

SMALL CLAIMS COURTS

HOW TO USE THEM



ACADIANA LEGAL SERVICE CORPORATION

Alexandria 318-443-7281

Marksville 318-253-6618

Franklin 337-828-9010

New Iberia 337-367-2204

Opelousas 337-942-4670

Leesville 337-238-4172

Lake Charles 337-439-0377

Lafayette 337-237-4320

WHAT ARE SMALL CLAIMS COURTS?

Small claims courts are courts where you sue to solve minor civil law problems or to collect small amounts of money owed you. Using them is one of your rights as a citizen. You can file suit there without having to hire an attorney and the technical rules of evidence are relaxed so you won't feel lost. You do waive (give up) your right to a trial by jury and you must accept the judge's decision as final. You have to pay a filing fee when you file your suit, but if you win your case the judge may decide that the defendant (the party you're suing) has to pay you (the plaintiff) back. However, if you file suit and then agree to an out-of-court settlement, you must still pay court costs unless the terms of your settlement require the defendant to pay these costs.

WHO MAY SUE?

Anyone filing on his own behalf who is 18 years of age or older can sue in small claims court. A younger person must sue through a parent or guardian. A corporation can also sue.

WHO MAY BE SUED?

The person or company being sued may be an individual, a corporation, a partnership, a sole proprietor, or an unincorporated association such as a club. In some cases there may be more than one defendant. You can sue only the person/persons or company who caused you damage or injury.

WHAT KINDS OF SUITS MAY BE FILED?

Small claims court suits include contract arguments, money damages based on injury caused by another person, action to get possession of personal property (but not real estate), eviction proceedings and consumer problems. Common consumer complaints involve: repairs, warranties, defective products, damaged property, insurance claims and undelivered goods. Suits involving personal injury have to be filed within one year of the date of injury.

You can **not** file suits involving: marriage, separation or divorce; emancipation of a minor; a state agency or the local or parish government; a public official acting on official duty. You also cannot sue for punitive damages, only actual damages. For example, if someone caused you \$500 worth of damages, you can sue for that but not for another \$500.

WHERE IS THE SUIT FILED?

Ordinarily, you file suit in the area where the person or company you're suing (the defendant) lives or does business. Contact the city court in that area (or the justice of the peace if it's a rural area) to see if it handles small claims. If you don't know who the justice of the peace is in a particular rural area, ask at the office of the clerk of court in the parish courthouse.

HOW DO YOU BEGIN A SUIT?

It's always better to try to solve problems outside of court, so try to settle the matter first by talking to the person or company or writing letters to solve the dispute. The form of the phone call should be as follows:

- ◆Identify yourself;
- ◆State the reason why you are calling;
- ◆Ask to speak to the appropriate person;
- ◆Identify yourself and state your problem again;
- ◆Ask for the name and title of the person you are speaking with
 --**Write This Name Down;**
- ◆Use your notes to describe the problem;
- ◆Make a firm demand - Example ("I expect your repairman to be out here tomorrow to fix my roof or I want my money back");
- ◆Get an answer, either a yes or no.

If the call doesn't do any immediate good, save your notes as evidence and type or write a short letter to the person or company, send it by certified mail, and keep a receipt:

- ◆Send the letter to the person you spoke with
- ◆Give the date, nature and location of the problem
- ◆State the other party's responsibility for fixing the problem
- ◆Mention your efforts (your phone call) to resolve the problem
- ◆State your demand for a refund or compensation
- ◆Allow two weeks deadline for compliance with your demand
- ◆Don't make threats of legal action yet.

If your first letter doesn't solve the problem, type or write a short demand letter, send it also by certified mail, and keep a receipt. Then, if your problem is still unresolved, go to court and use all of this evidence.

(Sample Demand Letter #1)

Mrs. Elizabeth Jones
123 Marigold Loop
Lafayette LA 70506

Certified Mail Return Receipt Requested

Mr. T. Williams
Hottin Roofers, Inc.
26 Tobacco Road
Midland, MI 33242

Dear Mr. Williams:

On November 20, 2002, I hired your firm to repair the roof of our house at 321 Baker Street. On November 21, two men from Hottin roofers (a Mr. Bates and another man with a large mustache) arrived and began repairs. They worked for two days. I received a bill for \$1,650 and paid it in full on December 7, 2002.

It rained on December 13. The roof leaked at the exact spot where the "repairs" were performed, and there was substantial damage to the carpet and wallpaper below. When I hired your firm to repair the roof, I was promised high-quality repair work. The job performed by your employees clearly fails to meet this standard.

