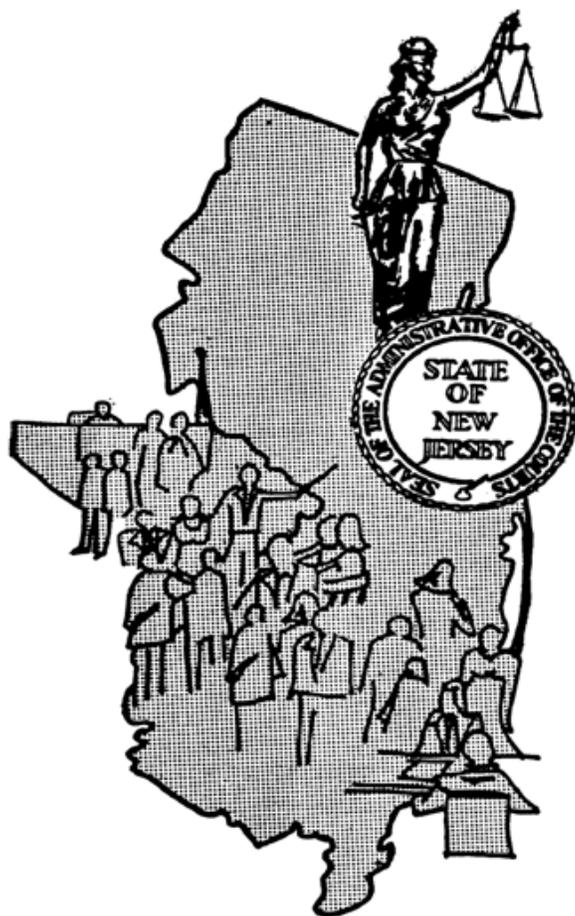


NEW JERSEY JUDICIARY
SPECIAL CIVIL
A GUIDE TO THE COURT



Superior Court of New Jersey
Law Division
Special Civil Part

Special Civil is a court of limited jurisdiction in which you may sue someone (the defendant) to collect an amount of money up to \$15,000 that you believe is owed to you. (If your claim is \$3,000 or less, [\$5,000 in the case of a tenant's security deposit], you may sue in the Small Claims Section; please refer to the Small Claims brochure.) This brochure explains how to file a complaint, how to answer a complaint, and how to file an appeal, and gives general information about Special Civil. It is not intended to provide or take the place of legal advice or to answer every question you have about this court.

For legal advice about your rights, you should contact a lawyer. If you do not have a lawyer, you may contact the Lawyers' Referral Service of your County Bar Association. If you cannot afford an attorney, you may contact the Legal Services Program in your county to see if you are eligible for free legal services.

Special Civil

Special Civil is one of three sections of the Superior Court's Special Civil Part. The other two sections are Landlord/Tenant and Small Claims. (Separate brochures are available for these sections.) Special Civil is limited to cases in which the demand is \$15,000 or less. If you believe you are entitled to recover more than \$15,000, your case should be filed in the Civil Part of the Law Division of the Superior Court.

If you believe you are entitled to damages greater than \$15,000, but still wish to sue in Special Civil, you give up your right to recover damages over \$15,000. The additional money cannot be claimed later in a separate lawsuit.

Typical Claims Filed

Following is a general list of claims that may be filed in Special Civil:

- Breach of a written or oral contract.
- Return of money used as a down payment.
- Property damage caused by a motor vehicle accident.
- Damage to or loss of property.
- Consumer complaints for defective merchandise or faulty workmanship.
- Payment for work performed.
- Claims based on bad checks.
- Return of a tenant's security deposit.
- Claims arising from professional malpractice (for example, alleged malpractice by a doctor, dentist, or lawyer).

Where To File A Complaint

A complaint must be filed in the Office of the Special Civil Part Clerk in the county where at least one defendant lives or where the defendant business is located. A business defendant is considered located in a county wherever it is actually doing business or in the county where its registered office is located. If there is more than one defendant, the complaint can be filed in the county where any of the defendants lives or is located. If none of the defendants lives or is

located in New Jersey, the complaint must be filed in the county where the cause of the complaint occurred.

Who May File A Complaint

To sue in the Special Civil Part, a person must be 18 years of age or older. If the person suing is under the age of 18, the claim must be filed by a parent or guardian. A plaintiff or defendant that is a corporation, partnership, limited liability company, etc., must be represented by an attorney when the claim is greater than \$3,000. An officer, trustee, director, agent, or employee of a corporation may present or defend against a claim of \$3,000 or less.

