



**SMALL CLAIMS DIVISION
OF THE
SHREVEPORT CITY COURT**

(318)673-5800
Shreveportcitycourt.org

This is an informational publication of the Shreveport City Court. The Judges and Court personnel are not allowed to give legal advice. Therefore, you may wish to contact an attorney even if you intend to handle your own case. If you do not have a lawyer, you may wish to contact the Shreveport Bar Association regarding the Lawyer Referral Service, a non-profit public service agency, at www.shreveportbar.com. If you need the services of an attorney, but feel that you cannot afford one, you may wish to contact Legal Services of North Louisiana at (318)222-7186.

SHREVEPORT CITY COURT
SMALL CLAIMS DIVISION
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Shreveport, LA 71101
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WHAT IS THE SMALL CLAIMS DIVISION?

The Small Claims Division is a part of the Shreveport City Court established pursuant to **Louisiana Revised Statutes 13:5200 - 5211**. You may use the Small Claims Division to sue to resolve minor civil disputes, or to collect small sums of money that are owed to you. The maximum amount of money for which you may sue in the Small Claims Division is Five Thousand Dollars (\$5,000.00).

After judgment is rendered, additional court costs will be charged for any collection procedures undertaken, such as judgment debtor examinations, garnishments and seizures. While the plaintiff must advance these costs, the defendant will ordinarily be legally responsible for reimbursing them to the plaintiff.

Using the Small Claims Division is one of your rights as a citizen. Individuals may bring suit on their own without having to hire a lawyer. The technical rules of evidence are relaxed, and all relevant evidence, including hearsay, is admissible if the judge is satisfied of its reliability. The judgment must be based on competent evidence.

NO JURY TRIAL & NO RIGHT OF APPEAL. A person who sues in the small claims division gives up any right to have a jury trial. They also give up any right to have the judgment reviewed on appeal. If you are not willing to waive these rights, you should not file a suit in the Small Claims Division.

Although the procedure in the small claims division is relatively informal, you must still prove by competent evidence that the defendant owes you the money sought. The judges and the court staff are here to help. However, neither the judges nor the court staff can give legal advice nor can they investigate your case or assist in preparation of the case for trial. Therefore, you may wish to seek advice from an attorney or hire an attorney to handle the case for you.

HOW DO YOU BEGIN IN SMALL CLAIMS COURT?

The documents that comprise a Small Claims lawsuit are called pleadings. The forms required are: (1) Petition; (2) Statement of Claim; and (3) Soldier's and Sailor's Relief Act Affidavit. Filing of these documents, along with payment of the required fees, will institute your Small Claims Suit. A sample form for a petition, a statement of claim and a Soldier's and Sailor's Relief Act Affidavit are attached.

You will be required to correctly identify the defendant and provide his/her address where service of process can be made. If you sue a business, you must accurately name the entity that operates it as a business in order to have the proper party defendant before the court. For example, "Al's Body Shop" may be operated by Al Jones, or "ABC INCORPORATED". The operator's name can sometimes be found on licenses or certificates posted in the place of business, or by contacting City-Parish authorities who issue occupational licenses. The name and address of the "registered agent", who must receive your suit against a corporation, can be obtained from the Louisiana Secretary of State, Corporations Division (225-925-4704) or by visiting the Records Section in the Office of the Clerk of Court, Caddo Parish, Louisiana, 500 Texas Street, Shreveport, LA.

Your STATEMENT OF CLAIM must contain the following information:

- 1) Your full name, address and daytime telephone number.
- 2) The correct name and address and of the party you are suing. (If a corporation, the name and address of its registered agent for service of process).
- 3) A simple but complete statement of why you are suing. (This should include dates, places and persons as they relate to your claim, and the grounds or reasons why you are seeking judgment against defendant[s])
- 4) The total amount of money you are trying to recover, with an itemization and explanation. The limit is Five Thousand Dollars (\$5,000.00), which does not include interest, court costs and attorney fees (if an attorney is filing the suit).

You should attach to your STATEMENT OF CLAIM copies of any contracts, leases, bills, receipts, canceled checks, promissory notes, etc., upon which you rely to prove your claim.

WHO MAY SUE IN SMALL CLAIMS DIVISION?

Any individual acting in his or her own behalf who is over 18 years of age may sue in Small Claims Court. The person who files suit is called the "plaintiff" and the person who is sued is called the "defendant". A minor may sue only through his parent or guardian. An officer or employee of a corporation or unincorporated association may file suit on behalf of the organization if:

- 1) the amount in controversy does not exceed \$5,000.00;
- 2) involves an open account or a promissory note; and
- 3) the corporation or organization had appointed him to file suit on its behalf.

Otherwise, a corporation must be represented in court by an attorney.

