



How to Sue in Small Claims Court

SMALL CLAIMS PROCESS

Step 1: File claim

Step 2: Serve claim

Step 3: Attend pre-trial conference. One of 3 things will occur:

- Judge will dismiss the case
- Judge will order mediation
- Judge will order trial

Step 4 (a): Attend mediation, if ordered. One of two things will occur:

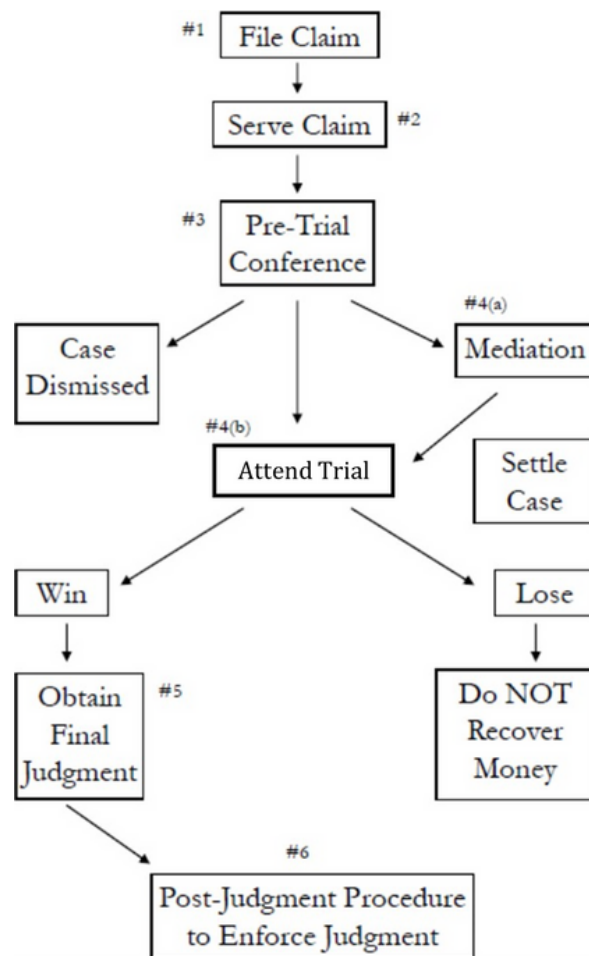
- Come to an agreement with the other party and settle the case, or
- Fail to come to an agreement with the other party and go to trial

Step 4 (b): Attend trial, if ordered. One of two things will occur:

- Lose trial and do not recover claim, or
- Win and obtain Final Judgment

Step 5: Submit Final Judgment Form, if you are the prevailing party

Step 6: Collect judgment by following post-judgment procedure



WHAT IS SMALL CLAIMS COURT?

Small Claims Court is a Court where you do not need an attorney to represent you. It is designed so that people can represent themselves. You bring an action in small claims if you want to sue someone for money damages. The maximum amount you can sue for in Small Claims Court is \$8,000 (not including Court costs, interest, and attorney's fees).

FILING A CLAIM IN SMALL CLAIMS COURT

- **Forms.** You will need to fill out a Statement of Claim and a Summons. You can find all of the forms to file a suit in Small Claims Court at: http://www.miami-dadeclerk.com/property_small_claims.asp.

The clerk of the court may assist you with filling out the Statement of Claim, but they cannot provide you with legal advice.

- **Fees.** The filing fees in Small Claims Court are based on how much money you are suing for.

If your claim is for:

\$1.00 - \$99.99, you pay \$55.00 **\$100.00 - \$500**, you pay \$80.00

\$500.01 - \$2,500, you pay \$175.00 **\$2,500.01 - \$8,000**, you pay \$300.00

If you are low income eligible, you can have the filing fee waived by filling out the "Application for Determination of Civil Indigent Status." That form is included with this brochure. You need to give the form to the clerk when you file your Statement of Claim.

- **Service.** Service is when a copy of your lawsuit is formally delivered to the person being served. You should know exactly who you are suing. You need the correct, full legal name of the person or business you are suing and where they can be served because your lawsuit cannot proceed until the defendant has been served. To complete service the process server will personally hand a copy of the lawsuit to that person with a summons.

If you are suing a corporation, you can serve the registered agent. You may find out the name of the registered agent by calling "Corporate Information" at the Florida Secretary of State, 1- 850-488-9000 or from the Sunbiz website www.sunbiz.org. If you cannot serve the registered agent of a corporation, then you can serve any corporate officer.

