

# Small Claims Court Guide



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# Overview

This guide is intended to help those using the Small Claims Courts located in the five boroughs of New York City. These courts are a division of the New York City Civil Court. The information contained here is current as of October 28, 2016. This guide does not contain all available information relating to the Small Claims Court procedures and rules. For a more comprehensive presentation of the Small Claims Court process, visit [The New York City Civil Court](#) website.

## What is Small Claims Court?

Small Claims Court, often referred to as the "People's Court," is a place to get relatively quick and simple resolution of a civil (not criminal) dispute without the need for a lawyer. The claim cannot exceed \$5,000 and must be for money only (not, for example, to force someone to fix a damaged item, or for pain and suffering).

These are typical types of Small Claims Court cases:

- Breach of a contract, lease, warranty or agreement
- Bounced or stopped check
- Loss of luggage, property, time from work, or use of property
- Damage to an automobile, other personal property, real property
- Failure to provide proper repairs, services, merchandise
- Failure to pay for services rendered, salary, rent, for goods sold and delivered
- Failure to return security, property, a deposit or money loaned

There is a glossary of terms on page 15 you may find helpful to understand the legal terms used in this guide.

If you cannot find the answer to your Small Claims Court questions here or through the [resources listed](#), call the [Legal Referral Service](#) of the New York City Bar Association at 212-626-7373 to make an appointment to attend the Monday Night Law Program.

**DISCLAIMER - The New York City Bar Association Small Claims Court Guide provides general information only. This is not legal advice. The New York City Bar Association Small Claims Court Guide makes every effort to keep information and related forms up-to-date and in accordance with applicable law. However, the New York City Bar Association Small Claims Court Guide does not guarantee the accuracy of this information. Some of the materials listed have not been prepared by the New York City Bar Association Guide, but rather are links to information prepared and posted by others. The New York City Bar Association Small Claims Court Guide cannot guarantee the accuracy of information posted on other sites. The listing of an organization on this site does not constitute an endorsement of that group.**

# Getting Started

Anyone, 18 years or older, can file a claim in Small Claims Court. A parent or guardian may sue on behalf of someone younger than 18. The person suing in Small Claim Court is called the Claimant and the person being sued is called the Defendant. Corporations, partnerships and associations cannot sue in Small Claims Court; they must use a different Civil Court division, called the [Commercial Small Claims Part](#). However, a corporation, partnership or association can be a Defendant in a Small Claims Court action.

To start your case, you, or someone on your behalf, must file, in person, a "Statement of Claim" form with the Small Claims Court. Visit the New York City Civil Court [website](#) for official forms. You may file a claim form by mail only if you live outside New York City and you want to sue a Defendant located in New York City, or if you are over 65 or you are disabled and cannot come to court in person. When completing the "Statement of Claim" form the Claimant must explain the reason for the lawsuit and include the amount in dispute.

The locations of the Small Claims Courts in the five boroughs of New York City are listed [here](#). In order to sue an individual or business in a New York City Small Claims Court, that individual or business must be located in New York City. If the Defendant resides or works or has a place of business in New York City, you may file your Statement of Claim in either the Small Claims Court located in the borough you live in, or in the Small Claims Court in the borough where the Defendant resides, works or has a place of business.

You will also be required to pay a filing fee (\$15 for claims of \$1,000 or less; \$20 for claims more than \$1,000 to \$5,000). You must pay the fee by cash, certified check, money order or bank check made out to the "Clerk of the Civil Court." The court does not accept personal checks. When you file your Statement of Claim, the Small Claims Court Clerk will give you a date to appear for a trial of your case. Cases are automatically set for evening hours; there are also daytime court hours for people who cannot come in the evening.

When you (the Claimant) file your small claim, you must give the Court Clerk the name and address of the person or business you want to sue (the Defendant). If you are not sure of the name of a business, you can look that information up in the County Clerk's office in the county where the business is located. The Small Claims Clerk will mail a notice of your claim to the Defendant. (You must pay for the cost of the postage for this mailing.) The notice of claim states the reason for your claim briefly and the amount you are seeking from the Defendant. This notice will also tell the Defendant the date and time to appear for the trial. The Court Clerk will send the notice of claim by first class mail and by certified mail. If the notice sent is returned as undeliverable, the clerk will provide you, the Claimant, with a new hearing date. You can then arrange for personal delivery of the notice to the Defendant. You or any other party cannot personally serve the Defendant. However, anyone over the age of 18 who is not a party to the action can personally deliver the notice to the Defendant. If a Claimant does not serve a Defendant four months after filing the claim, the action will be dismissed.

