

Small Claims Court Can Help Resolve Disputes



We have all encountered situations where we feel we have been wronged financially by a person or business.

The amount of money involved in the dispute may not be significant enough to justify retaining an attorney, and so you may think there is nothing you can do. Do not give up. You may be able to address your complaint through small claims court.

Small claims court is an attractive, economic alternative to litigation. Hiring an attorney and engaging in litigation can be very costly and time consuming. Legal battles can cost tens of thousands of dollars and take several years to reach a verdict.

Small claims court, on the other hand, does not require you to hire an attorney. You are required to pay a filing fee, which ranges approximately from \$70 to \$100. You can sue for an amount up to \$5,000.

Small claims court is handled through the appropriate local justice of the peace in the county where the person or business you are suing is located. In order to begin the process, call the court clerk and tell

him or her that you want to file a small claims lawsuit.

You will need to provide the clerk with the correct name and address of the person you are suing. If you are suing a business, you will have to find out who the agent of service is. You can obtain this information from the Secretary of State's Office. If the business has a sole proprietor, you can sue the owner directly.

A constable or sheriff will serve the defendant, who must respond to your allegations. The court clerk will then set a date for trial and you and the opposing party are required to attend. If you do not appear, you may lose your case by default.

Carefully collect and prepare your evidence. You may want to bring eye witnesses and relevant documents such as photographs, bills, or written leases or contracts. Get to the point quickly by describing the actual event that gave rise to your claim, stating how much money you are requesting, and telling the judge the events that led to your loss. It is a good idea to practice your presentation in advance to avoid forgetting key points.

The trial is heard by the justice of the peace, unless either side asks for a jury. The procedure is relatively

informal. Both sides simply tell the judge their stories. The judge may also question witnesses in attendance.

As the plaintiff, you have the burden of proof and you will go first. After you finish, the defendant will make his or her presentation. In most cases, the judge will immediately make a ruling. If you prefer, you can request a jury trial instead.

If you win, hopefully the losing side will comply with the ruling and satisfy the judgment. However, this is not always the case. You, not the court, are responsible for enforcing the judgment. If the opposing party does not comply with the judgment, you may be able to take further civil action such as filing a lien or a writ of execution. You may also be able to report the judgment to the major credit bureaus.

You may wish to consult with an attorney at this point. And while you may think consulting with an attorney afterwards defeats the purpose of small claims court, bear in mind that the consultation will involve procedural options and still be much cheaper than litigation.

In addition, if you lose, you can file an appeal in county court. You must file within 10 days to have the case reheard at the county court.

POINTS TO REMEMBER

Small Claims Court

- Call your courthouse for the telephone number for your local justice of the peace
- You can sue for an amount up to \$5000
- You do not need an attorney

You can reach the three major credit bureaus at:

Equifax
P.O. Box 740241
Atlanta, GA 30374-0241
(800) 685-1111

Experian
P.O. Box 2104
Allen, TX 75013-2104
(888) 397-3742

Trans Union
P.O. Box 390
Springfield, PA 19064
(800) 916-8800

For business registration information:

Corporations Section
Secretary of State
Post Office Box 13697
Austin, TX 78711-3697
(512) 463-5555
www.sos.state.tx.us



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT



Information on this and other topics is available on the Attorney General's Web site at www.oag.state.tx.us.