

# How to Sue in Small Claims Court



Small Claims Court is a special court where:

- A person or a business can sue for up to \$5,000. (You can sue for more than \$5,000, but you must sue in Magistrate Court. You cannot get around the \$5,000 limit by filing 2 small claims.)
- The rules are simple.
- You don't need a lawyer. (You can talk to a lawyer before and after your trial, but you cannot have a lawyer speak for you in court. If you are a business, the owner or an employee can speak in court if that person is not a lawyer.)

## To Start Your Case...

### ① Fill out these court forms:

- *Plaintiff's Claim*\* (You are the *Plaintiff*. The person or business you are suing is the *Defendant*.)
- *Summons*
- *Proof of Service*

You can get these forms from the Court Clerk or online at: [www.courtselfhelp.idaho.gov](http://www.courtselfhelp.idaho.gov). (Click on *Forms*, then *Small Claims*.)

### ② Take your completed forms to a court in the county where:

- The Defendant lives, or
- The problem happened.

The Clerk will charge you a **\$49** filing fee.

Different kinds of cases have different deadlines. If you miss your deadline, you won't be able to file your claim.

To know the deadline for your case, ask a lawyer or read this state law: <http://legislature.idaho.gov/idstat/Title5/T5CH2.htm>

### ③ Someone – not you – serves the Defendant

Each Defendant should be **served** (given) a copy of the papers you file at court. Read *How to Serve Your Small Claims Papers* to know what to do.

**Warning!** If you do not serve correctly, the court will close your case.

### ④ Wait 20 days for the Defendant to “answer”

If the Defendant files an *Answer* within 20 days of being served, that means s/he **disagrees** with your claim. If this happens, the Clerk will mail you:

- A *Notice* with the date and time of your trial, and
- A copy of the Defendant's *Answer*, which explains his/her side of the case.

### ⑤ If the Defendant does **not** “answer” within 20 days (and was served correctly) you will get:

- A *Notice* with the date and time of your trial, or
- An *Affidavit* form to fill out and file. (Some counties use *Affidavits* instead of a trial).

A judge will review your claim and evidence. You will win your case **if**:

- The judge decides your claim is valid,
- You go to your trial (or file a complete *Affidavit*).
- The Defendant is 18 or older and able to understand what the case is about.
- You show the court that the Defendant is **not** on active military duty. Contact the Defense Manpower Data Center for a free report:

Tel.: (703) 696-6762

Fax: (703) 696-4156

Online: [www.dmdc.osd.mil/appj/scra/](http://www.dmdc.osd.mil/appj/scra/) (only if you have the Defendant's social security #)

**Important:** If the Defendant could not answer because s/he is in the U.S. Armed Forces, you **cannot** get a default judgment.

If you meet these requirements,, the clerk will mail or give you a copy of the “default judgment.”

### ⑥ Contact the Clerk if...

You cannot go to your trial on the date listed on the *Notice*. If you have an *urgent* reason to change the date, file a *Request for New Trial Date* at least 2 weeks before your trial.

You or a witness needs help with English or has hearing problems. The Clerk can send a free interpreter to your trial. The court does not allow friends or relatives to interpret for you.