# Information for the Defendant

## I am Being Wrongly Sued! What Should I Do?

The best thing to do is to prepare your case. Nothing looks worse than coming to court unprepared. You do not need a lawyer to defend yourself in Small Claims Court although you may choose to hire one. The following should help you think about how to defend yourself in court.

## How Should I Prepare?

You should gather any documentation ([evidence](#)) to show the Judge or arbitrator that you are not responsible ([liable](#)) for the wrong the Claimant is complaining about. A good way to think about evidence is to treat it as the tool for building the steps in your story. The evidence you bring to court illustrates your side of the story. It establishes the proof of your defense. The following items are all acceptable forms of evidence:

- Written contracts
- Letters
- Leases
- Emails
- Receipts
- Recordings
- Canceled checks
- Money orders
- Warranties
- Advertisements
- Estimates in writing
- Damaged object(s)
- Articles of clothing
- Other written documents
- Or any such evidence that proves you are not responsible

If you do not have any of the above documents, don't fret! Oral evidence (testimony from you or from someone who knows about the case) can also be offered to present your defense. Witnesses provide an acceptable source of evidence that can help you establish proof for your side of the story. A witness can be either someone who has first-hand knowledge of the issues, like a person who witnessed the event, or a specialist that can provide expert testimony. Especially in medical suits, expert testimony is helpful for your defense.

## Can I Counter Sue?

Yes. As the Defendant, you are entitled to file a counter suit if you believe the person bringing the claim against you owes you money damages. To counter sue in Small Claims Court, your counterclaim cannot exceed \$5000.

Note: You may also file a third party action if you are sued and you believe someone else (a third party) is responsible for the claim. Contact the Small Claims Court for more information on starting a third party action.

## How Can I Counter Sue?

You file a counterclaim, either by filing a [Statement of Claim](#) with the Small Claims Court **within 5 days** of receiving notice that you are being sued, or when you appear in court on the day of the hearing of the Claimant's claim. Filing a counterclaim in court may result in a postponement of the trial date so that the Claimant has time to prepare a defense. There is a five dollar counterclaim filing fee to be paid to the clerk. There is no separate trial for a counter suit in the Small Claims Court; both cases will be heard during the same trial.

Note: If the counter suit you are filing is for a retaliatory reason or to slow down the judicial process, the Judge has the authority to issue a fine or award costs.

## What if I Received a Notice of Judgment?

If you have received a Notice of a Default Judgment against you, this means that a claim was brought against you and decided against you because you did not appear in Small Claims Court at the appointed time. If you did not appear because you did not receive the notice of the claim or because you had a legitimate reason why you were unable to appear on the court date, you can have the case reopened so that you may defend yourself. Go to the Small Claims Clerk's Office in the borough where you were sued, bring the Notice of Default Judgment with you, and tell the clerk that you would like to reopen the case against you.

If you appeared for the trial and lost, you will receive a Notice of Judgment that lists the money you are to pay the Claimant who is now referred to as the judgment creditor. In the notice you, the Defendant, will be listed as the judgment debtor. The judgment creditor will contact you about how payments will be set up. If you receive an information subpoena you must fill it out correctly with any information that is asked of you and return it to the judgment creditor.

An information subpoena is a legal document that directs a person, corporation or other business to provide information about where the judgment debtor's assets can be found. After you have satisfied or fulfilled the judgment, make sure the judgment creditor has alerted the court that you have paid the judgment. Additionally, you are required to receive a satisfaction of judgment or a satisfaction of execution (if an Enforcement Officer was involved) in writing. To learn more, visit the article on enforcing a judgment [here](#).

Be aware that if you have three or more unpaid judgments against you, the judgment creditor can ask for treble (triple) damages and you will have to pay three times the cost of the original judgment against you.

### **What if the Claimant is Harassing Me with Frivolous Lawsuits?**

If this is not the first time the Claimant has brought a Small Claims lawsuit against you, and especially if he or she has already sued you for the same reason and either won or lost the claim, alert the Judge at your hearing. The Judge can then decide if what the Claimant is doing is harassment. If it is, the Judge can make it more difficult for the Claimant to attempt to sue you again.

## **Preparing for Trial**

### **What Should I Bring to Court When I Appear for My Trial?**

Bring all documentation that helps support your claim. This may include:

- Photos
- Written contracts
- Letters
- Emails
- Receipts
- Recordings
- Lease(s)
- Canceled checks
- Warranties
- Advertisements
- Estimates in writing
- Damaged object(s)
- Other written documents
- Money Orders

Try to bring any original documents. This will serve as evidence for your trial. You may have to provide a copy of the document(s) to the party you are suing, as well as to the Judge. So it is important to bring two copies along with the original of any documents that you intend to bring in as evidence.

