone your trial. This is called a continuance.

### **Can I take witnesses to Court?**

Yes. You may take witnesses who can support your case. If you think the witness will not want to go to

Court, you can ask the Clerk to subpoena the witness. That means the witness is ordered to go to Court. (You must pay a fee for a witness subpoena.)

### **What if I don't feel comfortable presenting my case in Court?**

Find a lawyer who can help you. Your lawyer will speak for you in Court.

### **What will happen at the trial?**

1. Arrive early. It takes time to find the courtroom. The judge will call your case.
2. You (the Plaintiff) will present your case. You will say what happened, show any evidence, and call your witnesses, if you have any.
3. Next, the Defendant will present his/her case. The Defendant also will say what happened, show any evidence, and call witnesses.
4. After the Court hears both sides, the judge will make a decision (judgment). (There is no jury.)

**Warning!** If you arrive late, the Court can dismiss your case or decide against you.

### **What if I disagree with the Court's decision (judgment)?**

Either side can appeal the case. To do this you must file a *Notice of Appeal* form with the clerk of the Small Claims Court within 14 days after the date of the judgment. (The court clerk can give you this form or download it from [www.listurlhere](http://www.listurlhere).)

Appeals are handled in a different court, called the Circuit Court. The person who asks for the appeal must pay a filing fee and post a bond to cover court costs. The rules in that court are more difficult than Small Claims Court. It's a good idea to talk to a lawyer.

### **If I win, how do I get my money?**

If you are the **Plaintiff** and you win your case, the Defendant must pay the judgment within 14 days. If you do not get paid, you can:

- Ask the Court for an "Execution Order." An Execution Order allows the sheriff to pick up any property that belongs to the Defendant. That property will then be sold so your judgment will be paid.
- Ask the Court for a "Garnishment." A garnishment allows the Defendant's employer to take money out of the Defendant's wages to pay your judgment.

You will have to fill out forms and pay a filing fee to get a garnishment or execution order. (The Court Clerk can give you this form or download it from [www.listurlhere](http://www.listurlhere).) It's a good idea to ask a lawyer for help filling out the forms and understanding the process.

If you are the **Defendant**, and you lose your case, it's a good idea to talk to a lawyer. A lawyer can help you understand your options.