

Suing in Small Claims Court in Alabama

Small Claims Court is a special court that helps people and businesses solve disagreements about fairly small amounts of money (\$3,000 or less). Read this information to see how Small Claims Court works.

If you have questions or need legal help, talk to a lawyer. The Court is not allowed to give legal advice.

Is it hard to sue in Small Claims Court?

No. The rules in Small Claims Court are simple. The procedures are informal, and it is not expensive.

Do I have to have a lawyer to sue in Small Claims Court?

No. You don't need a lawyer. And, there are no juries. You can hire a lawyer if you want to, but you do not *have to*.

If someone owes me money, should I file a claim in Small Claims Court?

First, contact the person or business that owes you money. Try to settle your disagreement out of court. This can save both of you time and money.

If I win, will the Court collect the money for me?

No. If you win, it's up to you to collect your money. So if the person you sue does not have any money to pay you, it will be hard for you to collect your money.

Can anyone use the Small Claims Court?

You must be:

- An adult (19 or older),
- A partnership, or
- A corporation.

Are there special rules for partnerships and corporations?

Yes. If it's a **partnership**, the person who speaks for the partnership in court must be:

- One of the partners,
- An employee of the partnership, or
- A lawyer.

If it's a **corporation**, the person who speaks for the corporation in court must be:

- One of the corporate officers,
- A full-time employee of the corporation, or
- A lawyer.

How do I start a small claims case?

Follow these steps:

1. You (or your lawyer) must go to the Small Claims Division of the District Court in the county where the person or business you want to sue lives or has an office.
2. Fill out a *Statement of Claim* (Complaint) Form SM-1 or *Statement of Claim (Complaint) for Specific Property* Form SM-2 (found under Small Claims at <http://eforms.alacourt.gov>).

3. After you fill out this form, take it to the Court Clerk's Office and pay a filing fee.
4. The Clerk will process your papers and assign a case number. The Clerk cannot give you legal advice.

What if I don't have enough money to pay the filing fee?

Fill out an *Affidavit of Substantial Hardship* Form C-10 (found under Civil Forms at <http://eforms.alacourt.gov>). This form asks the Court to let you pay later.

Am I the Plaintiff?

The person who *starts* the case is the Plaintiff. The person or business you are suing is the Defendant.

What information do I need to fill out the *Statement of Claim*?

You must provide the Defendant's complete and correct name and address. The Court needs this information to serve the Defendant.

How will the Defendant know about this case?

The clerk will serve (by mail, sheriff, or other authorized process server) a copy of your *Statement of Claim*. The clerk will also mail the Defendant a *Defendant's Answer* Form SM-3.

If the Defendant wants to tell his/her side to the Small Claims Court, s/he has 14 days after receiving your *Statement of Claim* to fill out and file the *Defendant's Answer* Form SM-3 OR the *Answer to Complaint* Form PS-19.

What if the Defendant does not file an *Answer*?

If the Defendant does not answer by the 14-day deadline, you can ask the clerk for a Default Judgment by filling out an *Application and Affidavit for Entry of Default Judgment* Form C-25a (found under Civil Forms at <http://eforms.alacourt.gov>). This means the Court will make an Order saying the Defendant must pay the amount of your claim.

Does the Defendant have other options?

Yes. The Defendant can:

- File an *Answer* and go to Court to let a judge decide your case.
- File a *Defendant's Counterclaim* Form SM-6, which is a claim against you.
- Make you an offer to try to settle the case without going to Court.

Is it a good idea to settle with the Defendant?

Settling with the Defendant can be a very good way to handle your case. That's because:

1. You won't have to go to Court, and
2. You can be sure about how much money you will get.

If I can settle with the Defendant, do I need a written agreement?

Yes. It's very important to put your agreement in writing. Your agreement should say:

- How much money will be paid,
- Who will pay,
- Who will be paid,
- When the payment(s) will be made, and
- Who will pay for the court costs.

You and the Defendant must sign and date the agreement. And keep a copy for your records.

If you make an agreement, file it with the clerk's office.

How do I get ready for my small claims trial?

Whether you are the Plaintiff or Defendant, do these things to get ready for your trial:

- Organize all of your evidence (receipts, letters, photos, etc.)
- Write a summary of what happened. Use your summary to tell the judge what happened and when.
- Practice what you want to tell the judge. You will only have about 5 minutes, so just say the most important things.
- If you get nervous in Court, you can read from your notes.

How do I know when to go to court?

You will receive a *Notice of Trial* Form SM-4 in the mail, which will tell you your court date and give you other information about the time and location of your trial.

What if I can't go to Court on the date of my trial?

You should file a Motion for Continuance with the clerk's office prior to the date of the trial.

Can I take witnesses to Court?

Yes. You may take witnesses who can support your case. If you think the witness will not want to go to Court, you can ask the Clerk to subpoena the witness and file a *Subpoena Request* Form C-12 (found under Civil Forms at <http://eforms.alacourt.gov>). That means the witness is ordered to go to Court. (You must pay a fee for a witness subpoena.) You should ask for a subpoena as soon as possible to allow time for the subpoena to be delivered to the witness.

What if I don't feel comfortable presenting my case in Court?

Find a lawyer who can help you. Your lawyer will speak for you in Court. The Alabama State Bar Lawyer Referral Service will help you find a lawyer in your area (<http://www.alabar.org/lrs/>).

What will happen at the trial?

1. Arrive early. It takes time to find the courtroom. The judge will call your case.
2. You (the Plaintiff) will present your case. You will say what happened, show any evidence, and call your witnesses, if you have any.
3. Next, the Defendant will present his/her case. The Defendant also will say what happened, show any evidence, and call witnesses.
4. After the Court hears both sides, the judge will make a decision (judgment). (There is no jury.)

Warning! If you arrive late, the Court can dismiss your case or decide against you.

What if I disagree with the Court's decision (judgment)?

Either side can appeal the case for a new trial. To do this you must file a *Notice of Appeal* Form C-35 (found under Civil Forms at <http://eforms.alacourt.gov>) with the clerk of the Small Claims Court within 14 days after the date of the judgment.

Appeals are handled in a different court, called the Circuit Court. The person who asks for the appeal must pay a new filing fee. The rules in that court are more difficult than Small Claims Court. It's a good idea to talk to a lawyer.

If I win, how do I get my money?

If the Defendant does not pay the judgment within 14 days, you can:

- Ask the Court for an "Execution Order." An Execution Order allows the sheriff to pick up any property that belongs to the Defendant. That property will then be sold so your judgment will be paid.
- Ask the Court for a "Garnishment." A garnishment orders the Defendant's employer to take money out of the Defendant's wages to pay the judgment, or it orders the Defendant's bank to take money from his/her account to pay the judgment.
- Record the judgment in probate court to create a lien on real property owned by the Defendant.

You will have to fill out forms and pay a filing fee to get a garnishment or execution order. It's a good idea to ask a lawyer for help filling out the forms and understanding the process.