Note: It may be useful for you to write down everything you want to tell the Judge before your trial so you do not forget anything. Writing down your story before you go to court helps you to stay focused and to organize your thoughts so that you can present your position clearly.

## **Can I Have Witnesses at My Trial?**

Yes! A witness can provide essential information and be helpful to your claim or defense. A witness can be:

- You,
- Someone who knows something about your claim, or
- Someone with a lot of knowledge or experience with the basis for your claim. (This is called an expert witness.)

It is important for witnesses to attend the trial in person. If a witness is unable to attend the hearing, he or she should write a statement that contains any important information that the witness wants to say. If possible, this statement should be in affidavit form.

Note: Statements made before the court are taken under oath. You and your witnesses must swear to tell the truth. Lying under oath is considered a crime of perjury and criminal proceedings may be brought against the perjurer.

## **How can a Subpoena Help Me?**

If for some reason, the witness does not want to testify in court or supply a written statement, then you can ask the Small Claims Court Clerk for a subpoena, a court document that orders the witness either to provide a written document to the court (subpoena duces tecum) or attend the hearing. Anyone who is over the age of 18 years and not involved in the case can serve the witness with a subpoena. It is up to you, the Claimant, to arrange the serving of the subpoena. The witness is entitled to receive a \$15 witness fee paid by the Claimant. This must be paid at the time the subpoena is served. The subpoena must be served before the date of the trial in order to give the witness time to prepare for the trial. Usually five days or more before the trial is an appropriate amount of time to serve the witness with the subpoena.

## **Do I Need an Expert Witness to Testify at My Trial?**

An expert witness is someone with expert knowledge on your type of claim. For example, if you have a medical claim, you may want a doctor to be your expert witness. The expert witness may testify at your trial, but you usually have to pay him or her for the time spent to testify. You cannot use a subpoena to force an expert witness to appear in court.



## **Can I Bring an Attorney?**

You do not need a lawyer to represent you in Small Claims Court, but you may retain one if you wish. Small Claims Court is designed for you to represent yourself effectively in court without a lawyer. You are permitted to have a friend or relative to appear on your behalf if the court finds that you are unable to adequately represent yourself because you are physically or mentally disabled. If both the Claimant and the Defendant have attorneys, the case may be transferred to a regular civil part of the court.

## **What About Having an Interpreter?**

If a party does not speak English, he or she is entitled to an interpreter. If an interpreter cannot be provided to you at the time of your trial, the case can be postponed until a date when an interpreter is available.

## **What if I Have a Disability?**

The Americans with Disabilities Act (ADA) protects all individuals with a disability who participate in court activities, including litigants, witnesses, jurors, spectators, traffic violators, conservators, victims, and attorneys. If you are an individual with a disability and you need an accommodation in order to participate in a court proceeding, you are entitled to certain assistance free of charge.

Under the ADA, a person with a disability is one who has a physical or mental impairment that substantially limits a major life activity, such as walking, seeing, hearing, learning, breathing or working. Upon request, court administrators can make reasonable modifications to its practices and procedures or provide auxiliary aids and services. The court cannot provide legal counsel or advice, transportation to or from the courthouse or personal devices, such as wheelchairs, hearing aids or glasses.

Each court has an ADA liaison who can help you with your request for accommodation. You can find contact information for the ADA liaison in your court [here](#). If a request for accommodation affects the judge's handling of the case, such as granting extra time, changing the location of a hearing or allowing video conferencing, you must make your request directly to the judge.

## **What If My Disability Involves Deafness or Hearing Loss?**

Under the ADA, state and local courts, including small claims courts, are required to provide auxiliary aids and services to ensure effective communication with individuals who are deaf or have hearing loss in court proceedings. "Auxiliary aids and services" may include qualified sign-language interpreters, transcription services, captioning, videotext displays, written materials, assistive listening devices and systems, or other methods of making aurally-delivered materials accessible in an effective manner to individuals.

The particular auxiliary aid or service depends on the needs of the individual and is determined on a case-by-case basis. For instance, if you are a person who is deaf and uses sign language, the most effective auxiliary aid or service may be a qualified sign language interpreter trained in legal procedure and terminology.

If you are a person who is deaf or has hearing loss and you do not rely on sign language for communication and if you are able to read, the most effective auxiliary aid or service for you may be the use of transcription services, such as CART. The CART system puts spoken words into real-time text using a qualified CART provider, a stenotype machine, computer and special software. If you are an individual who wears hearing aids or has cochlear implants, the most effective auxiliary aid may be a courtroom with an installed hearing loop or some type of assistive listening system.