When I called you on December 14, you refused to send someone to seal the roof, and you refused to discuss compensation for the damage caused by the leak. Given the circumstances, I think the only way to settle this matter is for you to refund the \$1,650 paid Hottin Roofers, plus \$350 to cover the deductible for my homeowners' insurance policy. I expect a check from Hottin Roofers within 14 days.

Sincerely,

Mrs. Elizabeth Jones
cc: Homeowners' Insurance Company

(Sample Demand Letter #2)

Mrs. Elizabeth Jones
123 Marigold Loop
Lafayette LA 70560

Certified Mail Return Receipt Requested

Mr. T. Williams
Hottin Roofers, Inc.
26 Tobacco Road
Midland, MI 33242

Dear Mr. Williams:

I have made several attempts to have your company complete the work on my roof or to compensate me for the damages. You have failed to respond to my requests. Therefore, I see no other alternative but to demand a full refund of the \$1,650 that I paid for the work, plus refund of my \$350 insurance deductible.

This is my last request. If you do not respond within ten days from the date of this letter, I will be forced to pursue legal remedies. I hope we can settle this matter quickly and amicably.

Sincerely,

Mrs. Elizabeth Jones

Small claims court divisions allow you to state your claim orally. The clerk should help you with the wording. You will sign a claim form or affidavit after it is typed and will pay your fee at that time. Suits can also be filed in writing and by mail.

On the statement of claim, give your name and address and the legal name and address of the defendant. When you sue a company, name the entity which operates it. For example, Jim's Body Shop might be operated by Jim Jones or J.J., Inc. The operator's name might be found on a license posted in the place of business or you might contact the city or parish authority which issues occupational licenses. When you sue an individual whom you don't know, you might get the license number of his car and contact the Department of Motor Vehicles for the name on the vehicle registration. If you are not sure who is responsible, you may name more than one person. The clerk should help you correctly identify your defendant.

Also state the amount of money you're suing for, the reason why you think the defendant owes you money and a demand that the judge award you the amount sued for plus court costs and judicial interest. Attach copies of any papers that can help prove your claim, such as canceled checks, contracts, leases, bills and receipts. Include your filing fee.

HOW MUCH SHOULD YOU SUE FOR?

Sue for the sum of money which represents the actual damages. For example, if your new \$350 washing machine doesn't work, sue the store operator for \$350 plus court costs and judicial interest. Judicial interest means that if you win, you can claim interest on the sum of money owed you from the time you filed suit until the money is paid. The interest rate changes from time to time; the court can tell you the current rate.

A \$2000 limit is set on the amount of money you can sue for in the small claims court divisions of city court. A \$1,200 to \$1,500 limit is set in the small claims court divisions of the justice of peace courts depending on the nature of the suit. **But:** some city courts and justices of the peace courts may have limits which vary.

HOW MUCH DOES IT COST TO SUE?

Fees vary from court to court. Call the clerk's office to be sure of the fee. You have to pay a filing fee when you file suit, but if you win your case, the judge may decide that your opponent has to pay you back.

WHAT HAPPENS AFTER YOU SUE?

After you file suit a citation is served on the defendant, telling him he is being sued and that he must appear in court if he wants to defend himself. He has ten to fifteen calendar days to answer, starting from the date he receives his citation.

At the time you file your claim, the court clerk should set a trial date which is convenient for you, within 60 days from the filing of the claim. That date should also be on the statement of claim, citation and answer forms sent to the defendant, who can state whether that date is also convenient for him. If you can't go to court on the date set, contact the court and ask for a postponement, stating your reasons.

HOW TO PREPARE FOR TRIAL

Get your case together: (1) the documents you'll use as evidence, such as bills and canceled checks; (2) a fact sheet, with dates, to help you explain your case; and; (3) witnesses. If you need to call a witness who doesn't want to appear voluntarily, ask the court to subpoena him in advance. Subpoenas cost extra, but witnesses can make the difference in winning or losing your claim. You might want to ask the court to subpoena all your witnesses--friendly or unfriendly--to make sure they all show up. And you might want to include an "expert witness" who can testify, for example, about a complicated piece of machinery.

Your evidence, including documents, witnesses and your own testimony, must outweigh the defendant's evidence for you to win your case, so preparation is important.

Small Claims judges will rate evidence in the following order of importance:

1. Documentary evidence, receipts, photos, cancelled checks, etc.
2. Expert testimony
3. Your testimony and opinion

If you and the defendant decide to settle out of court, put the agreement in writing, sign it, and have the defendant sign it. Take the written agreement to the clerk, arrange for a dismissal of the case and ask for the judgment to be recorded. This protects you and saves you from having to file a new suit if the defendant doesn't live up to the agreement.

