

## **Small Claims Court**

A small claims court provides a simple, inexpensive way to enforce your rights. In this informal court the parties represent themselves, usually without an attorney accompanying them. However, attorneys, including legal assistance attorneys, can advise you before and after the hearing.

Wherever you live, one of these courts should be available to you. The hearing before the judge or magistrate usually happens quickly and the decision is made on the spot or in a few days. The amount you can sue for is often limited, ranging from \$2,000 to \$5,000. In Hawaii, the amount is limited to \$3500. Court costs are usually low, and the court procedures are simple and relatively informal. Small claims courts commonly hear landlord-tenant, debtor-creditor, contractual, and motor vehicle property damage disputes.

To resolve a dispute using a small claims court, contact the appropriate Clerk of Court. Clerks are generally very helpful, and will provide information on the court process. They may have a small claims "packet" with information and forms you will need to file a claim and take it through to trial.

Here are some questions and answers that may help you understand small claims courts.

### **Who May Use Small Claims Court?**

Anyone, including non-citizens of the United States, can sue or be sued. The court will appoint a guardian ad litem if a party is under 18 years old and/or declared incompetent to act on the person's behalf. Businesses and non-profit organizations also can sue or be sued in small claims court. You may file as many claims as you would like during a 12-month period for any amount up to the court's limit, typically \$2,000 to \$5,000. Certain other monetary rules may apply in the local court. Check with the clerk to be sure - before you file your case.

### **When should I use small claims courts?**

When negotiations have failed and someone who owes you money will not pay it. These are some cases that could be filed in small claims court:

- A former landlord wrongfully refuses to return your security deposit.
- A former employer will not pay you the money you are owed.
- You bought an appliance, which does not work, and the store where you bought it refuses to return your money.
- An automobile repair shop did not properly repair your car and you already paid the shop.
- Your car was damaged in a traffic accident, which was not your fault, and the damage is not covered by insurance.

### **Are there any actions that a small claims court cannot hear?**

In many states, small claims courts only hear cases for money damages often up to a small amount. Cases involving libel, slander, malicious prosecution, abuse of process, and an action brought by an agent generally cannot be filed in small claims court. Usually, small claims courts cannot force a person to take a specific action--they cannot force the repair shop to make the repairs. Instead, the court can award you money damages.

### **How do I file my claim?**

Explain to the small claims court clerk that you would like to file a complaint and obtain the necessary forms. You will need this information to file: your name and address; the name and correct address of the person you are suing; the military status of the person you are suing; the reason you are suing; and how much money you want the court to order the defendant to pay you. You may want to ask the court to order the defendant to pay court costs too.

Visit the Hawaii State Judiciary webpage at [http://www.courts.state.hi.us/self-help/small\\_claims/small\\_claims.html](http://www.courts.state.hi.us/self-help/small_claims/small_claims.html) for more information on filing.

**What should I do to prepare my case?**

Remember the judge will know nothing about your case. You should collect documents or other evidence that supports your claim: for example, a certificate of title showing you own the car that was damaged; estimates of repairs; repair bills; photographs of damages or the accident scene (8 x 10 pictures are best); diagrams; contracts; leases; notes; bills; receipts; canceled checks; dishonored checks; faulty merchandise; letters between you and the defendant; and any other evidence that will help the judge decide the case in your favor.

**Should I bring witnesses?**

Yes, witnesses are important. A disinterested witness testifying for one side will often make the difference between winning and losing. For example, an experienced repairman who can testify about the incompetent workmanship is critical in proving a case involving poor or incompetent repair.

**What should I do at the hearing?**

Be prepared to present your case. Cover all points. It is usually good to prepare an outline ahead of time and follow it. Be brief; don't act like a lawyer. The judge is interested in the facts. Be polite; you don't help your case or impress the judge by being rude or interrupting the other side.

**What should I do if I have been sued?**

If you believe you owe the money, you may wish to settle the case. If you do settle, you should get a statement from the plaintiff in writing that the claim has been paid in full. If you do not believe you owe the money, line up witnesses and prepare for trial. In addition, in some states you need to file an answer to the complaint.

**Should I attempt to settle the case?**

Probably. It is usually better to be certain of getting something by settling than to take the case to trial. You can never be certain what the result of a trial will be.

**What should I do if I settle the case?**

If you have been paid in full, call the clerk and tell the clerk that the trial is off. You should also notify the court in writing that you have been paid in full. If you have made an agreement for the defendant to pay the debt off, both you and the defendant should appear in court to tell the judge what the agreement is.

**Where can I go for more assistance?**

Visit your legal assistance office. We can't represent you in small claims court, but we will make helpful suggestions about how to prepare your case.

Our office is located at:

Schofield Barracks  
Building 2037  
Humphreys and Aleshire Drive, Schofield Barracks, HI 96857  
(808) 655-8607