



Region Legal Service Office,
Naval District Washington
Legal Assistance Department

Preventative Law Handout

SMALL CLAIMS COURT

When most people think of going to court to resolve a dispute, they think of lawyers, paperwork, and high costs. Small Claims Court offers a forum in which a person can affordably and quickly have a dispute resolved without having to contact a lawyer. The rules of Small Claims Court are not complicated and the hearing is held in a very informal manner.

JURISDICTION & STATUTES OF LIMITATIONS: CAN YOU FILE IN SMALL CLAIMS COURT?

Generally, the claim must be filed in the proper county (i.e. where the dispute took place, where the person you are suing lives, where the business operates, or where the accident occurred).

Also, statutes of limitations (laws which prohibit cases if the complaint is not filed within a certain period of time) apply in Small Claims Court. Any inaction or delay on your part in filing with the court may affect your rights. You should consult with a Legal Assistance Attorney or small claims advisor immediately to find out how much time you have to file a lawsuit.

Washington, D.C.:

You can file a lawsuit in Small Claims Court in D.C. if:

- The amount of money you are suing for (your claim) is \$10,000 or less; and
- You are only suing for money (i.e. not the return of property or performance of a service)

D.C. Code § 11–1321.

Maryland:

You can file a small claims case in Maryland if:

- Your claim is for \$5,000 or less; and,
- Your claim is for money only (i.e. not the return of property or performance of a service)

Maryland Code § 4–405.

Virginia:

You can file a case in Small Claims Court in Virginia if your claim is for less than \$5,000 (including the recovery of personal property worth less than \$5,000). Virginia Code § 16.1-122.2.

FILING: HOW DO YOU GET YOUR CASE INTO SMALL CLAIMS COURT?

You, the plaintiff, must first demand money from the defendant. The best method of demand is by letter. You should write a letter to the defendant demanding a specific amount and briefly set forth the reasons for your demand. Keep a copy of the letter for yourself and send the letter certified mail/return receipt requested. You will use the copy and the return receipt to prove to

the judge that you have demanded the money. If the defendant does not make payment or if you cannot reach an agreeable settlement, you must file a complaint.

Washington, D.C.:

- Complaints must be filed by submitting forms called “Statement of Claim” and “Information Sheet” in the Small Claims **Clerk’s Office** (see Resources below). The Small Claims Clerk’s Office is located in Court Building B, 510 4th Street, NW, Room 120. The party who files the case is called the plaintiff. The defendant is the person who is being sued. The statement of claim is a document that explains why the plaintiff believes the defendant owes the plaintiff money.
- The Small Claims Branch **Courtroom** is located in Court Building B, 510 4th Street, NW, Room 119.

Maryland:

- File a Complaint form (form number DC-CV-001) with the court (see Resources below for all forms)
- Pay the filing fee. Check the District Court’s Civil Cost Schedule (form number DCA-109) for fees.
- The court will issue a Writ of Summons to officially notify the other side (called “the defendant”) that a suit has been filed.
- Proof of Service (form number DC-CV-002) is submitted to the court that the other side has been notified, or served.

Virginia:

- Fill out a civil warrant form
 - If you are seeking money only, fill out and file the “warrant in debt” form (form number DC-402) specifying the dollar amount you are seeking and the reason you are suing (see Resources below for all forms)
 - If you are seeking the return of specific personal property, fill out and file the “warrant in detinue” form (form number DC-404) describing the property you’re seeking, its value, and the reason you are suing
- Pay the filing fee (see Resources below for fee calculator). You can also ask the clerk of the court to help you determine the fee.
- Send a copy of the civil warrant to the defendant by first-class mail at least ten days before your first court date.
 - Fill out a “certificate of mailing posted service” form (form number DC-413)
- After the clerk completes their portion of the warrant, the sheriff will serve it on the defendant (or you can choose to pay for private service yourself)

Make sure you make and keep copies of all the documents you are filing!

THE HEARING

Washington, D.C.:

Also, you or the defendant can make a request to have their case heard by a jury. The request must be in writing and signed. The written request must be filed with the Small Claims Clerk’s Office before the first court date, though the Court may extend the time to file the request for a jury demand upon request. After a jury demand is made, the case will no longer be heard in the Small Claims Branch. The case will be assigned to an Associate Judge in the Civil Division of Superior Court. In jury demand cases, however, all documents must be filed with the Small

Claims Clerk's Office. There is a \$75 fee for filing a jury demand, unless the fee is waived by the judge.

The judge will try to get you and the defendant to settle the case without a full trial, however you do not need to settle. If the case proceeds to trial, the judge is supposed to "conduct the trial in such manner as to do substantial justice between the parties according to the rules of substantive law, and is not bound by the statutory provisions or rules of practice, procedure, pleading, or evidence, except provisions relating to privileged communications." D.C. Code § 16-3906(b). Essentially, this means that the procedures are loose and designed to give the judge flexibility in resolving the case in a fair manner in accordance with the law.