Each court has an “ADA liaison” you can contact if you need assistance requesting an accommodation for a disability. You can find contact information for the ADA liaison in your court [here](#).

## **What is Arbitration?**

You can choose to have a Judge or an arbitrator try your Small Claims case. An arbitrator is an experienced attorney who is specially trained to hear and decide Small Claims. Because there are more arbitrators than Judges available to hear cases, an arbitrator will hear your claim more quickly. The hearing before an arbitrator is informal, but the arbitrator applies the same law to your case as a Judge would apply. However it is important to note that unlike the decision made by a Judge after a trial, an arbitrator's decision **cannot be appealed**. Additionally, cases decided by an arbitrator do not have juries. Whereas, jury trials are available if a Judge tries a case and the Defendant requests it.

## **What if I Want to Settle the Claim Before the Trial Date?**

This is always encouraged. The Claimant and the Defendant may settle the case before the trial. If both parties come to an agreement before the trial date and the claim has been fully paid then the Small Claims Court Clerk must be notified in writing and no one has to go to court. If the two parties come to an agreement but the claim is not fully paid by the trial date or you need more time to complete the settlement, you must still go to court on the date of trial and request a postponement so you can finish the settlement. You will be given a new date to attend court if the claim is still not settled.

## **What is Mediation?**

Mediation is a free service that is voluntary and confidential; it involves both parties meeting with a mediator who is trained to deal with disputes. It is a way to settle the case out of court. Mediation can result in non-monetary compensation, such as replacement of a broken or lost

item. A mediator helps parties resolve their dispute, but, unlike a Judge or an arbitrator, he or she cannot decide the case.

Prepare for mediation like you might for the court case and bring any relevant documents or information. When an agreement is reached between the Claimant and the Defendant they sign a settlement which is enforceable by the court. If no decision is reached the Claimant can proceed to court to have the case heard by a Judge or arbitrator.

Note: If the case is settled through mediation, make sure the Small Claims Clerk is notified so that the court case is closed.

To seek free mediation please contact your local Community Dispute Resolution Center, found in the [Resources](#) section.

## **What if I am Not Ready to go to Trial but I am Due to Appear in Court?**

**As the Claimant:** You must appear in person on the date set by the Court for trial. If you do not appear, the Judge may dismiss your case. When you appear, you may request a postponement (also called an "adjournment") for a legitimate reason (e.g., you need more time to gather documents, your witness is unavailable on this date), but it is up to the Judge to decide whether you will be given a new date to appear. In addition, if you received notice that you are being countersued by the Defendant you may ask for an adjournment to prepare to defend against this suit if the Defendant filed the counterclaim **more than 5 days** after receiving the Notice of Claim you filed against him or her.

**As the Defendant:** If you are seeking an adjournment because you cannot attend the trial date, send a trusted person to explain your absence and make sure the reason is legitimate. If you simply do not show up the Judge or arbitrator may find you are in [default](#) and decide the case in the Claimant's favor and against you. You can later re-open the case to ask the court to vacate the default judgment. If you have a valid defense and a good reason for missing the first trial date, the court may schedule another trial and vacate the default judgment.

If you have a disability or are a senior citizen and this is the reason why you cannot attend court, please see the [Senior Citizen/Disabled](#) section.

# **The Trial**

## **Arriving at Court**

On the day of the hearing, try to arrive at least 30 minutes before the Small Claims Court session begins. Give yourself time to go through security and find your courtroom. Remember

that even though Small Claims Court is somewhat informal, it is a serious place where people take an oath to tell the truth. You should dress neatly, and be respectful to the Judge or arbitrator, to the court personnel and to the opposing party.

When you get to your courtroom, look for the Small Claims Court calendar, which is usually posted outside the Small Claims Courtroom. The calendar has a list of cases scheduled for the day. The case will be listed by the last name of the Claimant and by the last name of the Defendant. If your case is not listed, or the calendar is not posted, speak to the court clerk.

## **Calling the Calendar**

The Small Claims Court Clerk will announce your case and call your name. When your name is called, you should stand, repeat your name and answer "ready." If you are not ready to begin and instead need to ask for an adjournment, you should respond to the Clerk at this time by saying "application." If you and the other party are both ready, the case will go forward to trial. The parties will then choose to go forward before an arbitrator or a Judge.

## **The Trial**

The Claimant has the burden of proving his or her claim and any damages. The Claimant presents his or her case first. The Claimant takes an oath to tell the truth (called being sworn as a witness) and then tells his or her version of the events. The Claimant also presents any documentary evidence at this time. After the Claimant testifies, the Judge or arbitrator may ask some questions. Other witnesses can also be sworn in to testify.