Filing A Complaint

A Special Civil complaint form is available from the Clerk of the Special Civil Part in the county in which the case will be filed. The clerk's staff can tell you about the proper format for the complaint. A *pro se* complaint packet with accompanying instructions is also available from the clerk's office and is available on the Internet at njcourtsonline.com.

The complaint can be filed through the mail or in person. When filing a complaint, you, as the plaintiff, must:

- Give your full name, address, and telephone number.
- To ensure proper service of the complaint, give the correct name(s) and address(es) of the person(s) named as the defendant(s) in the complaint. It is important that the defendant be properly identified as an individual, a sole proprietorship, a partnership, or a corporation.
- State the amount of money for which you are suing.
- State the reason why the defendant owes you money.
- State whether there is at this time another case involving both you and the other party(ies) and, if so, the name of the court.
- Sign the completed form.
- Pay the correct filing and service fees when filing the complaint with the Clerk of the Special Civil Part.

After you have filed a complaint, a trial date will not be set unless the defendant forwards an answer in writing along with the proper fees to the Clerk of the Special Civil Part within 35 days from the date the complaint was served upon that defendant. If the defendant responds in writing within the 35 days, a trial date will be scheduled. All parties will be notified by the court.

If a defendant does not respond within the 35 days, the Court will enter a default. The plaintiff must apply for the entry of a “judgment by default” within 6 months from the date that default was entered or they must file a motion in order to obtain the judgment by default. Through a judgment by default, the court decides the amount of money, if any, to be awarded to a plaintiff because the defendant did not answer the complaint in time or come to court. You are required to submit an affidavit and other documents verifying the amount of your claim and prove to the Court that the individual defendant is not an active member of the U.S. military. Proof of military service does not apply to business defendants. A hearing may be held in court to allow you to prove your claim where the amount you claimed cannot be proved from your documents. (A *pro se* packet on how to apply for a default judgment is available in any Special Civil Part

Clerk's Office and is available on the Internet at njcourtsonline.com.)

If the complaint is for money damages caused by a motor vehicle accident and the judgment requires a defendant to pay \$500 or more, the defendant must pay within 60 days. If the defendant does not pay within the 60 days, the plaintiff may request through the Clerk of the Special Civil Part that the New Jersey Motor Vehicle Commission stop the defendant's driving and registration privileges until the judgment is paid.

Filing Fees For A Complaint

The costs for filing a complaint in Special Civil are:

- \$32 for a complaint where the amount claimed is \$3,000 or less.
- \$50 for a complaint where the amount claimed is more than \$3,000.
- \$2 for each additional defendant.

Currently the fee is \$7 for each defendant served by certified and regular mail. This is subject to change, however. (A fee for mileage may be charged instead of the \$7 mailing fee if the complaint is served personally by a court officer. Staff of the Special Civil Part can inform you of the mileage fee, if any.) Make a check or money order payable to the *Treasurer, State of New Jersey*.

- \$50 for a jury trial by six jurors.

If you are poor, you may apply to the court to qualify as an indigent and your filing fees may be waived by the judge.

Filing An Answer To A Complaint

If you have been named as a defendant in a case, you must file a written answer to the complaint with the Clerk of the Special Civil Part in the county in which the complaint was filed within the number of days stated in the summons (35 days if you reside or are located in New Jersey; 35 days if you reside or are located out of state). You also must deliver a copy of the answer to the plaintiff or plaintiff's attorney personally or by mail. A *pro se* answer packet with accompanying instructions is available from the Clerk's office and is available on the Internet at njcourtsonline.com.

If you believe that the plaintiff owes you money, you must add a counterclaim to the answer. If you believe that someone else named as a defendant in the complaint owes the money, you must add a cross claim against that defendant to the answer. Finally, if you believe that a party not named in the complaint owes the money, you must add a third party complaint to the answer.

When filing an answer, be sure to give the following information:

- The docket number and caption of the case which appears on the complaint.
- Your full name, address, and telephone number.
- The correct name(s) and address(es) of the plaintiff(s).
- The reason(s) you are disputing the plaintiff's claim. Include the amount of money for which you are suing if you are including a counterclaim, cross claim or third party

complaint with your answer.