WHO MAY BE SUED IN SMALL CLAIMS DIVISION?

The person or company being sued may be an individual, a sole proprietor, a partnership, a corporation, or an unincorporated association such as a club or association. In some cases there may be more than one defendant. You may sue the parties who have caused you damage or injury. The clerk cannot tell you which party you should file your suit against. If you are unsure, you should ask an attorney.

For your suit to be filed in Small Claims Division of the Shreveport City Court the defendant(s) should reside within the Shreveport City limits or within Ward 4. If the defendant is a corporation, its registered office should be located within the City of Shreveport or Ward 4.

WHAT KINDS OF SUITS MAY BE FILED IN SMALL CLAIMS?

Contractual disputes, actions for money damages based on injury caused by another person, actions for possession of personal property (but not real estate), and open accounts may be filed in the Small Claims Division. Common consumer complaints such as repair problems, breach of warranty, defective products, unreturned property or damage to property by cleaners or movers are other examples of matters that can be pursued in the Small Claims Division.

WHAT KINDS OF SUITS MAY NOT BE FILED IN SMALL CLAIMS?

You may not file suits for sums exceeding \$5,000.00 in Small Claims Court, and you may not file the following types of suits in Small Claims Court:

- 1) Marriage annulment, divorce, separation, child custody, support and alimony; separation of community property, succession and suits involving title to real estate.
- 2) Receivership, bankruptcy, liquidation.
- 3) Habeas Corpus.
- 4) Suits against the city, state, parish, or other political subdivision, or suits against public officials performing their official duties.
- 5) Sequestration and attachment proceedings, executory process.
- 6) Eviction of tenants or occupants.

WHERE DO YOU FILE A SMALL CLAIMS SUIT?

Small Claims suits are filed in the office of the Clerk of Court, Civil Division, Shreveport City Court, 1244 Texas Avenue, Shreveport, Louisiana. Office hours are 8:00 a.m. to 4:30 p.m., Monday through Friday. The Court is closed on Saturdays, Sundays, and legal holidays.

HOW MUCH SHOULD YOU SUE FOR?

Sue for the sum of money which represents the damages caused to you. For example, if the washing machine you just bought for \$340.00 does not work and the store refuses to repair it or refund your money, sue for \$340.00 plus court costs and judicial interest. The amount cannot be split for the entire amount claimed.

You may not sue for more than \$5,000.00 (current limit fixed by law) in the Small Claims Division. A suit filed in the Small Claims Division constitutes a waiver and release by the plaintiff of any portion of the claim that exceeds the \$5,000.00 jurisdictional limit of the Small Claims Division. However, should defendant transfer the case to the Regular Civil Docket of the Shreveport City Court, you will not be barred from amending your Petition to assert the entire amount of your claim (up to \$35,000.00). (See information concerning transfer to the Regular Civil Docket in the section "What Happens After You File Suit?") You may decide that even though you are owed more than \$5,000.00, it would save you money to forego the excess and sue in the Small Claims Division. This is your privilege.

If you receive a judgment in your favor, you can claim interest on the sum awarded from the date suit was filed until the judgment is paid. You may contact the Clerk's Office for the current legal interest rate.

Court costs are usually (but not always) assessed against the losing party. However, if you file suit and then agree to an out-of-court settlement, you may not receive a refund of the court costs paid to the client. Therefore, you may want to claim your cost expense from the defendant in the settlement.

WHAT HAPPENS AFTER YOU FILE SUIT?

After you file suit, the Clerk's office employees will prepare a citation to be served on the defendant(s), along with a copy of your suit. This citation informs the defendant(s) of the suit and requirement that defendant(s) file an answer in ten (10) calendar days (including weekends and holidays unless the 10th day falls on a weekend or holiday, in which case the 10th day will be the next day that the clerk's office is open). This ten (10) day delay is extended to fifteen (15) days if a defendant is an insurance company or is to be served through the Secretary of State. The citation will be served by the City Marshal or his deputy.

Service of process is the obligation of the plaintiff. You should telephone the Clerk's Office at (318)673-5800 approximately ten (10) days after you file your suit to find out if service was made to the defendant(s). If the deputy marshal was unable to serve defendant(s) at the address you gave, you must find out where defendant can be served and provide that information to the clerk. Without service of process, the case cannot proceed any further.

WHAT SHOULD DEFENDANT DO?

Initially, the defendant, after being served with service of process, must decide whether he or she wishes to proceed in the Small Claims Division. Defendant does have a right to transfer the case to the Regular Civil Docket. If defendant transfers the case to the Regular Civil Docket, defendant will be required to pay whatever additional fees that are required. Defendant should also know that if he or she wishes to transfer the case, it should be done within ten (10) days after being served with service of process. If the request for a transfer is filed MORE than ten (10) days after service, a WRITTEN motion for the transfer is required, and the motion will be fixed for argument in Open Court, at which time the judge will either grant or deny the request. All parties will be notified of the date for the argument on defendant's motion to transfer.