WHAT TO DO THE DAY OF THE TRIAL

Your Appearance:

When it's your turn to face the judge, concentrate on your appearance. The trial will last only a few minutes and the evidence on some points may boil down to your word against your opponent's. For this reason, your behavior in court is crucial to your case. Judges call this "demeanor evidence", and they rely upon it to a great extent.

Remember that the judge knows absolutely nothing about you. A judge who has to determine if you behaved reasonably in the events that led to this trial will be guided largely by the impression you make in court. To make the best possible impression, try to follow these basic rules:

Dress neatly. Judges tend to be fairly conservative. They prefer to see people dressed "properly" for an appearance in court. Gaudy clothing, worn-out jeans, tee-shirts and the like will put you at a disadvantage with many judges.

Stand. Unless the judge has instructed otherwise, stand whenever you talk to the judge, tell your story or answer questions. Showing respect for the court means showing some respect for the judge.

Be polite. At all times, address the judge as "Your Honor", and answer "yes" or "no" questions with "Yes, Your Honor" and "No, Your Honor". If a lawyer is an acting judge for the day (a judge *pro tem*), then use "Sir" or "Ma'am". **Never** interrupt a judge, your opponent or a witness. You will have your chance to speak. **Never** argue with a judge. You can emphasize or repeat anything you think is important, but if the judge says a point is irrelevant, accept it and move on to your next point.

Introduce yourself and your case. If the judge was shuffling through papers when your name or case was called, or if the basis of your suit wasn't read aloud, introduce yourself and **briefly** describe your case. Don't start reeling off facts until you're sure the judge has focused on the subject at hand.

Be brief. Stick to the essential facts and let your evidence speak for you.

Be prepared. If you need to show evidence in support of any assertion you make in your testimony, know how your materials are organized so the judge doesn't have to wait while you fumble through a stack of papers. If you are missing a crucial piece of evidence, be ready to explain its absence.

Never read testimony. Reading makes your testimony boring and unconvincing to the judge. Don't try to memorize anything. If you are afraid of forgetting important points, make notes or use an outline.

Don't act like a lawyer. This may be the most important rule of all. Many people sabotage their own cases by using legal terms they don't understand or by imitating Perry Mason. If you start acting like a lawyer, the judge may start treating you like one: the natural inclination to help you will disappear, and sympathy may pass to the other side. The first and last legal-sounding term you should utter in a courtroom is "Your Honor".

Listen to the judge. If the judge tells you to take a few extra minutes and try to settle the case out of court, take the hint. The judge probably means the facts or the law aren't on your side and your best bet is to get what you can through settlement.

Remember your costs. If you've incurred any special cost in bringing your case to court, be sure to tell the judge. You should specifically state at the end of your presentation that you would like a specific amount of money added to your award for these costs.

If You Are The Plaintiff: Present your facts in a straightforward manner. Tell the truth. Remember, you will be under oath. Explain to the judge why you feel the defendant owes you money, or why the business or firm you are suing has failed to live up to its commitment. Call your witnesses to give their testimony. The judge may question you and your witnesses to get the information he needs for a fair decision. Answer questions directly and honestly. The judge may allow any procedure he thinks is fair to both sides, subject to the rules of evidence and existing law. But don't forget, the burden of proof rest with the plaintiff. You must prove your case to receive a judgment in your favor.

When you have concluded your side of the story, the judge will hear the defendant's side. You may question his witnesses after the defendant has presented his testimony.

If You Are The Defendant: It's your right to ask that the action be transferred from the small claims division to the regular civil docket. The decision to transfer the case, which preserves the right to appeal, must be made quickly. You will have only ten calendar days to answer the claim against you, from the date you receive your citation. However, if the case is appealed, it can mean time and money. So if you think you have a strong defense or if only a small sum of money is at stake, you might want to leave the case in small claims court.

If you decide to fight the case in small claims court, file your answer with the clerk within the ten day period or the plaintiff may receive a judgment against you. Your answer may be made orally or in writing, but it must contain every defense you intend to raise. The best idea is to answer every charge made by the plaintiff first, and then add any defenses you think might be important. Be sure to mention any circumstances which might affect the judge's decision. Be truthful and accurate in your answer. The burden of proof is on the plaintiff and you should present evidence to disprove what the plaintiff says.

Frequently in small claims proceedings either the plaintiff or the defendant will not appear at the trial; if the plaintiff does not show up, the judge may dismiss the case altogether and award no money. If the defendant fails to appear, the judge will still hear the plaintiff's testimony. He may then rule that the defendant was in "default" and award the plaintiff the money he requested.