After the Claimant has offered all the evidence to support the claim, the Defendant is sworn as a witness and tells his or her side of the story. The Defendant can also present documentary evidence and other witnesses and the Judge or arbitrator may ask the Defendant questions.

If you are the Claimant, it is your responsibility to collect information about the Defendant's assets, in case you receive a judgment in your favor and the Defendant does not pay you voluntarily. At the trial, you can ask the Judge or arbitrator to question the defendant about his or her assets.

If you are suing a business, you may also ask the Judge or arbitrator to determine, during the trial, the Defendant's true business name. If the legal name of the business is different from the name written on your notice of claim, ask the court to have the name on the notice corrected by the Clerk.

## **The Decision**

After the Claimant and the Defendant have offered all their evidence, the Judge or arbitrator will usually "reserve decision." This means that the Judge or arbitrator needs time to evaluate the evidence before deciding the case. A decision will be mailed to the Claimant and the

Defendant after the hearing. In rare cases, the Judge or arbitrator may announce the decision immediately after the hearing.

If your case was decided by a Judge and you received an unfavorable decision, you have the right to appeal the decision. It is very difficult to overturn a court's decision on appeal. The appellate court does not rehear the case, but simply reviews for error by the lower court.

To appeal a decision, you must file a Notice of Appeal within 30 days of the court's decision. If you received a judgment ordering you to pay a sum of money and you want to file an appeal, you must either pay the sum to the opposing party, deposit the money or file a bond with the Small Claims Court. This guarantees payment in the event that you lose the appeal.

If you received a favorable judgment and were served with a notice of appeal, you can contact the Small Claims Court to see if a bond was filed for the judgment amount. If the opposing party did not file a bond, you may enforce the judgment.

## **Enforcing a Judgment**

After the trial, the court will mail the Claimant and the Defendant a "Notice of Judgment." Read all the information printed on both sides of the Notice of Judgment. If you won your case, the judgment will tell you the amount of money awarded to you, along with the sheriff's office address and phone number, and ways to collect your judgment. One way to collect your money is to call or mail the Defendant and ask for the payment. The court cannot collect the money for you, and there is no guarantee that you will have your judgment paid voluntarily. If the Defendant is unwilling to pay there is legal recourse you can take to obtain your money. The Small Claims Court judgment remains valid for 20 years.

### **What to do If the Defendant Does Not Pay Voluntarily**

If the Judgment Debtor, the party who lost during the trial, does not pay you voluntarily, you may contact an [enforcement officer](#). The enforcement officer will either be a Sheriff who works for the County or a City Marshal who is independent. For a list of enforcement officers visit the [Resources](#) page.

Tell the enforcement officer that you are the [Judgment Creditor](#) (the Claimant in the trial who has won money, or the Defendant who successfully countersued and won money), and that you would like the officer to request an execution from the court. An execution is a court order that allows the enforcement officer to take money or property from the Judgment Debtor in order to have your Judgment paid. Before the enforcement officer asks the court for an execution, the enforcement officer must know what assets the Judgment Debtor has and where they can be found. You must provide this information to the enforcement officer.

Also be aware that you will have to pay certain fees for the enforcement officer's services. If you settle the case after hiring an enforcement officer, you must pay the enforcement officer 5% of the settlement amount plus any additional fees. Visit this [webpage](#) for the Order of Execution form and instructions.

## **How Do I Find a Judgment Debtor's Assets?**

You can use an information subpoena to find a judgment debtor's assets. You can use the pre-printed questions on the subpoena or write your own questions. The Small Claims Court Clerk will provide you with an information subpoena for a small fee, you can also purchase the necessary forms from a legal stationery store, or copy the forms from a law form book found in a [Public Law Library](#).

The information subpoena must be signed by the Small Claims Court Clerk. After the form is signed, make copies for yourself and send the subpoena, two copies of the written questions and a self-addressed envelope with the correct postage attached (by regular mail or certified mail, return receipt requested) to the Judgment Debtor and anyone else you think may know about the judgment debtor's assets, such as: an employer or any banks where you know the Judgment Debtor keeps an account.

## **Other Ways to Locate Assets**

If you have a canceled check from the Defendant, the back of that check should indicate the name and address of the bank where the Judgment Debtor keeps an account. With this information, the enforcement officer can seize the money in the account and use it to satisfy your judgment.

You can check with the New York Department of Motor Vehicles and find out whether the Judgment Debtor owns a car. If so, the enforcement officer can take the car and sell it to pay you your money. You must be able to tell the enforcement officer the model, year, license plate number and location of the car. Also be aware that if the Judgment Debtor borrowed money to buy the car, that loan must be repaid from the sale before you can get any money.