A fee of \$15.00 must be paid by defendant(s) for a request for transfer to the Regular Civil Case Docket. (Make check payable to Shreveport City Court). If the case is transferred, the defendant requesting transfer must also pay the basic suit filing fee of \$100.00. Transferring a case to the Regular Civil Docket removes any prohibition against appeal. Both parties have a right to appeal. Being placed on the Regular Civil Docket also

removes the relaxation of the legal rules of evidence at the trial. Therefore, the plaintiff in such cases should be alerted to the possible advisability of retaining an attorney, since he or she will then be required to proceed in the Regular Civil Court with written pleadings, etc.

If defendant files a countersuit or re-conventional demand (i.e. a claim by the defendant against the plaintiff) in a Small Claims case, the plaintiff (who is now defendant in reconvention) has the same right to request that the case be transferred out of Small Claims into the Regular Civil Court as indicated above.

If defendant decides to contest the case in the Small Claims Division, the defendant should file a written answer with the Clerk of Court within 10 days from the date upon which process was served. The answer should be truthful, and contain every defense defendant intends to raise. Any exceptions under the Louisiana Code of Civil Procedure should be incorporated into the answer. No depositions, interrogatories or other discovery proceedings may be used under the Small Claims procedure.

RE-CONVENTIONAL DEMANDS FOR MORE THAN \$5,000.00

If a defendant has a claim against the plaintiff who has sued him or her, and the amount of defendant's such claim exceeds \$5,000.00, the defendant may:

- 1) File his or her claim as a re-conventional demand in the Small Claims suit and thereby waive the amount which exceeds \$5,000.00 and proceed to trial in the Small Claims Division;
- 2) At any time prior to the trial of the case in the Small Claims Court, he or she may commence his action against the other party in a court of competent jurisdiction (which includes but is not limited to the Regular Civil section of Shreveport City Court), AND file an affidavit stating that the re-conventional demand (which he has filed as a suit in another court) is in excess of \$5,000.00 with the judge of the Small Claims Division where plaintiff's action is pending. He should attach to his affidavit a true copy of his petition or re-conventional demand and pay the Clerk of the Small Claims Division a transmittal fee of Fifteen Dollars (\$15.00), in addition to the prescribed court costs for filing the re-conventional demand, furnishing a copy of the affidavit, and pleading to the plaintiff.

The party filing such re-conventional demand thus must pay all filing fees which the plaintiff in the Small Claims suit would have been required to pay to the court to which the action is transferred, until that court determines who must pay the costs.

WHAT HAPPENS AFTER DELAYS FOR FILING AN ANSWER HAVE PASSED?

DEFAULT DOCKETS: If the defendant(s) fails to file an answer or other pleadings within ten (10) days after service of process, the plaintiff may have his case placed on a DEFAULT

docket. To do this, plaintiff should return to the Clerk's office and ask to have his suit placed on an available date.

Remember that the defendant is not prohibited from filing pleadings any time before your case is actually heard in court, even after the ten (10) days elapse from the date of service. If the defendant files pleadings AFTER you have had your case placed on a default docket, the clerk will mail a copy of the pleadings to you and take your case off the default docket. You will then be responsible for having your case placed on a contested case docket.

CONTESTED DOCKETS: Only those cases in which answers or other pleadings have been filed by the defendant may be set on a contested case docket. When pleadings are filed by a defendant, the clerk will mail a copy to the plaintiff at the address which plaintiff previously gave the clerk. Remember to notify the Clerk of all changes of address. After receiving a copy of pleadings filed by the defendant, you, the plaintiff, must come to the Clerk's office to have your case placed on an available date for trial.

HOW TO PREPARE FOR YOUR TRIAL

Since you, as the plaintiff, have the burden of proving your case before the judge at trial, you should bring with you any important documents you have that are related to your case. These may include canceled checks, receipts, bills, correspondence, messages, contracts, notes, leases and anything else that may be used as evidence to support your claim. The parties are responsible for arranging to have their witnesses appear to testify. Some witnesses will agree to come to court voluntarily. You must inform them of the date, time and place of the trial and make sure they appear. It is too late on the day of the trial to have them subpoenaed. If it is necessary for you to call a witness who does not wish to appear voluntarily, you may ask the clerk to issue a subpoena directing the person to appear, but remember that a witness who is forced to appear against his will, may not be very cooperative in supporting your case.

