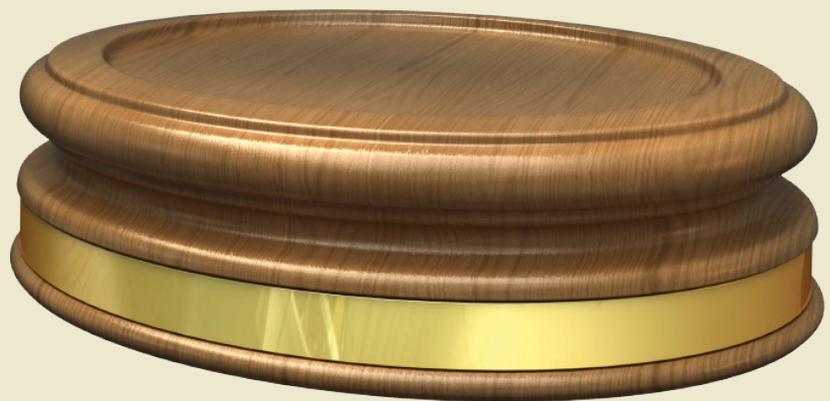


# Small Claims Court

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## *Handbook*



## WHO May Sue in Small Claims Court?

An individual may sue in small claims court.

An Arkansas corporation may sue in small claims court if it meets one of these three requirements:

- It has three or fewer stockholders OR
- At least 85% of the voting stock is owned by people who are related, by blood or marriage, within the third degree (parent-child, brother-sister, uncle-nephew, great-grandparent-great-grandchild, great-uncle-grandnephew, first cousins, and first cousins once removed are all within the third degree) OR
- It is a closely held corporation

[\(Ark. Sup. Ct. Admin. Order 18\(4\)\(c\)\)](#)

There is an exception to this rule. Collection agents, collection agencies, and businesses that lend money at interest are forbidden from suing in small claims court.

If either the plaintiff (the person who sues) or defendant (the person who is sued) uses an attorney, the claim will be transferred to district court.

## WHAT Claims Can Be Brought in Small Claims Court?

Any claim brought in small claims court must be for \$5,000 or less. This amount does not include interest and costs, so the claim might actually total more than \$5,000.

There are three types of claims that may be brought in small claims court:

- Disputes Regarding a Contract  
Example: The plaintiff agrees, either in writing or orally, to pay the defendant \$150 to detail the plaintiff's car. The plaintiff pays the defendant, but the defendant doesn't detail the car.
- Recovery of Personal Property

Example: The plaintiff loans a riding lawnmower to the defendant (a neighbor), but the defendant never returns the mower.

- **Damage to Personal Property**

Example: The defendant is burning leaves in the back yard of the defendant's house and the fire spreads and burns the plaintiff's fence.

Again, no matter which type of claim it is, the base claim amount (the amount not including interest and costs) must be for less than \$5,000.

[\(Sup. Ct. Admin. Order 18\(3\)\)](#)

## **WHEN May I Sue in Small Claims Court?**

Claims must be brought within a certain period of time, or they will be barred by the statute of limitations. These time periods vary, but some examples are below.

- **Written Contract** – Five years after the cause of action accrues. ([Ark. Code Ann. § 16-56-111](#))
- **Oral Contract** – Three years after the cause of action accrues. ([Ark. Code Ann. § 16-56-105](#))
- **Recovery of Personal Property** – Three years after the cause of action accrues. ([Ark. Code Ann. § 18-60-810\(6\)](#))
- **Damage to Personal Property Because of Negligence** – Three years after the cause of action accrues. ([Ark. Code Ann. § 16-56-105](#))

The phrase “after the cause of action accrues” is a legal term that usually means the time that the damage or breach occurs. In the case of a contract, the cause of action would accrue when the defendant allegedly breached the contract.

## **WHERE Do I File My Small Claims Court Claim?**

You may always file your claim in the county where the defendant resides. In claims for breach of contract or for damage to property, there are other options.

Claims for Breach of Contract – The county where defendant resides *or* the county where the other party was obligated to perform under the contract.

Example: The plaintiff and defendant enter into an agreement for the defendant to paint the plaintiff's vehicle in Sebastian County. The defendant lives in Cleburne County. The plaintiff may sue the defendant in either Sebastian County or Cleburne County.

Claims for Damage to Property – The county where the defendant resides *or* the county where the property damage occurred.

Example: The defendant, who lives in Drew County, accidentally drove his car into the plaintiff's fence in Ashley County. The plaintiff may sue the defendant in either Drew County or Ashley County.

[\(Ark. Code Ann. § 16-17-706\)](#)

## **HOW Does the Process Work?**

### **STEP 1 – The Plaintiff Prepares the Complaint and Summons**

The first step to suing in small claims court is for the plaintiff to fill out two forms, the complaint and the summons. These forms are at the end of this publication .

### **STEP 2 – The Plaintiff Files the Complaint at the Small Claims Court**

The plaintiff should take three copies of the complaint form and of any evidence attached as exhibits (such as receipts, the contract, etc.). The plaintiff should also take a check for the filing fee. This fee varies by district court, so it is a good idea call ahead to find out what the fee is. The copies will be file-stamped by the clerk. One copy will be kept by the clerk, and the plaintiff will keep one for his or her files, and will serve the other copy on the defendant, as described below.