All parties can bring witnesses (people who have first-hand knowledge of the case) to court to testify under oath at the hearing. If a witness will not agree to appear in court, the Court can issue a subpoena ordering the person to show up in court or give the Court documents that support the case. The subpoena must be served on the witness by a process server. The process server does not have to be approved by the Small Claims Clerk's Office but must be over the age of 18 and cannot be a party to the case.

Only the defendant can appeal if they lose.

Maryland:

If the defendant files a Notice of Intention to Defend, the court will notify you. The Notice of Intention to Defend includes space for the defendant to explain why he or she should not be required to pay you the money you claim you are owed. If the defendant chooses to list a reason, the notice you receive from the court will include that reason. Take note of the defendant's claim. You need to be prepared to explain to the judge why the defendant's argument is not valid. The court will set a trial date. Even if the other side does not file the Notice of Intention to Defend, you may still be required to come to court.

At trial, be prepared to present any witnesses, evidence or exhibits to prove your claim. However, you will not be allowed to use "discovery" procedures to get information from the other side before the hearing. You are allowed to have a lawyer represent you. The trial will be more informal than a regular trial, but you still need to be able to prove that the other side owes you the money you claim.

If you want to appeal, the case will be retried in the Circuit Court. You will have to present all your evidence and testimony again.

Virginia:

All parties represent themselves in actions before the small claims court, meaning you generally cannot have a lawyer present your case.

If you want to call someone as a witness, consider having them served with a subpoena, even if they have willingly agreed to appear at the trial or is a defendant. If the witness has received the subpoena at least five days before trial and if his or her testimony is important to the case, the judge will usually continue the case until a later date (if requested), should the witness not appear. Otherwise, the trial usually will proceed without that witness. To subpoena a witness, you must file a Request for Witness Subpoena (form number DC-325), in the small claims division of the clerk's office at least ten days before the trial. You will need to give the name and current home address of the prospective witness. You will be required to pay an additional sheriff's fee for the service of each witness subpoena. It is important to notify the witnesses

(except the other party) before they receive their subpoenas. Explain to a witness why his or her testimony is needed and try to convince the witness to come willingly.

Each case is tried in an informal manner. Both you and the defendant will be given an opportunity to introduce evidence, ask questions of the witnesses, and explain to the judge why the judge should enter judgment in either of your favor. The judge has the discretion to admit useful evidence even if it does not comply with all of the legal requirements.

At the end of the case, the judge will enter judgment for either you or the defendant. If judgment is for you, it may be the result you sought, or it may be less. You have the burden of proof, which means you must not only prove that you are entitled to win the case, but also must prove the amount due.

If a party wishes to appeal the judgment and the amount in dispute exceeds \$20, the party may file an appeal of the case to the circuit court for a new trial. The case will be heard as a completely new case. Notice of the appeal must be filed in the general district court where the case was heard within ten days after the judgment is entered. District Court Form DC-475, Civil Appeal Notice, which is used for filing an appeal, can be obtained from the general district court clerk's office. If an appeal is filed, the judge will set an appeal bond. Within thirty days after judgment is entered, an appealing party must perfect the appeal by posting the required bond with the clerk of the court. The appeal will be tried in circuit court in a formal manner strictly following all of the rules of evidence and procedure. Often, lawyers represent the parties. In circuit court, a jury may be requested if the claim exceeds \$20.

RESOURCES

D.C. Courts – Small Claims Forms: <https://www.dccourts.gov/services/forms/forms-by-location?location=smallclaims>

Maryland Courts

- Complaint Form: <https://mdcourts.gov/sites/default/files/court-forms/dccv001f.pdf>
- District Court Cost Schedule: <https://mdcourts.gov/sites/default/files/court-forms/dca109.pdf>
- Proof of Service: <https://mdcourts.gov/sites/default/files/court-forms/dccv002.pdf>

Virginia Courts

- Procedures Generally: https://www.vacourts.gov/resources/small_claims_court_procedures.pdf
- Warrant in Debt Form: <https://www.vacourts.gov/forms/district/dc402.pdf>
 - Instructions: <https://www.vacourts.gov/forms/district/dc402inst.pdf>
- Warrant in Detinue Form: <http://www.vacourts.gov/forms/district/dc404.pdf>
 - Instructions: <https://www.vacourts.gov/forms/district/dc404inst.pdf>
- Fee Calculator: http://webdev.courts.state.va.us/cgi-bin/DJIT/ef_djs_gdfees_calc.cgi
- Certificate of Mailing Posted Service: <https://www.vacourts.gov/forms/district/dc413.pdf>
 - Instructions: <https://www.vacourts.gov/forms/district/dc413inst.pdf>
- Witness Subpoena Request: <https://www.vacourts.gov/forms/district/dc325.pdf>
 - Instructions: <https://www.vacourts.gov/forms/district/dc325inst.pdf>

This handout is for informational purposes only and is not intended to be specific legal advice. If you need legal advice, speak with an attorney at your nearest Legal Assistance Office. Legal Assistance Offices can be found at <https://legalassistance.law.af.mil/>

Region Legal Service Office, Naval District Washington
1250 10th Street SE, Bldg. 200, Ste. 1600, Washington Navy Yard, DC 20374-5164
(202) 685-5580

Dec 2022