Similarly, if the Judgment Debtor owns real estate, it can be sold to pay your judgment. Ask the Small Claims Court Clerk for a transcript of judgment and then file it with the County Clerk in the county where the judgment debtor owns property. You can then ask the enforcement officer to sell the property to pay the judgment. Again, be aware that if the enforcement officer sells the property you will receive your payment from the proceeds only if there is any money left over after the enforcement officer's fees and expenses are paid, any mortgage on the property is paid, all taxes are paid and previous debts the Judgment Debtor owes are satisfied.

## **Alternative Measures**

If the claim you filed in Small Claims Court was based on the Judgment Debtor's ownership or operation of a car and if the judgment is \$1,000 or more and has been unpaid for more than 15 days, the New York Department of Motor Vehicles may suspend the Judgment Debtor's driver's license and car registration until the Judgment is paid. For more information speak to the Small Claims Court Clerk.

If the claim you filed is about the Judgment Debtor's licensed or certified business, and if the debt has been unpaid for 35 days or more, you can contact the state or local licensing agency. The licensing agency then can revoke, suspend, or refuse to renew the business license.

If the Judgment Debtor has three or more unpaid recorded judgments including your own and has the ability to pay them, you may be able to sue for treble damages, which means you can be awarded three times the original judgment amount. Speak to the Small Claims Court Clerk and ask if the Judgment Debtor is listed in the Small Claims Court index of unsatisfied judgments.

If the Court finds the Judgment Debtor's business illegal or fraudulent you may notify the New York Attorney General's Office. If the business is licensed, notify the agency that licensed the business as well.

## **What To Do When the Judgment Is Paid**

When the Judgment Debtor has fully satisfied the Judgment (paid the amount in full) the court must be notified that the debt has been paid. You, as the Judgment Creditor, must notify the Small Claims Court that the judgment has been satisfied, even if you use an Enforcement Officer. Failure to notify the court in a timely manner may result in penalties to you.

The Enforcement Officer will file a satisfied execution with the clerk at the Small Claims Court where the execution was issued. The Enforcement Officer will also mail a copy to the Judgment Debtor.

See the [Resources](#) page for the locations and phone numbers of the Small Claims Court Clerks, County Clerks and Enforcement Officers.

# Information for Senior Citizens and People with Disabilities

If you are a Senior Citizen (age 65 or older) or have a disability that in some way prevents you from filing a claim or attending court in person, there are options for you to be heard and represented.

One option is the daytime court. When you are filing a claim ask the clerk to schedule it for daytime court if that will be more helpful. Be aware you will be asked for proof of age and/or disability.

If you cannot go to the Small Claims Clerk's Office, you may mail the Clerk the claim form with proof of age or disability (for example, a copy of an official document such as a driver's license).

Instructions for filing a claim by mail are available on the website of the [Office of Court Administration](#). You can also send a trusted person to file the claim for you.

## **Representation:**

**As the Claimant:** If you are physically unable to make an appearance at the court, you should send a letter signed by you stating why you are unable to attend and stating who you have chosen to represent you as a non-attorney representative. Also send documentation proving your reason as to why you cannot appear, just as for filing a claim through the mail. The person you send as a non-attorney representative should be a blood relative, a spouse, or relative through marriage.

**As the Defendant:** If you are physically unable to appear in court, you should send a non-attorney representative who can act for you in the case. The person you send should be a blood relative, a spouse, or marital relative. He or she should bring a document signed by you giving them your permission to represent you and proof of why you cannot attend court and need a non-attorney representative.

**For Both Claimant and Defendant:** If you use a non-attorney representative, make sure you provide them with all possible evidence, receipts, etc., and make sure they fully understand your position so that they may fully and adequately represent you. Of course, if you have the financial means you can hire a lawyer to represent you.



# Rules Specifically for Claims of Corporations, Partnerships and Associations

A corporation, partnership or association with a claim for money damages of up to \$5,000 may bring a suit in the Commercial Small Claims Part of the New York City Civil Court. Special court rules apply to these cases. Information on court rules is available by visiting the NY State Unified Court System website at [www.nycourts.gov](http://www.nycourts.gov).

You do not need a lawyer to bring a commercial small claim, but you may hire one if you want. If you are a partnership, then any of the partners may represent the partnership. If you are a corporation, then any employee who is authorized to represent the corporation may do so. If the small claim of the corporation (or partnership or association) is against an individual and the claim is based on a consumer transaction - a transaction where the money, property or service at issue is primarily for personal, family or household purposes - the corporation/partnership/association Claimant must send a demand letter to the Defendant at least 10 and no more than 180 days before it starts the lawsuit. You must also certify that you sent the demand letter. Demand form letters and certifications are available from the court clerk.

