

NEW JERSEY JUDICIARY
SMALL CLAIMS

New Jersey Courts

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Superior Court of New Jersey
Law Division
Special Civil Part
Small Claims Section

The small claims section is a court in which you can sue a person or business (the defendant) to collect a small amount of money that you believe is owed to you. The procedures in small claims are simpler than in other courts, persons usually can file and present their cases relatively quickly and inexpensively, and often without an attorney.

This brochure explains how to file a complaint, an appeal and gives general information about small claims in New Jersey.

Small Claims Section

Small claims is one of three sections of the Superior Court's Special Civil Part. The other two sections are landlord/tenant and regular Special Civil Part. Separate brochures are available for these sections. Small claims handles cases in which the demand is not more than \$3,000 or \$5,000 if the demand is for the return of a tenant's security deposit. These are the monetary limits of small claims. If the amount of money you are trying to recover is more than the monetary limits but less than \$15,000, your case should be filed in the regular Special Civil Part. Cases in which damages are more than \$15,000 must be filed in the Law Division of the Superior Court.

If you believe you are entitled to damages greater than the monetary limits but still want to sue in small claims, you give up your right to recover damages over the monetary limits. The additional money cannot be claimed later in a separate lawsuit.

Typical Claims Filed

Following is a general list of claims which can be filed in small claims:

- Breach of a written or oral contract.
- Return of money used as a down payment.
- Property damage caused by a motor vehicle accident.
- Damage to or loss of property.
- Consumer complaints for defective merchandise or faulty workmanship.
- Payment for work performed.
- Claims based on bad checks.
- Claims for back rent.
- Return of a tenant's security deposit not to exceed \$5,000.

Claims That Cannot Be Filed

The following is a general list of claims that *cannot* be filed in small claims:

- Claims arising from professional malpractice, such as alleged malpractice by a doctor, dentist or lawyer).
- Claims for support or alimony from a marital or a domestic dispute.
- Claims arising from a probate matter, such as a will.

Where Do I File A Small Claims Complaint?

A complaint must be filed in the Office of the Special Civil Part of the county where at least one defendant lives or where the defendant business is located. A business defendant is considered located in a county wherever it is actually doing business or in the county where its registered office is located. If there is more than one defendant, the complaint can be filed in the county where any one of the

defendants lives or is located. If none of the defendants live or are located in New Jersey, the complaint must be filed in the county where the cause of the action arose or where it started.

Note: A complaint for the return of a security deposit can be filed in the county where the landlord lives or where the landlord's rental property is located.

Who May File A Small Claims Complaint?

To sue in small claims, a person must be 18 years of age or older. If the person suing is under the age of 18, the complaint must be filed by the parent or guardian.

Filing a Small Claims Complaint

A small claims summons and complaint form and instructions on how to complete them is available in any New Jersey Special Civil Part Clerk's Office and at njcourts.com. The summons and complaint can be filed through the mail or in person at the appropriate Special Civil Part Clerk's Office (see "Where Do I File a Small Claims Complaint.")

When filing a complaint, you, as the plaintiff, must:

- Give your full name, address and telephone number.
- To ensure proper service of the complaint, give the correct name(s) and address(es) of the person(s) named as the defendant(s) in the complaint. It is important that the defendant be properly identified as an individual, a sole proprietorship, a partnership or a corporation.
- State the amount of money for which you are suing.
- State the reason why the defendant(s) owes you money.
- State whether at the present time there is any other case involving both you and the other party(ies) and, if so, the name of the court.
- State whether you will need an interpreter and specify in which language.
- State whether you have a disability requiring special accommodations.
- Sign and date the completed form.
- Pay the correct filing and service fees when filing the summons and complaint with the Special Civil Part Clerk's Office. If you pay less than what is required, it will be returned to you.
- Do **not** provide the court with any party's **confidential personal identifiers** in the complaint. These include any party's full Social Security number, driver's license number, vehicle plate number, insurance policy number, **active** financial account number or **active** credit card number. Submit this information **only** if it's required by law, court order, rule or administrative directive. Do not submit or redact any of this information on your originals. Submit the last four digits of any active financial account number to the court only if it is the subject of the litigation and cannot otherwise be identified.

Upon filing and service of a summons and complaint, all of the parties, all defendants and plaintiffs named in the summons and complaint, will be notified of the trial date by the court.

If the defendant does not appear for trial, the plaintiff will have a "default" entered by the court. The court could decide on the day of trial the amount of money, if any, to be awarded to a plaintiff. This is called the entry of a "judgment by default." However, the plaintiff must provide satisfactory proof as to the amount of money due and owing and prove that the individual defendant is not an active member of the U.S. military. Proof of non-military service does not apply to business defendants. A pro se packet

providing detailed instructions on how to apply for a default judgment is available in any New Jersey Special Civil Part Clerk's Office and at njcourts.com.