You have 2 options to arrange for service:

- o You may use the Sheriff's office to serve the Statement of Claim. It will cost \$40.00 per defendant per address.
- o You may use a Court approved process server to serve the defendant (sometimes quicker than the Sheriff). Cost may vary depending on provider. To obtain a list of process servers, contact (305) 349-5543.

- **Where to File.** You can file your claim at any of the Court locations listed below:

Dade County Courthouse (05)
73 West Flagler Street
Miami, FL 33130

North Dade Justice Center (23)
15555 Biscayne Boulevard
Miami, FL 33160

Miami Beach Court Facility (24)
1130 Washington Avenue
Miami Beach, FL 33139

Coral Gables Branch Court (25)
3100 Ponce de Leon Boulevard
Coral Gables, FL 33134

South Dade Justice Center (26)
SW 211 Street
Miami, FL 33189

Joseph Caleb Center Court (20)
5400 NW 22nd Avenue Ste 103
Miami, Florida 33142

Hialeah Courthouse (21)
11 East 6 Street
Hialeah, FL 33010

AFTER YOU FILE YOUR STATEMENT OF CLAIM

After you have filed your suit, you will be notified of the place and date for a PRE-TRIAL CONFERENCE. You must attend the conference; if you do not, the Judge will dismiss your case. The pre-trial conference is held to determine whether or not your lawsuit should go to a full hearing, known as a trial, before a Judge. Or, if the case can be settled out of Court. Do not bring witnesses at this time.

Sometimes at the pre-trial conference the Judge will ask you if you want to try to settle your case and go to MEDIATION. The advantage of mediation is that your case is over right away, and you know the result, instead of taking a chance with a trial. The disadvantage is that you may not get everything you want.

The Judge at the pre-trial conference may also tell the parties what kind of evidence and witnesses should be presented at the trial, if a trial is held.

WHAT WILL HAPPEN AT YOUR TRIAL

The trial is the final hearing in your case. At trial, all the witnesses testify and both sides present whatever documents or other evidence they have.

If you filed the claim, you are the plaintiff, and you present your case first. You can start with an "opening statement", where you explain to the Court what the case is about, what you are going to prove, and how you will prove it. The defendant, the person being sued, can also make an opening statement but may decide to do that when they present their case.

After the opening statements, each side has the opportunity to present everything necessary to prove their case; plaintiff goes first. Both parties can call witnesses and submit documents and other evidence. Both parties can ask questions of the other party's witnesses.

When the defendant is done with their case, the plaintiff can present additional witnesses or evidence which argue against the defendant's case.

After the plaintiff and defendant have presented their cases, then each side can make a "closing argument." In the closing argument, each party tries to persuade the Court to rule in their favor. You can restate to the judge what you have proved and why you should win.

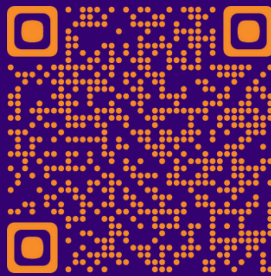
Sometimes during a lawsuit, the defendant files a COUNTERCLAIM against the plaintiff in the same case. A counterclaim is a claim that the defendant has against the plaintiff. For example, a tenant may sue for a security deposit but the landlord may file a counterclaim for damage the tenant did to the unit. If a counterclaim is filed, the defendant has to prove the counterclaim when they present their case at trial, just like the plaintiff has to prove the original claim.

After both sides finish presenting their cases, the judge then decides the case and issues a decision. This decision is called the JUDGMENT and will be written. Usually, the judge rules immediately after the trial; sometimes the judge will take additional time to rule.

Once the Judge makes a decision, they will issue a FINAL JUDGMENT. A Final Judgment is a legal document stating that one party is entitled to recover money from another party. Interest will be added to the amount awarded until the Final Judgment is paid off. The judge may also award the prevailing party (the party who wins) Court costs and possibly attorney's fees.

To record the judgment as lien against real property, get a certified copy of the judgment and take the certified copy to the Recorder's Office.

Note: At any time during this process, the defendant may pay you and settle the claim. However, obtaining a judgment against a party is NOT the same as collecting that judgment, and can be difficult. Post-judgment legal procedures are often required prior to any collection. You may find it necessary to hire an attorney to assist you with collections. You can call the Dade County Bar's Lawyer Referral Service at (305)371-2646 for a referral to an attorney who does collection work.



**SCAN for
more information**



**4343 West Flagler Street, Suite 100
Miami, Florida 33134**

www.legalservicesmiami.org