

# How to Sue in Small Claims Court

Small Claims Court is a special court where:

- A person or a business can sue for up to \$5,000. (You can sue for more than \$5,000, but you must sue in Magistrate Court. You cannot get around the \$5,000 limit by filing 2 small claims.)
- The rules are simple.
- You don't need a lawyer. (You can talk to a lawyer before and after your trial, but you cannot have a lawyer speak for you in court. If you are a business, the owner or an employee can speak in court, as long as the employee is not a lawyer.)



## To Start Your Case...

### ① Fill out these court forms:

- *Claim* form (You are the *Plaintiff*. The person or business you are suing is the *Defendant*.)
- *Summons*
- *Affidavit of Competence and Non-Military Service (Ada County)*

You can get these forms from the Court Clerk or online to print or e-file them:

**Guide & File and E-file:** To use an online interview to prepare your forms or to e-file go online to: <http://guideandfile.idaho.gov>.

**If you are a business** filing the claim in a county where e-filing is available, **you must e-file** your documents.

**Print:** To print and fill out your forms go to: [www.courtsselfhelp.idaho.gov/small-claims](http://courtsselfhelp.idaho.gov/small-claims). Sign and date the completed forms. Make at least two copies: 1 for you and 1 for each Defendant.

### ② Take your completed forms to a court in the county where the Defendant lives or the problem happened.

There is a **\$69** filing fee for Small Claims cases.

Different kinds of cases have different deadlines. If you miss your deadline, you won't be able to file your claim. To know the deadline for your case, ask a lawyer or read this state law:

<http://legislature.idaho.gov/statutesrules/idstat>Title5/T5CH2/>

### ③ Someone – not you – serves the Defendant

Each Defendant must be **served** (given) a copy of the papers you file at court and additional forms. Read *How to Serve Your Small Claims Papers* to know what to do.

**Warning!** If you do not serve correctly, the court will close your case.

### ④ Wait 21 days for the Defendant to “answer”

If the Defendant files an *Answer* within 21 days of

being served, that means s/he **disagrees** with your claim. If this happens, the Clerk will mail you:

- A *Notice* with the date and time of your trial, and
- A copy of the Defendant's *Answer*, which explains his/her side of the case.

### ⑤ If the Defendant does not “answer” within 21 days

(and was served correctly) you will get:

- A *Notice* with the date and time of your trial, or
- You can request a *Default* form to fill out and file. The Default requests that the court grant your claim because Defendant did not respond within the deadline.

A judge will review your claim and evidence. You will win your case if:

- The judge decides your claim is valid,
- You go to your trial (or file a complete *Default*).
- The Defendant is 18 or older and able to understand what the case is about.
- You show the court that the Defendant is **not** on active military duty. Contact the Defense Manpower Data Center for a free report:

Tel.: 1-800-538-9552

Online: <https://scra.dmdc.osd.mil/scra/#/home> (only if you have the Defendant's social security number or date of birth).

**Important:** If the Defendant could not answer because s/he is in the U.S. Armed Forces, you **may not be able to** get a default judgment.

If you meet these requirements, the clerk will mail or give you a copy of the “default judgment.”

### ⑥ Contact the Clerk if...

You cannot go to your trial on the date listed on the *Notice*. If you have an *urgent* reason to change the date, file a *Motion and Order to Continue* at least 2 weeks before your trial.

You or a witness needs help with English or has hearing problems. The Clerk can send a free interpreter to your trial. The court does not allow friends or relatives to interpret for you.