

SMALL CLAIMS COURT: A VIABLE ALTERNATIVE

Oftentimes, people have money disputes with corporations or individuals for

amounts that are less than \$5,000. In these situations, it can sometimes be difficult to hire a lawyer due to the expense, and some lawyers

may not want to get involved for that reason as well.

This is due to the fact that the attorney may obtain a favorable judgment, but the legal fees may be in excess of the judgment. Filing a small claims court lawsuit on your own is often a viable alternative in these types of situations.

For starters, you must have the proper party name and address in order to properly serve your opposition. An individual can be served at his or her home, but a claim against a corporation is handled differently. This information can be obtained by logging on to www.sunbiz.org.



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fill in the information necessary to state your claim. The clerk will also advise you as to how much the fee will be for filing your claim. The "statement of claim" is the document that gives life to your small-claims lawsuit. The opposing party, also known as the "defendant," must be given a copy of this "statement of claim" along with a "notice to appear."

The claim papers must be served on the defendant by the sheriff or a private process server. In some instances, certified mail

can be considered acceptable service, but most of the time, a person/entity must be properly served through the sheriff's office or by a process server. There is a charge for serving the papers on your opposition. This is necessary to pursue your claim, and you must make sure it is done properly or your case can be thrown out.

Once the claim is filed, the clerk will schedule a pretrial conference within 35 days of the filing. If you do not attend this hearing, your case will be thrown

out by the judge. If the defendant does not show up or have a representative present at the hearing, a default judgment will be awarded in your favor. If a trial is necessary, it will be set within 60 days of the pretrial conference.

There are circumstances where it is necessary and advisable to seek the advice of an attorney for certain disputes such as contracts. Oftentimes with contract disputes, there are provisions in the contract that allow attorney's fees and costs to be awarded to the

victorious party. If you are able to win your claim, the judge has the authority to have the opposing side pay all of your attorney's fees and costs.

If your claim is rock solid, it may not be a bad idea to pay an attorney to do the work for you and have the court award costs at the time you win your claim. But again, the difficulty is that many attorneys will not want to get involved for a dispute of this amount.

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Type in the corporation's name on this Web site, and note the name and address of the person/entity named as the "registered agent." This is the proper party to serve the actual papers on even though they may not be at the same location as the corporation you are suing. Registered agents often are corporations whose business is exclusively accepting service for other corporations who have lawsuits filed against them.

The next step in filing a small claims lawsuit is to procure the appropriate documents. These can be obtained from the clerk's office at the courthouse. The forms are meant to be simple, and have instructions as to how to properly

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To obtain the Florida Small Claims Court procedural rules online, go to www.flabar.org, click on "Links" and then click "Rules of Procedure."

Then click on the link named "Florida Small

Claims Rules." This Web site provides the rules in more detail and even has sample forms for filing a claim.

Small claims court is an informal alternative for citizens to ensure that all persons that have disputes have a means of getting to the courthouse in the least amount of time and cost as

possible.

E-mail me at the address below if you have any further questions on this forum.

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