If the complaint is for money damages caused by a motor vehicle accident and the judgment requires a defendant to pay more than \$500, the defendant must pay within 60 days. If the defendant does not pay within the 60 days, the plaintiff can request through the Special Civil Part Clerk's Office that the New Jersey Motor Vehicle Commission stop the defendant's driving and registration privileges until the judgment is paid.

Filing Fees

The costs for filing a complaint in Special Civil are:

- \$35 for one defendant.
- \$5 for each additional defendant.
- The fee is \$7 for each defendant served by certified and regular mail. This is subject to change, however. A \$3 fee, plus special civil part officer mileage fees, is charged for one defendant if served personally by a special civil part officer. Each additional defendant served personally is an additional \$5 fee plus applicable mileage fees. Staff of the Special Civil Part can inform you of the mileage fee, if any. Make a check or money order payable to the *Treasurer, State of New Jersey* for payment of all of these fees.
- An additional \$100 fee is required for requests for a jury trial by six jurors.

If you cannot afford to pay the court's filing fees, you can apply to the court to qualify as indigent, and your filing fees may be waived by the judge.

Preparation for Trial

Plaintiff

If you are the plaintiff, you must prove your case. Arrange to have any witnesses and records you need to prove your case at the trial. A written statement, even if made under oath, is not admissible in court. Only actual testimony in court of what the witness(es) heard or saw will be allowed. Prepare your questions in advance.

Bring to court records of any transactions that may help you prove your case. Such records could include:

- Canceled checks, money orders, sales receipts.
- Bills, contracts, estimates, leases.
- Letters.
- Photographs.
- Other documents proving your claim.

If you are able to settle the case with the defendant before the trial date, call the Special Civil Part Clerk's Office immediately to confirm that the case should be marked as settled.

Defendant

If you are the defendant, you should prepare your side of the case as the plaintiff prepared his or her case. Bring all necessary witnesses and documents to court with you on the scheduled trial date. If you want to sue the plaintiff as well, you must do so before the scheduled trial date. The Special Civil Part Clerk's Office staff will explain how to file the claim.

If the plaintiff does not appear, the judge could dismiss the case. If the defendant does not appear, a default judgment could be entered and the defendant might have to pay all or a portion of the money claimed to be owed.

If you are able to settle the case with the plaintiff before the trial date, call the Special Civil Part Court immediately to confirm that the case should be marked as settled.

The Day of Trial

The defendant must come to court at the time and date stated on the summons. The plaintiff receives a separate notice from the Special Civil Part Clerk's Office to attend court at the exact same date and time. All parties must appear at that date and time unless they are otherwise notified by the court. If the court is closed due to inclement weather, the trial will be rescheduled.

On the day scheduled for trial, the court will help the parties, the plaintiffs and defendants, try to settle the case through settlement discussions with a trained settler. The settler will try to help everyone reach a satisfactory agreement. The settler is not a judge. If a settlement cannot be reached, your case will try to be heard by the judge on the same day.

If you win your case, consult the applicable brochure, *Collecting a Money Judgment*, which is available in any New Jersey Special Civil Part Clerk's Office and at njcourts.com.

Right to Appeal

If you, as a plaintiff or a defendant, disagree with the court's final decision, you can appeal the case to the Appellate Division of the Superior Court within 45 days from the date of judgment. You must file a Notice of Appeal, a copy of the Request for Transcript and a Case Information Statement within the 45 days with the clerk of the Appellate Division at the Richard J. Hughes Justice Complex, PO Box 006, Trenton, NJ 08625, and deliver copies to:

- All parties to the case who appeared in court.
- The Clerk of the Special Civil Part from which the appeal is taken.
- The judge who decided the case.

You must pay a filing fee of \$250 with the Notice of Appeal and deposit \$300 with the clerk of the Appellate Division within 30 days of the Notice of Appeal. The deposit could be used to pay settlement or court costs if the appeal is lost. If the appeal is successful, the deposit will be refunded.

You also must obtain a transcript of the trial. The request for a transcript should be made to the clerk of the Special Civil Part in the county in which the case was tried. You must deposit with the clerk the estimated cost of the transcript as determined by the court reporter, clerk or agency preparing it or \$300 for each day or part of a day of the trial. You must file three copies of the transcript with the clerk of the Appellate Division. Questions concerning an appeal should be directed to the clerk of the Appellate Division at 609-292-4822 or to an attorney.

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