To sue a Defendant in the New York City Commercial Small Claims Court, the Defendant must reside, work or have a place of business in New York City.

You cannot file more than 5 (five) commercial small claims statewide per calendar month.

There is a \$25 filing fee for Commercial Small Claims, plus postage costs for mailing the notice of claim to the Defendant. A Commercial Small Claims Claimant must also file a verification that they have not exceeded the five case limit, and if the claim is based on a consumer transaction, the Commercial Small Claims Claimant must certify that a demand letter was sent.

## Glossary

**Adjournment** - A postponement of the proceedings in a case until a future specified time.

**Affidavit** - A sworn or affirmed statement made in writing and signed. If sworn, it is notarized.

**Appeal** - In an appeal, either plaintiff or Defendant (or sometimes both) asks a higher reviewing court to consider a lower court Judge's decision. One may only appeal a Judge's ruling, not an arbitrator's ruling. The appellate court does not rehear the case, but simply reviews for error by the lower court.

**Arbitrator** - A disinterested person trained in arbitration who hears evidence concerning the dispute and makes an award based on the evidence.

**Assets** - Anything of monetary value, including cash, securities, bank accounts, personal property, real estate, etc. owned by or owing to the person being sued.

Note: The Exempt Income Protection Act (EIPA), effective 1/1/09, protects bank accounts that contain subsistence funds such as government benefits, pensions and some earned income. EIPA prevents creditors and debt collectors from freezing these accounts to pay private debts, like credit cards.

**Claimant** - The person who brings a suit (files a claim) in Small Claims Court.

**Clerk** - The court employee who can assist you with the procedures for bringing your lawsuit.

**Commercial Small Claim** - A claim brought by a corporation, partnership or association in the Commercial Small Claims Division of the New York City Civil Court. Special rules apply.

**Contract** - An agreement between two or more people (usually written).

**Counterclaim** - A legal claim by the Defendant against the Claimant.

**Defendant** - The person being sued.

**Default** - A "default" occurs when a party fails to plead or otherwise defend a claim within the time allowed, or fails to appear at a court appearance.

**Default Judgment** - A judgment against a Defendant as a result of his/her failure to appear or submit papers at an appointed time during a legal proceeding.

**Disbursements** - Out of pocket expenses awarded to the winner in a judgment.

**Dismissal** - Termination of the hearing (usually because the Claimant did not come to court, therefore the Defendant does not have to pay anything).

**Enforcement Officer** - A Sheriff or Marshal who is legally allowed to enforce the payment of the judgment from the judgment debtor to the judgment creditor. *See Execution of Judgment.*

**Evidence** - Information presented at the time of trial used to establish facts (examples include witnesses, documents, photos, video, receipts records, concrete objects).

**Execution of Judgment** - The act of an enforcement officer taking money or property from the judgment debtor and using the assets seized to settle the debt with the judgment creditor.

**Hearing** - The trial before the Judge.

**Information Subpoena** - A legal document signed by the Small Claims Court Clerk that orders the judgment debtor and others to disclose information about the judgment debtor's assets.

**Inquest** - A non-jury trial for the purpose of determining the amount of damages due on a claim, if a party has not appeared or defended against the claim, and after the merits of the claim have been proven.

**Judge** - A governmental official with the authority to decide lawsuits brought before the court.

**Judgment** - The final decision of the Judge or arbitrator. It is a determination of the rights and obligations of the parties. In a small claims lawsuit, a judgment may direct a dismissal of the lawsuit or order payment of a money amount. The original Judgment of the court or arbitrator is filed in the clerk's office and is enforceable for 20 years.

**Judgment Creditor** - The winning party who is owed a monetary award from the judgment debtor.

**Judgment Debtor** - The losing party who must pay the judgment creditor the amount listed in the Notice of Judgment. *See Notice of Judgment*

**Jury** - A sworn body of people who determines a verdict or makes finding of facts.

**Liability** - The responsibility for a debt or obligation.

**Mediation** - A neutral third party, or mediator, sits down with the Claimant and the Defendant in efforts to make a settlement. The mediator does not have the power to render a decision on the matter or order an outcome. Mediation can be an effective way to settle claims outside of court.

**Mediator** - The neutral third party who assists in settling the dispute.

**Money Damages** - Monetary compensation awarded by the Judge or the arbitrator.

**Notarize** - To have a notary public attest to the authenticity of a signature on a document by signing the document and affixing his/her own stamp.

