

Preparing for Pro Se Representation in Small Claims Court

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A. What is a small claim?

Small claims are monetary claims up to \$12,000 or less (depending on your county could be as low as \$8,000) against any individual or business. If you believe you have a legal right to recover money up to the above-mentioned amount excluding any interest and court costs, you may make a claim in the small claims court. This amount is subject to variation depending on the county, therefore we suggest you check the maximum amount for the county you are required to file at. If you are successful in your claim, you are entitled to be reimbursed for your court costs.

B. Where are small claims heard?

Small claims are mainly heard in the small claims division in Pennsylvania Magisterial District Court, but they are also heard in the Philadelphia Municipal Court.

C. Why and why not file in the small claims court?

One of the main advantages of bringing a lawsuit in the small claims court is that initial filing fees for claims are lower than those in the Court of Common Pleas. Initial filing fee in the Magisterial District Courts differs from \$35 to \$90 and you get that fee back if you prevail. Furthermore, since disputes are handled quickly in the small claims court, you will learn the outcome of your case faster.

There isn't a requirement to be represented by a lawyer for a small claim, which could both be an advantage and a disadvantage according to your position and the nature of your claim. Even though, representing yourself, also called as pro se representation, also tends to make the processes much faster in such courts.

On the flip side, the main disadvantage of the small claims court is that you cannot get any recovery above the limit. If the amount of your claim is in excess of this limit, then the trial needs to move out of the small claims court and be heard in the Court of Common Pleas. Furthermore, there are some defendants who cannot be sued in small claims courts; for instance Commonwealth, most importantly, can't be sued in such courts. This includes SEPTA related injuries and may prevent a lot of plaintiffs from being able to make use of pro se representation.

D. What type of claims does the small claims court hear?

The court generally hears two types of cases; breach of contract and negligence actions. Breach of contract occurs when a party to an agreement does not do what they promised to do or in the way they promised to do it. Negligence happens when someone acts against their responsibility to use reasonable care to protect others from harm.

E. Who can bring an action?

Only the parties who entered into a contract or the person who suffered a personal injury or damage to their property have the right to bring an action. Such people may also authorize someone with knowledge of the case to bring the action. This can be done by using the Authorized Representative form of the courts. If you would like to authorize someone to bring a claim on your behalf, you should go to the small claims court and fill out the above-mentioned form.

F. How does an action begin?

First, you need to establish the district in which the claim will take place. Most counties in Pennsylvania are divided into several districts. The county that the filing should take place should be the district in which the person being sued lives, the district that the business being sued does business or the district in which the dispute happened.

After establishing where to file, you need to prepare and file the ‘Statement of Claim’ – which includes information about the plaintiff, defendant, contact information of both, reason the plaintiff is seeking money damages, and the details of the amount of money claimed in the lawsuit.

However, before filing, do not forget to demand payment from the other party first. You should write a letter to the defendant explaining them the amount of money you demand from them and why you demand such money. It is advisable to give the defendant 1-2 weeks to respond.

After filing, you need to serve the defendant with a copy of the case. There are various options to serve the defendant. You may hire the Sheriff’s office to serve it, hire a commercial registered process server, ask the court clerk to serve it for you by certified mail (but you cannot use certified mail to serve it yourself since you need the signature of the defendant in return), or have a third party over the age of 18 to serve it for you. In order to be able to serve the defendant, first you need to locate them. If you are unable to locate the defendant at their current address, address a letter to them at their last known address. Any service that is done to the defendant is considered personal service. If the server cannot find the defendant at their home or business, you can also use substituted service. If substituted service is going to be done at the defendant’s office, it should be done to a person who appears to be in charge. If it is going to be completed at the defendant’s home, then it should be someone that is above the age of 18. In substituted service, the server should also mail a copy of the documents served by first class mail to the defendant at the address where they were served. The service needs to be done fifteen days before the hearing if the defendant lives in the county in which the trial will take place, and if they live outside, twenty days before. If the service is done through mail, the service is considered to be done ten days after the copy is mailed.

It is essential to file a Proof of Service with the small claims court clerk after serving the defendant. As courts have different procedures, do not forget to check your court’s specific requirements in terms of timing to make sure you are not late in filing the proof of service.

G. How should you prepare if you are the plaintiff (the person filing the complaint)?

Since there is not an appeal procedure for plaintiffs in the small claims court, it is very important that you prepare your case thoroughly.

As you are the party who filed the lawsuit, you will get to speak first at trial. You have to prove your case to the judge by a 'preponderance of the evidence'. This means that the evidence you present must show that it is more likely than not that you should triumph. Therefore, it is enough that you make the judge believe 51% that you are the correct party. Evidence that you will use to persuade the judge are the facts, witness statements, testimonies and the documents you present.

In order to gather the necessary information, first of all you should identify the dispute. As explained above, your dispute could either be a contract dispute – likely breach of contract – or an injury (which is potentially worth more than what small claims courts can offer). Afterwards, you should gather proof of your injury. For instance, if there was a contract, you should add the copy of the contract, any correspondence between you and the defendant, any medical records, and any financial documents such as invoices that show the economic losses you have suffered. You should also contact any witnesses you would like to testify on your behalf in the court and let them know the date and time of the trial so that they are ready to testify in the trial.

You should come to the court having dressed appropriately, which is more of a conservative style. Even though it could be said that wearing a suit is the safest option, what matters is that your outfit does not make you seem like you are being disrespectful to the court and that you look presentable. In the same vein, you should also be on time and turn off all your electronic devices. While you are presenting your case, do not forget to be clear and concise. Answer judge's questions frankly, act politely, and refer to the judge as "Your Honor". It is very important that you don't interrupt the judge, and listen carefully as both the judge and the other party speaks.

H. How should you prepare if you are the defendant (the party against whom the lawsuit has been filed)?

First of all, you should carefully read the paperwork that you are served with. You should be able to understand from that paperwork who is suing you, for what reason, how much time you have to respond to the action, and when you are expected to go to court. Before the court date, you could negotiate a settlement with the plaintiff. This could save you both time and money. If you would like to do so, contact the plaintiff and arrange a date and time to meet and discuss the negotiation. You should also check for procedural problems when you are served. It is possible that the plaintiff did not serve you properly or did not choose the right court.

There is also the option of trying mediation. When negotiation does not work, mediation could be another useful method for the defendant. Mediation process generally tends to encourage a settlement lower than the amount plaintiffs demand. Also, it gives the defendant a chance to raise issues that were not part of the plaintiff's initial lawsuit.

As the defendant, if you do not show up at the trial, it is very likely that the judge will enter a default judgment against you. This means that you will have to pay the plaintiff the amount they demanded plus the amount of their filing fee and any other costs they incurred while serving you.

If there is a default judgment entered against you, within thirty days, you have the right to file a Petition to Open the judgment.

I. What should you do after the trial?

The judge will make a decision either immediately following the hearing or within five days of the conclusion of the trial. After the decision is made, either party has a right to appeal the decision to the Court of Common Pleas. In order to appeal, you need to get a Notice of Appeal form from the court clerk and fill it out yourself within thirty days of the judgment. Similar to the process of filing the claim, you need to serve the copies of the form on the defendant and on the court which heard your case. Within ten days of filing your Appeal form, you need to fill out a Proof of Service form.

If neither the plaintiff nor the defendant appeals, the plaintiff has the option of either proceeding with execution through the small claims court or transferring the judgment from the small claims court to the Court of Common Pleas, which better ensures that the judgment attaches as a lien against all real property owned by the defendant in the County.