

## Small Claims Frequently Asked Questions

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This FAQ provides general information about the Small Claims Section. It is not intended to provide or take the place of legal advice or to answer every question you may have about this court.

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

### What Is Small Claims Court?

The Small Claims Section of the Special Civil Part Court is where you may sue a person or business (the defendant) to collect a small amount of money that you believe is owed to you. Since procedures in Small Claims are simpler than in other courts, persons usually can file and present their cases relatively quickly and inexpensively, and often without an attorney. The following answers to frequently asked questions explain how to file a complaint or an appeal, and gives general information about Small Claims in New Jersey.

Small Claims is one of three sections within the Special Civil Part Court. The other two sections are Landlord/Tenant and regular Special Civil Part. Small Claims handles cases in which someone wants to sue for not more than \$3,000 or \$5,000 if the lawsuit is based upon the return of a tenant's security deposit. These are the money limits of Small Claims. If the amount of money you are trying to recover is more than the small claims money limits, but less than \$15,000, your case should be filed in the regular Special Civil Part. Cases in which damages (money you are suing for) are more than \$15,000, your case must be filed in the Civil Part of the Law Division of the Superior Court.

*If you believe you are entitled to damages greater than the money limits, but still wish to sue in Small Claims, you give up your right to recover damages over the money limits. The additional money **cannot** be claimed later in a separate lawsuit.*

### What Claims Are Typically Filed?

Following is a general list of claims which can be filed in Small Claims:

- 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.
- Claims for back rent.
- Return of a tenant's security deposit (Not to exceed \$5,000 if suing for the defendant's failure to return a tenant's security deposit).

### **What Claims Cannot Be Filed?**

The following is a general list of claims that cannot be filed in Small Claims:

- Claims arising from professional malpractice (for example, alleged malpractice by a doctor, dentist or lawyer).
- Claims for support or alimony from a marital or a domestic dispute.
- Claims arising from a probate matter.

*Please remember that if you believe you are entitled to damages greater than the money limits, but still wish to sue in Small Claims, you give up your right to recover damages over the money limits. The additional money **cannot** be claimed later in a separate lawsuit.*

### **Where Do I File a Complaint?**

A complaint must be filed in the Office of the Special Civil Part of the county where at least one defendant lives or where the defendant's 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 one 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. A list of all of the Special Civil Part Offices, addresses and phone numbers in New Jersey is available on the Internet at [njcourts.gov](http://njcourts.gov).

### **Who May File a Complaint?**

To sue in Small Claims, a person must be 18 years of age or older. If the person suing is under the age of 18, the complaint must be filed by the parent or guardian.

### **How Do I File a Complaint?**

A Small Claims complaint form and accompanying instructions, is available in any New Jersey Special Civil Part Office and is available on the Internet at [njcourts.gov](http://njcourts.gov). The summons and complaint can be filed through the mail or in person at the appropriate Special Civil Part Office (*See* "[Where Do I File a Complaint](#)"). 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) or business(es) 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(s) owes you money.
- State whether, at the present time, if there is any other case involving both you and the other party(ies) and, if so, the name of the court.
- Do not provide any party's \*"confidential and personal identifiers" in the complaint or in any other submission to the court unless specifically required under law, court order, rule or administrative directive.
- Sign and date the completed form.
- Pay the correct filing and service fees when filing the complaint with the Office of the Special Civil Part.

\* A "confidential personal identifier" is defined as a social security number, driver's license number, vehicle plate number, insurance policy number, active financial account number or active credit card number. You can provide the last 4 digits of a party's active financial account if it is the subject of the lawsuit and cannot otherwise be identified.

## What Are the Filing Fees?

The cost for filing a complaint in Small Claims is:

- \$35 for one defendant.
- \$5 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 \$3 mileage fee, plus applicable court officer mileage fees, are charged for one defendant instead of the \$7 mailing fee, if the complaint is served personally by a court officer. Each additional defendant that you want the court officer to personally serve is an additional \$5 fee plus applicable court officer mileage. Staff of the Special Civil Part can inform you of the mileage fees, if any.] Make a check or money order payable to the **Treasurer, State of New Jersey**.

*If you cannot afford to pay the filing fees, you may apply to the court to qualify as an indigent and your filing fees may be waived by the judge.*

## How do I Prepare for Trial?

### ***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 under oath, is not admissible 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:

- Cancelled 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 Office immediately to confirm that the case should be marked settled.*

### ***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 summons. 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 Special Civil Part Office immediately to confirm that the case should be marked settled.*

### **What Happens on the Day of Trial?**

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

On the day scheduled for trial, the court will help you try to settle your case through a settlement conference with a trained neutral third person. This person will try to help the plaintiff and the defendant reach a satisfactory agreement. The neutral third person is not a judge. If a settlement cannot be reached, your case likely will be heard 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. The Judgment Collection brochure is available in any New Jersey Special Civil Part Office and is available on the Internet at [njcourts.gov](http://njcourts.gov).*

### **Can I Appeal?**

If you, as a plaintiff or as 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 when the final decision rendered. (The information is available on [njcourts.gov](http://njcourts.gov)) 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 Hughes Justice Complex, Trenton) and deliver copies to:

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

You must pay a filing fee of \$250 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 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.