**Notice of Judgment** - Notice of the final decision of the Judge or arbitrator. (Both Claimant and Defendant receive a copy from the court by mail.)

**Plaintiff** - The person who files the small claims case (also known as the Claimant).

**Serve** - To deliver pleadings in a case to the person who is to receive notice.

**Subpoena** - An official court order requiring a person to testify in court or send a written statement with his or her testimony.

**Testimony** - The statement or declaration of a witness under oath.

**Trial** - The formal hearing of a legal controversy in court so as to decide the issue.

**Witness** - A person who provides testimony in court.

## Resources

[Monday Night Law](#) is a community service program providing free consultations with volunteer lawyers. The consultation is a chance for you to discuss questions you may have about a legal issue or process, and an opportunity to have a lawyer help you figure out what to do next.

Volunteer lawyers can only help you with advice related to the following legal topics:

- Employer and Employee Law
- Divorce, Matrimonial and Family Law
- Bankruptcy
- Consumer Law
- Landlord-Tenant
- Small Business Matters

Call 212-626-7373 (Español 212-626-7374) to discuss your legal issue with an Attorney Referral Counselor at the New York City Bar Legal Referral Service.

**NYPIRG** (The New York Public Interest Research Group) is a not for profit organization that offers a hotline staffed by trained students who can answer some questions about Small Claims Court and can offer information about procedures. NOTE: the person you speak with is NOT a lawyer and CANNOT offer legal advice.

To reach NYPIRG call one of the following numbers:

- Bronx: 718-289-5409
- Brooklyn: 718-859-7178 or 718-260-5045
- Manhattan: 212-772-4305, or 212-349-6460
- Queens: 718-997-3937 or 718-225-9121
- Staten Island: 718-982-3109

## Small Claims Court Locations

The Daytime Court begins at 9:30 AM, the Nighttime Court begins at 6:30 PM.

### New York County

#### Civil Court

111 Centre St  
New York, NY 10007  
646-386-5484

### Bronx County

#### Civil Court

851 Grand Concourse  
Bronx, NY 10451  
718-618-2517

### Harlem Community

#### Justice Center

170 East 121 St  
New York, NY 10035  
212-360-4113

### Kings County

#### Civil Court

141 Livingston St  
Brooklyn, NY 11201  
347-404-9021

### Queens County

#### Civil Court

89-17 Sutphin Blvd  
Jamaica, NY 11435  
718-262-7123

### Richmond County

#### Civil Court

927 Castleton Ave  
Staten Island, NY 10310  
718-675-8460

## Supreme Court County Clerks' Offices

### New York County Clerk

60 Centre St  
New York, NY 10007  
646-386-5955

### Bronx County Clerk

851 Grand Concourse  
Bronx, NY 10451  
718-618-3301

### Kings County Clerk

360 Adams St  
Brooklyn, NY 11201  
347-404-9750

### Queens County Clerk

88-11 Sutphin Blvd  
Jamaica, NY 11435  
718-298-0601

### Richmond County Clerk

130 Stuyvesant Pl  
Staten Island, NY 10301  
718-675-7700

\*You may start your claim in any of the counties where you live or work, or where the Defendant lives or works.

## **Enforcement Officers**

### **Sheriff's Offices**

#### New York County

66 John St  
New York, NY 10007  
212-487-8002

#### Bronx County

3030 3rd Ave, Rm 240  
Bronx, NY 10455  
718-993-3880

#### Kings County

210 Joralemon St, Rm 909  
Brooklyn, NY 11201  
718-488-3545

#### Queens County

30-10 Starr Ave  
Long Island City, NY 11101  
718-707-2170

#### Richmond County

350 St. Marks Pl  
Staten Island, NY 10310  
718-815-8407

## **Community Dispute Resolution Center**

Manhattan/New York County  
NY Peace Institute (Safe Horizon)  
Manhattan Mediation Center  
346 Broadway, Room 400W  
New York, NY 10013  
212-577-1740

Brooklyn/Kings County  
NY Peace Institute (Safe Horizon)  
Brooklyn Mediation Center  
210 Joralemon St, Room 618  
Brooklyn, NY 11201  
718-834-6671

#### Bronx/Bronx County

Institute for Mediation and  
Conflict Resolution  
384 East 149<sup>th</sup> St, Suite 330  
Bronx, NY 10455  
718-585-1190

#### Queens/Queens County

Community Mediation Services  
89-64163<sup>rd</sup> St  
Jamaica, NY 11432  
718-523-6868

#### Staten Island/Richmond County

New York Center for  
Interpersonal Development  
130 Stuyvesant Pl, 5th Floor  
Staten Island, NY 10301  
718-815-4557