

Being Sued 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.

Do I have to have a lawyer 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*.

Am I the Plaintiff or Defendant?

The person who *starts* the case is the Plaintiff. The person or business being sued is the Defendant.

How will I know I am being sued?

The clerk will serve you (by mail, sheriff, or other authorized process server) a copy of the *Statement of Claim* Form SM-1 or SM-2 (found under Small Claims at <http://eforms.alacourt.gov>). The clerk will also provide you a *Defendant's Answer* Form SM-3 or you can use the *Answer to Complaint* Form PS-19 (found under Do It Yourself Forms at <http://eforms.alacourt.gov>).

If you want to tell your side to the Small Claims Court, you have 14 days after receiving the *Statement of Claim* to fill out and file the *Defendant's Answer* OR *Answer to Complaint* form.

The clerk must receive your answer by the 14 day deadline.

What if I do not file an Answer?

If you do not answer by the 14-day deadline, the plaintiff can ask the clerk for a Default Judgment. This means the Court can make an Order saying you must pay the amount of the plaintiff's claim without giving you a chance to tell your side of what happened.

What are my options?

You can:

- File an *Answer* and go to Court to let a judge decide your case.
- File a *Defendant's Counterclaim* Form SM-6 (found under Small Claims at <http://eforms.alacourt.gov>), which is a claim against the plaintiff.
- Make the plaintiff an offer to try to settle the case without going to Court.

Is it a good idea to settle with the Plaintiff?

Yes. Settling with the Plaintiff can be a very good way to handle your case.

That's because:

1. You won't have to go to Court;
2. You can be sure about how much money you will pay; and
3. You may be able to negotiate a lower amount or more time to pay.

If I can settle with the Plaintiff, 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 Plaintiff 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 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.

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.

What if I do not show up on my court date?

You should go to court on your court date. If you do not go, the Plaintiff can ask for a Default Judgment, and you will not be able to tell your side of what happened.

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>). This 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. The Plaintiff will present his/her case. S/he will say what happened, show any evidence, and call his/her witnesses, if s/he has any.
3. Next, you will present your case. You 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 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 lose, how do I pay the Plaintiff?

If you do not pay within 14 days, the Plaintiff can:

- Ask the Court for an "Execution Order." An Execution Order allows the sheriff to pick up any property that belongs to you. That property will then be sold so the judgment will be paid.
- Ask the Court for a "Garnishment." A garnishment orders your employer to take money out of your wages or your bank to take money out of your account to pay the judgment.
- File a lien against your house or any other real estate you own.

If you lose the case, it's a good idea to talk to a lawyer. A lawyer can help you understand your options.