

NEW JERSEY JUDICIARY
SMALL CLAIMS



Superior Court of New Jersey
Law Division
Special Civil Part
Small Claims Section

The Small Claims Section is a court in which you may sue someone (the defendant) to collect a small amount of money that you believe is owed to you. The 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.

This brochure explains how to file a complaint, a counterclaim, an appeal and gives general information about Small Claims in New Jersey.

Small Claims Section

Small Claims is one of three sections of the Superior Court's Special Civil Part. The other two sections are Landlord/Tenant and regular Special Civil Part. [Separate brochures are available for these sections.] Small Claims handles cases in which the demand is not more than \$3,000 or \$5,000 if the demand is for 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 money limits, but less than \$15,000, your case should be filed in the regular Special Civil Part. Cases in which damages are more than \$15,000 must be filed in 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.

Typical Claims 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.

Claims That 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, such as a will.

Where To File A Claim

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 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.

Note: A complaint for the return of a security deposit may be filed in the county where the landlord lives or where the landlord's rental property is located.

Who May File A Claim

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.

Filing A Complaint

A Small Claims summons and complaint form is available from the clerk of the Special Civil Part in the county in which the case will be filed. A *pro se* complaint packet with accompanying instructions is available from the Clerk's Office and is available on the Internet at njcourtsonline.com. The summons and 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 at the present time there is any other case involving both you and the other party(ies) and, if so, the name of the court.
- State whether you will need an interpreter and specify in which language.
- State whether you have a disability requiring special accommodations.
- Sign the completed form.
- Pay the correct filing and service fees when filing the complaint with the clerk of the Special Civil Part.

Upon filing and service of a complaint, all parties will be notified of the trial date by the court.

If the defendant does not appear for trial, the plaintiff will have a "default" entered by the court. The court may decide on the day of trial the amount of money, if any, to be awarded to a plaintiff, and that is called the entry of a "judgment by default." However, the plaintiff must provide satisfactory proof as to the amount of money due and owing and prove that the individual defendant is not an active member of the U.S. military. Proof of non-military service does not apply to business defendants. (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 more than \$500, 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

The cost for filing a complaint in Small Claims is:

- \$15 for one defendant.
- \$ 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*.

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 A Counterclaim

If you have been named as a defendant in a case and you believe the plaintiff (the person who filed the complaint) owes you money, you may file a counterclaim. To file a counterclaim, follow the same procedure (outlined above) for filing a complaint, but be sure to do it before the date listed for trial in the summons.

Preparation 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 made 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:

- 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.

If the plaintiff does not appear, the judge may dismiss the case. If the defendant does not appear, a default judgment may be entered and the defendant may have to pay all or a portion of the money claimed to be owed.

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 plaintiff and the defendant must come to court at the time and date stated on the summons, unless otherwise notified by the court.

On the day scheduled for trial, the court will help you try to settle your case through settlement discussions with a trained settler. The settler will try to help the plaintiff and the defendant reach a satisfactory agreement. The settler is not a judge. If a settlement cannot be reached, your case will be heard by the judge on the same day.

If you win your case, consult the Judgment Collection brochure 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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