AFTER THE TRIAL

The judgment of the court becomes a legal obligation after it is signed. If the judgment is in your favor, you are responsible for seeing that your judgment is properly recorded. The clerk will tell you how and where to file your judgment.

To collect your money, you might have to take further action, such as asking the court to "seize" certain items that belong to the defendant or to "garnish" the defendant's wages if the defendant fails to make prompt payment. The Clerk's office will be able to advise on how to collect your judgment, and will be able to supply orders and documents to help you collect it. An additional court action may be needed to collect a judgment the defendant must pay.

SOME SMALL CLAIMS SOURCES IN LOUISIANA

Small claims are handled different ways in different localities in Louisiana. Some city courts and justices of the peace operate under laws setting limits on filing fees and claims amounts, some are exempt from that and set different fees and claims amounts, and some have never handled small claims. The procedure varies so widely that there is no statewide list of where to file small claims. You can check with your district court, city court or with the justices of the peace in rural areas.

Acadia Parish

Crowley City Court

P.O. Box 225

Crowley, LA. 70527

(337) 788-4119

Court cost: \$85.00 for 1st defendant
 \$25.00 each additional defendant

Rayne City Court

P.O. Box 31

Rayne, LA. 70578

(337) 334-9677

Court cost: \$50.00 for 1st defendant
 \$35.00 each additional defendant

Eunice City Court

P.O. Box 591

Eunice, LA. 70535

(337) 457-6535

Court cost: \$100.00 for 1st defendant
 \$25.00 each additional defendant

15th Judicial District Court

P.O. Box 922

Crowley, LA 70527

(337) 783-0191

Allen Parish

Oakdale City Court

P.O. Box 565

Oakdale, LA 71463

(318) 335-1121

Court cost: \$97.00 for 1st defendant (out of ward \$107.00)
 \$16.00 each additional defendant

33rd Judicial District Court, Allen Parish
P.O. Box 248
Oberlin, LA 70655
(337) 335-3130 or 639-4351
Court Cost: \$200.00 for 1st defendant
 \$50.00 each additional defendant

Avoyelles Parish

Bunkie City Court
P.O. Box 74
Bunkie, LA 71322
(318) 346-7250
Court Cost: \$38.50 each defendant

Marksville City Court
427 N. Washington
Marksville, LA 71351
(318) 253-7860
Court Cost: \$72.50 for 1st defendant
 \$35.00 each additional defendant

12th Judicial District Court, Avoyelles Parish
P.O. Box 219
Marksville, LA 71351
(318) 253-7523
Court Cost: \$110.00 for 1st defendant
 \$50.00 each additional defendant

Beauregard Parish

36th Judicial District Court, Beauregard Parish
P.O. Box 100
De Ridder, LA 70634
(337) 463-8595
Court cost: \$150.00 for 1st defendant
 \$25.00 each additional defendant

Calcasieu Parish

Lake Charles City Court
P.O. Box 1664
Lake Charles, LA 70602
(337) 491-1564
Court cost: \$100.00 for 1st defendant
 \$35.00 each additional defendant

Sulphur City Court
802 S. Huntington
Sulphur, LA 70663
(337) 527-7006

Court cost: \$57.00 for 1st defendant
 \$10.00 each additional defendant

14th Judicial District Court, Calcasieu Parish
P.O. Box 1030
Lake Charles, LA 70602
(337) 437-3550

Court cost: \$130.00 for 1st defendant
 \$50.00 each defendant

Cameron Parish

38th Judicial District Court, Cameron Parish
P.O. Box 549
Cameron, LA 70631
(337) 775-5316

Court Cost: \$125.00 for 1st defendant
 \$50.00 each additional defendant

Evangeline Parish

Ville Platte City Court
P.O. Box 147
Ville Platte, LA. 70586
(337) 363-1500

Court cost: \$61.00 for 1st defendant
 \$35.00 each additional defendant

13th Judicial District Court, Evangeline Parish
P. O. Drawer 347
Ville Platte, LA 70586
(318) 363-5671

Court Cost: \$125.00 for 1st defendant
 \$50.00 each additional defendant

Iberia Parish

Jeanerette City Court
P.O. Box 268
Jeanerette, LA. 70544
(337) 276-5603

Court cost: \$85.00 for 1st defendant
 \$20.00 each additional defendant

New Iberia City Court
457 E. Main Room 206
New Iberia, LA. 70560
(337) 369-2334

Court cost: \$50 for 1st defendant
 \$35 each additional defendant

16th Judicial District Court, Iberia Parish
P.O. Drawer 12010
New Iberia, LA. 70562-2010
(337) 365-7282