You also must sign the answer and pay the correct filing fees when filing the answer with the Clerk of the Special Civil Part.

If you do not respond to the complaint in writing within the number of days listed on the summons, a default will be entered against you. Through a judgment by default, the court decides the amount of money, if any, to be awarded to the plaintiff because you did not answer the complaint in time. If you have answered the complaint on time, the court will notify you by mail of the trial date.

Filing Fees For An Answer

- \$15 for an answer.
- \$32 for an answer with a counterclaim, cross claim, or third party complaint where the amount is \$3,000 or less.
- \$50 for an answer with a counterclaim, cross claim, or third party complaint where the amount is more than \$3,000. (Note: The Clerk will also charge an additional fee for serving the third party complaint.)

If you are poor, you may apply to the court to qualify as an indigent and your filing fees may be waived by the judge.

Preparation For Trial

Interrogatories

The Rules of Court provide for an exchange of information by the parties. Whether you are the plaintiff or the defendant, questions from the opposing party, called “interrogatories,” must be answered within 30 days.

Plaintiff

If you are the plaintiff, you must prove your case. Arrange to have any witnesses and records you need to prove your case at the trial. A written statement, even if made under oath, cannot be used in court. Only actual testimony in court of what the witness(es) heard or saw will be allowed. Prepare your questions in advance.

Bring to court records of any transactions that may help you prove your case. Such records may include:

- Canceled checks, money orders, sales receipts.
- Bills, contracts, estimates, leases.
- Letters.
- Photographs.
- Other documents proving your claim.

If you are able to settle the case with the defendant before the trial date, call the Special Civil Part Clerk's Office immediately.

Defendant

If you are the defendant, you should prepare your side of the case as the plaintiff prepared his or her case. Bring all necessary witnesses and documents to court with you on the scheduled trial date.

You must come to court at the time and date shown on the trial notice. If you do not, a default judgment may be entered against you and you may have to pay the money the plaintiff says you owe.

If you are able to settle the case with the plaintiff before the trial date, call the court immediately to confirm that the case was marked settled.

The Day Of Trial

The defendant and the plaintiff must come to court at the time and date stated on the trial notice, unless otherwise notified by the court. Bring all witnesses and evidence needed to present your case.

On the day scheduled for trial, the court may help you settle your case through mediation with a trained mediator or a settlement conference with a neutral third person. This person will try to help the plaintiff and the defendant reach a satisfactory agreement. The mediator or neutral third person is not a judge. If a settlement cannot be reached, every effort will be made to have your case tried by the judge on the same day.

If you win your case, consult the Judgment Collection brochure for information on how to collect your judgment.

Right To Appeal

If you, as a plaintiff or a defendant, disagree with the court's decision, you may appeal the case to the Appellate Division of the Superior Court within 45 days from the date of judgment. You must file a Notice of Appeal, a copy of the Request for Transcript, and a Case Information Statement within the 45 days with the Clerk of the Appellate Division located at the Richard J. Hughes Justice Complex, PO Box 006, Trenton, NJ 08625 and deliver copies to:

- All parties to the case who appeared in court.
- The Clerk of the Special Civil Part from which the appeal is taken.
- The judge who decided the case.

You must pay a filing fee of \$200 with the Notice of Appeal and deposit \$300 with the Clerk of the Appellate Division within 30 days of the Notice of Appeal. This deposit may be used to pay settlement or court costs if the appeal is lost. If the appeal is successful, the deposit will be refunded.

You also must obtain a transcript (a copy of the record of what happened in court) of the trial. The request for a transcript should be made to the Office of the Clerk of the Special Civil Part in the county in which the case was tried. You must deposit with the Clerk the estimated cost of the transcript (as determined by the court reporter, Clerk, or agency preparing it) or \$300 for each day or part of a day of the trial. You must file three copies of the transcript with the Office of the Clerk of the Appellate Division. Questions concerning an appeal should be directed to the Office of the Clerk of the Appellate Division at 609-292 4822, or to an attorney.

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Stuart Rabner
Chief Justice

Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Robert W. Smith
Director, Office of Trial Court Services

Jane F. Castner, Esq.
Assistant Director, Civil Practice

Robert D. Pitt, Esq.
Chief, Special Civil Part Services

Robert J. Piscopo
Administrative Specialist 4

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(609) 292-9580
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