### **STEP 3 – The Plaintiff Serves the Defendant**

The plaintiff must prove that the defendant received a copy of the complaint that is filed. The plaintiff can do this one of three ways:

#### **Method 1 – Certified Mail, Restricted Delivery, Return Receipt Requested**

The plaintiff can send a copy of the complaint, the summons, and the answer form (also at the end of this publication) by certified mail, restricted delivery, return receipt requested. The cost for this service is subject to change, but as of Spring 2011, the cost is whatever the post office would normally charge to send the documents, plus \$9.60.

The defendant will receive notice that he or she has a certified letter, and the defendant must sign in order to receive it. This is proof that the plaintiff has successfully delivered the information listed above, and it allows the lawsuit to proceed.

Sometimes, this method of service doesn't work. Sometimes the plaintiff has moved, or sometimes the plaintiff might not pick up the certified mail for some other reason. If this happens, the plaintiff must use one of the other two methods. (In fact, sometimes plaintiffs will just use Method 2 or 3 rather than trying Method 1 first.)

#### **Method 2 – Sheriff's Office**

The sheriff's office will deliver the information for the plaintiff, but there is an additional charge. This charge is usually approximately \$50.

#### **Method 3 – Private Process Server**

The plaintiff can hire a private process server to deliver the information. The cost for this varies, and can be more or less than the cost of having the sheriff serve the defendant.

### **STEP 4 – The Defendant Files an Answer**

The defendant uses the answer form that was included with the complaint and summons to answer the lawsuit. This answer form must be *received* by the court within 30 days of when the defendant received this information. In addition, the defendant must mail a copy of the answer to the plaintiff. This response can be sent by first class mail, unless the defendant is including a counterclaim (where the defendant sues the plaintiff).

The defendant might choose to hire a lawyer. If this happens, the claim will be removed from the small claims division and sent to district court.

NOTE: The defendant may also file a counterclaim. If this happens, the defendant must serve the plaintiff by one of the three methods outlined above.

### ***STEP 5 – The Court Holds the Hearing***

At the hearing, the parties may call witnesses and present other evidence (such as contracts, receipts, photographs, etc.). The parties should dress and act professionally. In particular, the plaintiff and defendant should not talk to each other, but only to the judge or to the witnesses when it is their turn to question the witness.

### ***STEP 6 – The Court Makes Its Ruling***

After the hearing (sometimes immediately, and sometimes later), the court will make its ruling.

#### ***The Losing Party Can Appeal the Decision***

An appeal goes to the circuit court. The process of appealing from small claims court to the circuit court is outside the scope of this publication, but see [Arkansas District Court Rule 9](#) for details.

#### ***Enforcing the Judgment***

If the plaintiff wins, and the defendant refuses to pay, there are two methods the plaintiff can use to collect: either a writ of garnishment, which is served on a bank or employer that will force them to pay out of the defendant's account or wages; or a writ of execution, which will cause the sheriff to take certain property of the defendant, sell it at auction and turn over the proceeds to the plaintiff.

**COMPLAINT FORM**

**In the District Court of \_\_\_\_\_, State of  
Arkansas.  
Small Claims Division**

\_\_\_\_\_  
Plaintiff

vs.                      No. \_\_\_\_\_

\_\_\_\_\_  
Defendant

Defendant's Address: \_\_\_\_\_

Defendant's Address: \_\_\_\_\_

Nature of Claim: \_\_\_\_\_

Nature and Amount of Relief Claimed: \_\_\_\_\_

\_\_\_\_\_  
Date Claim Arose: \_\_\_\_\_

Factual Basis of Claim: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Plaintiff

Plaintiff's Address: \_\_\_\_\_

Plaintiff's Address: \_\_\_\_\_

**SUMMONS AND NOTICE TO DEFENDANT**

You are hereby warned to file a written answer with the clerk of this court within thirty (30) days after you receive this claim and forward a copy to the plaintiff at the address above or a default judgment may be entered against you.

\_\_\_\_\_ (Signature of Clerk or Judge)

\_\_\_\_\_ District Court Clerk

Address: \_\_\_\_\_

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RETURN OF SERVICE  
STATE OF ARKANSAS  
COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, certify that I served the within Claim Form on the defendant, \_\_\_\_\_, at \_\_\_ o'clock \_\_. m. on \_\_\_\_\_, 2\_\_\_\_, by \_\_\_\_\_.

\_\_\_\_\_ (Show manner of service)

\_\_\_\_\_  
Name and Office, if any

Subscribed and sworn to before me this \_\_\_ day of \_\_\_\_\_, 2 \_\_\_\_\_. (To be completed if service by other than a Sheriff, Constable, or Clerk)

\_\_\_\_\_  
Notary Public

My commission expires:

\_\_\_\_\_

**ANSWER FORM**

**In the District Court of \_\_\_\_\_, State of  
Arkansas.  
Small Claims Division**

\_\_\_\_\_  
Plaintiff

vs.                      No. \_\_\_\_\_

\_\_\_\_\_  
Defendant

Defendant's Address: \_\_\_\_\_

Defendant's Address: \_\_\_\_\_

Reason for Denial of Plaintiff's Claim: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Nature and Amount of Affirmative Relief (if any): \_\_\_\_\_

\_\_\_\_\_

Date Affirmative Claim Arose: \_\_\_\_\_

Factual Basis of Affirmative Claim: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Signature of Defendant)