Court cost: \$100.00 for 1st defendant
 \$50.00 each additional defendant

Jefferson Davis Parish

Jennings City Court
P.O. Box 609
Jennings, LA 70546
(337) 821-5514

Court cost: \$105.00 for 1st defendant
 \$20.00 each additional defendant

31st Judicial District Court, Jefferson Davis Parish
P.O. Box 799
Jennings, LA 70546
(337) 824-1160

Court cost: \$150.00 for 1st defendant
 \$50.00 each defendant

Lafayette Parish

Lafayette City Court
P.O. Box Drawer 3344
Lafayette, LA. 70502
(337) 291-8720

Court cost: \$51.50 for 1st defendant
 \$35.00 each additional defendant

15th Judicial District Court, Lafayette Parish
800 S. Buchanan
Lafayette, LA. 70501-6823
(337) 291-6400

Court cost: \$125.00 for 1st defendant
 \$50.00 each additional defendant

Rapides Parish

Alexandria City Court
P.O. Box 30
Alexandria, LA 71309
(318) 449-5151

Court Cost: \$52.00 each defendant

Pineville City Court

P.O. Box 3671
Pineville, LA 71361
(318) 449-5656

Cost of Court \$51.50 1st defendant
 \$35.00 each additional defendant

9th Judicial District Court, Rapides Parish

P.O. Box 952
Alexandria, LA 71301
(318) 473-8153

Cost of Court: \$150.00 for 1st defendant
 \$50.00 for each additional defendant.

St. Landry Parish

Opelousas City Court
P.O. Box 1999
Opelousas, LA. 70571
(337) 948-2570

Court cost: \$150.00 for 1st defendant
 \$10.00 for each additional defendant

27th Judicial District Court, St. Landry Parish

P.O. Box 750
Opelousas, LA 70570
(337) 585-7375

St. Martin Parish

Breaux Bridge City Court
101 Berard Street,
Breaux Bridge, LA. 70517
(337) 332-4117

Court cost: \$57.00. for the 1st defendant
 \$25.00 each additional defendant

16th Judicial District Court, St. Martin Parish
P.O. Drawer 308
St. Martinville, LA. 70582
(337) 394-2210
Court cost: \$150.00 for 1st defendant
 \$75.00 each additional defendant

St. Mary Parish

Franklin City Court
P.O. Box 343
Franklin, LA. 70538
(337) 828-3858
Court cost: \$82.50 for the 1st defendant
 \$10 each additional defendant (depending on the type of
 service)

16th Judicial District Court, St. Mary Parish
P.O. Box 1231
Franklin, LA. 70538
(337) 828-4100
Court cost: \$100.00 for 1st defendant
 \$50.00 each additional defendant

Morgan City Court
P.O. Box 1577
Morgan City, LA. 70381
(985) 384-2718
Court cost: \$52.00 for 1st defendant
 \$35.00 each additional defendant

Vermilion Parish

Abbeville City Court
P.O. Box 251
Abbeville, LA. 70511
(337) 893-1513
Court cost: \$70.00 for 1st defendant
 \$10.00 each additional defendant

Kaplan City Court
P.O. Box 121
Kaplan, LA. 70548
(337) 643-6611
Court cost: \$51.00 for 1st defendant
 \$10.00 each additional defendant

15th Judicial District Court, Vermilion Parish
P.O. Box 790
Abbeville, LA. 70511-0790
(337) 898-1992
Court cost: \$125.00 for 1st defendant
 \$50 each additional defendant (varies)

Vernon Parish

Leesville City Court
P.O. Box 1486
Leesville, LA 71496-1486
(337) 238-1531
Court Cost: \$100.00 each defendant

30th Judicial District Court, Vernon Parish
P.O. Box 40
Leesville, LA 71496
(337) 238-1384
Court Cost: \$125.00 for 1st defendant
 \$40.00 each additional defendant

If You Have Any Questions

This booklet was produced by Acadiana Legal Service Corporation, a non-profit organization that provides free legal services in civil matters to the economically disadvantaged in the parishes of Acadia, Allen, Avoyelles, Beauregard, Calcasieu, Cameron, Evangeline, Iberia, Jefferson Davis, Lafayette, Rapides, St. Landry, St. Martin, St. Mary, Vermilion and Vernon. It provides general information only and is not intended as legal advice for a specific problem. Although the information was current when written, you should check to see if it has changed since this was printed. If you have questions about a specific legal problem, you should consult an attorney. For additional information call one of our offices located in your area.