

My Laws, My Courts, My Maryland
BRINGING A SMALL CLAIM

Today, we will discuss how to file a small claim. First, let's talk about the steps involved in filing a small claim and then we'll go through each step further.

Step one: Try to resolve the problem with the other person. Step two: Determine whether your case should be filed in small claims court and if so, then file the claim. Step three: Notify the other person that you have filed a claim by having him or her served with the summons and all the papers you filed with the court. Step four: Wait to see if the other side responds. Step five: Prepare for your day in court.

In every lawsuit, the person suing is called the plaintiff and the person being sued is called the defendant.

What is the small claims process like?

Small claims court is a part of the district court of Maryland. It handles claims for \$5,000 or less and is not as formal as other Maryland courts. The rules of evidence and procedure are simplified. It's easier to represent yourself without a lawyer, although you may have a lawyer if you choose. A judge will decide the case.

To file a claim in small claims court: your claim must be for \$5,000 or less; your claim must be for money only, not for the return of property or the performance of a service;

and you cannot request any discovery. That means you won't be asking the other side to answer written questions, called interrogatories, and you won't be doing a lot of formal factual investigation.

While small claims court is less formal, you may want to talk with a lawyer if your claim involves personal injury or medical expenses, you are seeking damages from a traffic accident, or if you are unable to fill out the necessary court forms.

Before you file a claim in court, try to work out the dispute on your own. If you can avoid going to trial, you will probably save time and money. Also, even if you win, the other party could appeal, and you may have to go through a new trial. Finally, if you try to resolve the dispute before taking the person to court, you may be able to use this as evidence to establish your case.

First, talk to the person that you are thinking of suing. Think about the amount of money you think he or she owes you and decide the minimum amount you would accept to avoid going to court, called a settlement. Try to talk to the person face-to-face and if you come to an agreement, put it in writing. Also, both you and the other party should sign the settlement agreement you reach.

If you cannot resolve the dispute by talking with the other party, write a letter. Start by describing the issue. Clearly and politely state your request for payment, and include a date by which you expect to receive a response. State that if you do not receive payment,

you will sue in court. Make sure you keep a copy of the letter and send it by certified mail, with return receipt requested.

Mediation is another option before going to court. A trained, neutral person called a “mediator” will help you and the other person find a solution to which you can both agree. The District Court’s Alternative Dispute Resolution Program provides help on mediation. For more information about mediation, ask for the brochure “Mediation – Is Going to Trial Your Best Option?” You can also call the Alternative Dispute Resolution office at (410) 260-1676.

If you can’t come to a resolution by talking with the other party, writing him or her a letter, or through mediation, you may want to file a claim.

Before you file a claim, you should evaluate whether you are likely to win your case.

Here is what you should consider:

First, your claim must be within the statute of limitations. This law requires that you bring your suit within a certain time period. Usually, you must bring a claim within three years after the problem arose. Second, ask yourself whether you, the plaintiff, can prove your case by a “preponderance of the evidence.” In other words, you must have evidence to convince a judge you are most likely right.

To prove your case you must present evidence to the court, which could include a contract, a letter, an invoice, an estimate, or testimony from a witness.

Also evaluate whether filing a claim will be worth the time and effort. Consider what the maximum amount of money is that you are likely to win and whether you will be able to collect from the other person.

There are four steps in filing a small claim. First, file a complaint form with the court. Next, pay the filing fee. Then, the court will issue a writ of summons to notify the other side, the defendant, of the suit. The defendant must be served with the summons, complaint and all other papers filed with it. For more information about service of process, watch the My Laws, My Courts, My Maryland video *Service of Process*. Last, provide proof to the court that the other side has been served.

Step 1: File the complaint

You can begin a small claim by filling out a complaint form, which you can find online on the judiciary's website, mdcourts.gov. You can also pick up copies of the forms at court locations across the state. In some cases, you may ask the court for a judgment on affidavit. This means that the court can decide who wins and loses the case based on written documents that you attach to the complaint. If you want the court to consider the case on affidavit, you must make a demand for judgment on affidavit at the time you file

the case and attach an affidavit that shows that you are entitled to judgment as a matter of law. The district court complaint form provides a place for you to do this. It is at the bottom of the form, titled “Application and Affidavit in Support of Judgment.” For information on how to fill out the complaint, see the self-help page on the judiciary’s website, or ask the clerk’s office or the district court self-help center for help.

Step 2: Pay the filing fee

File your complaint with the district court and pay the filing fee. You can find out the cost of the filing fee by checking online or by calling the clerk’s office. If you cannot afford the fee, you may ask in writing that the fee be waived. Most courts provide a form to request a fee waiver. There is also a fee if you want the court to notify the other party that the complaint has been filed.

Step 3: Have the defendant served

Service of process is the act of officially notifying the other person that you have filed suit against him or her. You can learn more about service of process in the *My Laws, My Courts, My Maryland* production: *Service of Process*.

Next, the other side will have 15 days to respond to your complaint if served in Maryland, and 60 days to respond if served out of state. If the other side wants to

challenge the claim, he or she must file a “notice of intention to defend.” This means that the other person plans to argue that he or she does not owe you the money you claim.

The other person may also respond by attempting to settle the claim with you.

Remember, put the terms of the agreement in writing. Both of you should sign the agreement.

If the other person does not respond to the complaint, and you filed the case under affidavit, you may receive judgment without having to appear for trial if the judge finds that you have presented enough proof. However, if the judge does not find you have presented enough proof and does not sign the order entering the judgment, you will be notified of a new trial date to appear and present evidence. If you did not file the case under affidavit, go to court on your trial date, with all of your evidence and witnesses, prepared to prove your case.

What happens if the other side believes that you actually owe him or her money?

The other person may respond to your lawsuit by filing a counterclaim, which is a lawsuit against you. Consider preparing evidence to disprove the other side’s claim. The other side may also claim that another person is responsible for the debt and file a third-party claim.

Finally, prepare for your day in court. Find court locations and directions online at mdcourts.gov. Prepare what you are going to say, organize and present your evidence, and choose and prepare witnesses

Today, we talked about what a small claim is, whether you should file a small claim, and the process of filing a small claim.

We also went over how to bring a claim in small claims court. Step one: Try to resolve the problem yourself with the other person. Step two: Determine whether your case should be filed in small claims court and if so, then file the claim. Step three: Notify the other person that you have filed a claim by having him or her served with the summons and all the papers you filed with the court. Step four: Wait to see if the other side responds. Step five: Prepare for your day in court.

For more information, contact the clerk's office, the District Court Self-Help Center, or visit mdcourts.gov.