



SMALL CLAIMS COURT CAN HELP RESOLVE DISPUTES

by Texas Attorney General Greg Abbott

TEXANS WITH A FINANCIAL OR OTHER DISAGREEMENT that does not justify the expenses associated with hiring an attorney may be able to resolve their problems in small claims court. These special courts offer an alternative to litigation, which can cost thousands of dollars and take several years to conclude.

In small claims court, trials are informal and do not require parties to hire a lawyer. Judges in small claims courts handle disputes involving up to \$10,000. A small claims court judge does not have authority to order any other remedy. For example, while a judge can order a mechanic to pay a customer for failing to repair a vehicle as promised, the judge cannot order the mechanic to make any specific repairs.

Small claims are overseen by justices of the peace in the county where the person or entity being sued is located. Those who file lawsuits should be prepared to provide the court clerk with the correct name and address of the opposing party. A court cannot award damages if the complaint does not properly name the defendant.

If the party is a business, plaintiffs must determine the registered agent by contacting the Secretary of State's Office. If the business is a sole proprietorship, plaintiffs may file a claim directly against the owner. The county clerk's

office will have information about sole proprietorships.

In most cases, wronged parties cannot file their dispute more than two years after the problem arose.

After determining the appropriate court and the correct defendants, plaintiffs should carefully collect and prepare their evidence. Litigants should prepare a clear, concise statement describing the basis for the claim, including the actual event that gave rise to the claim, the date the claim arose and how much money they are requesting.

Once advance preparations have been made, plaintiffs may visit the court clerk and request that the clerk fill out a small claims statement. Plaintiffs will have to swear under oath that their statements are true and pay all required filing fees. These fees and other court costs may be recoverable after the trial, if the judge rules in the filer's favor.

After the constable or sheriff serves the defendant, the court will set a trial date. Plaintiffs should always verify the trial date with the clerk and be in court on that date and time. If the defendant was properly served and fails to respond, the plaintiff can win by default after simply appearing in court on the trial date.

In small claims court, the plaintiff bears the burden of proving the facts of the case. Plaintiffs should bring all records, contracts, receipts, photographs and

other relevant evidence to help establish their damage estimate. Plaintiffs may also bring eye witnesses to provide testimony. After the plaintiff has presented their case, the defendant is given the opportunity to offer their version of the facts and make their own argument.

Once both sides have been presented, the judge will usually issue an immediate decision and determine the amount of damages owed. Both parties have a right to appeal if the dispute amount exceeds \$250.

Small claims court judges will grant a favorable judgment to the winning party, but the court is not responsible for enforcing the decision. If the opposing party does not comply with the judgment, the winning party may consider further civil action, such as filing a property lien, obtaining a writ of execution or reporting the judgment to the major credit bureaus.

Collecting on a judgment or filing an appeal may require an attorney, as both processes involve more complicated legal proceedings. While hiring a lawyer at this stage can be expensive, it is usually cheaper than formal litigation.

In most cases, settling a dispute outside of court is the best alternative. Texans should make every effort to resolve financial disagreements between interested parties before filing a complaint in small claims court.

POINTS TO REMEMBER



SMALL CLAIMS COURT

Under Texas law, parties may recover up to \$10,000 in monetary damages, plus court costs.

For business registration information:

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

Texas State Bar
Lawyer Referral Service
(800) 252-9690
www.texasbar.com

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ATTORNEY GENERAL OF TEXAS
GREG ABBOTT