If you subpoena a witness to testify at the trial of your case, you should be prepared to pay him/her the reasonable cost of his/her time (loss of wages, etc.) necessitated by his coming to court. The clerk's office is not responsible for paying these costs. If you plan to subpoena a doctor, lawyer, mechanic, accountant or other professional or expert in any field, you should talk with that witness before having his/her subpoena issued, to try to reach an agreement about his charges for appearing in court, and be prepared to pay him as soon as the trial is over. If you subpoena an expert witness, you may ask the judge to set an expert witness fee. Do this as soon as he has completed his testimony in the case. If your witness has been served a subpoena and fails to appear, it will ordinarily constitute good grounds for a postponement or continuance of your case. Except under extraordinary circumstances, witnesses should be subpoenaed only in the Shreveport-Bossier area.

If a settlement is reached prior to trial, call the Clerk's office and report it. You should also write the clerk immediately, since your written request must be received before the clerk can dismiss the suit. If you find that you are unable to attend court, contact the opposing party to see if he will agree to have the case continued until another date. If the opposing party is not willing to agree to a continuance, you may file with the clerk's office a written request for a continuance. It should state the full reasons why the continuance is necessary. The clerk will submit your request to the judge for consideration. Only the judge can authorize changing a trial date after it is fixed, unless both parties agree to change it.

WHAT TO DO THE DAY OF TRIAL

Be sure to be present with your witnesses a few minutes prior to the time for your trial to commence. Call the Clerk's office the day before if you have any doubt about the date and time for your trial.

The plaintiff will present his case first. Then the defendant will be allowed to present his response to plaintiff's evidence. Plaintiff may also be allowed to present additional evidence in an effort to disprove the defendant's case after defendant has finished presenting his evidence. (This last response from the parties is called rebuttal).

There will not be a jury. The judge or arbitrator (an attorney acting as judge) will try the entire case. It is his/her responsibility to get the facts necessary to render a fair judgment. The judge can then summon witnesses, raise defenses, take testimony, ask questions, and generally take whatever action is necessary to ascertain the true facts of the case.

There may or may not be lawyers present. The judge will set the rules and insure that the rights and interests of the parties are upheld. Whether or not attorneys are present, the procedure in Small Claims Court will be informal and the technical rules of evidence relaxed.

If you are the plaintiff: Present your facts in a straightforward manner. Tell the truth. Remember, you will be under oath. Explain to the judge why you believe the defendant owes you money or has failed to live up to his commitments. Bring all documents or other evidence which support your claim. Have your witnesses give their testimony. The judge may ask questions of you and your witnesses to obtain information needed to arrive at a fair decision. Answer all questions directly and honestly. When you have concluded your case, the judge will hear the defendant's side. You will have an opportunity to present additional "rebuttal" evidence after the defendant has closed his case.

If you are the defendant: Present your facts in a straightforward manner. Tell the truth. Remember, you will be under oath. Explain to the judge why you believe the plaintiff does not have a claim against you. believe the defendant owes you money or has failed to live up to his commitments. Bring all documents or other evidence which support your position. Present evidence of any defenses you have to the claims made by plaintiff. Have your witnesses give their testimony. The judge may ask questions of you and your witnesses to

obtain information needed to arrive at a fair decision. Answer all questions directly and honestly.

At the trial all parties should testify truthfully and instruct his or her witnesses to do likewise.

AFTER THE TRIAL

If the judge decides that the plaintiff has offered enough proof of his claims, a judgment will be rendered for the amount of damages the judge thinks is appropriate. Sometimes this may be only part of the sum the plaintiff requested. The judgment of the court becomes a legal obligation after it is signed. However, a judgment merely establishes that the defendant owes money to the plaintiff. It does not necessarily mean the plaintiff will be paid. Defendants are urged to pay to the plaintiff whatever amount is awarded by the judge. However, some judgments are never paid, for various reasons.

It is not the responsibility of the Judge or the Clerk of Court to collect a judgment. In order to collect a judgment (if defendant does not willingly pay it), the plaintiff may take further action, such as asking the court to garnish the defendant's wages, or seize and sell certain non-exempt property belonging to defendant.

If you need more information about the defendant in order to take these steps, you may request a "Judgment Debtor Examination" to require the defendant to appear in court and produce evidence of his assets and employment. At such a hearing you may ask a defendant about his assets, employment, bank accounts, or other property he may own. Each procedure you request after receiving your judgment has a cost, which you must advance. (See section on costs on the following page). Any costs you are required to advance will be added to the judgment and be owed to you by the defendant.

A judgment rendered in a Small Claims Division becomes final and executory three (3) days after it is signed, unless within that time the judge grants a new trial or otherwise stays execution of the judgment. The three (3) day delay starts to run on the day the defendant is served with a Notice of Judgment, if such notice is required. Notices of judgment will be issued unless the defendant was personally served or appeared in the case.