

SMALL CLAIMS COURT

Go to <http://www.utcourts.gov/howto/smallclaims/> for more information

Q: What is Small Claims Court?

A: Anyone (“Plaintiff”) can use Small Claims Court to sue another person or company (“Defendant”) for any reason as long as the claim is for \$10,000 or less. A Small Claims Court judgment must be an amount of money; the judgment cannot order the Defendant to do something – such as return personal property. A good resource for information is the website shown in the title box, above.

Q: What kinds of legal claims can I make in Small Claims Court?

A: Unpaid rent, demand for return of deposit, the value of personal property taken by landlord or damage caused by landlord, damage caused by tenant, wage claims, car accidents (“negligence”), promise to pay money, shoddy work done by someone such as a car repair or by a building contractor – these are all claims that can be made in Small Claims Court. Any kind of civil claim that can be satisfied by a money judgment of up to \$10,000 can be brought in Small Claims Court. If your claim exceeds \$10,000, you can reduce the claim to \$10,000 but you cannot file multiple claims.

Q: Can I represent myself in Small Claims Court?

A: Yes. Most plaintiffs and defendants do not have lawyers in Small Claims Court.

Q: How long does it take to get a judgment in Small Claims Court?

A: It usually takes at least 45 days to get a judgment in Small Claims Court. The plaintiff files an affidavit with the court clerk. The clerk schedules a hearing and writes that date on the plaintiff’s affidavit. Then the affidavit with that hearing date must be served on the defendant. The defendant must have at least 30 days notice in advance of the hearing.

Q: How much does it cost to file a Small Claims case?

A: In 2012, the filing fee is \$60 for claims up to \$2,000; \$100 for claims between \$2,001 and \$7,500; and \$185 for claims between \$7,501 and \$10,000. However, the plaintiff can submit an affidavit to waive the filing fee and to have a local law enforcement department (police or sheriff) serve the affidavit at no charge. This waiver affidavit must be approved by a judge.

Q: Where do I file my Small Claims Court case?

A: The rule is that the case must be heard where the defendant resides or where the cause of action arose. The “cause of action” is the basis for the claim. If you rented an apartment in Sandy from a landlord living in Murray and you want your rental deposit back, you can file your claim in Sandy (where the “cause of action” arose) or Murray (where the landlord lives) but you cannot file in Salt Lake City or Draper even if that’s where you now live. A landlord can file in the city where the rental unit was located even if the tenant no longer lives in that city. To see a list of all Small Claims Court locations in Utah go to the State court’s website shown in the title box at the top of this page.

Q: What evidence do I need to win in Small Claims Court?

A: There is no right answer to this question. Pictures and witnesses often help. But pictures taken on one day don’t show conditions before or after that day. Someone can testify on your behalf but that person must have actual knowledge of the circumstances, e.g., an eye witness. If a leak in the ceiling destroyed a TV, what would it cost to repair or replace the TV with a make and model of the same age? If the carpet was 20 years old when the tenant moved out it

is unlikely that the landlord can recover any amount for damage to the carpet. And in negligence cases such as car accidents, each party can be assessed a percentage of the damage, e.g., 75% to defendant and 25% to plaintiff. In such a case, the plaintiff's award will be reduced by the plaintiff's percentage of liability. At 50/50, the plaintiff gets nothing.

Q: What if I cannot attend the Small Claims Court hearing?

A: If you know in advance that you cannot be there, call the court clerk and ask for a postponement. This applies to both plaintiff and defendant. If you are the plaintiff and fail to appear, your case will likely be dismissed and you will have to start all over again. But you could ask to set aside the dismissal if you have a very good reason for not appearing. If you are the defendant and you fail to appear, the plaintiff will very likely get a default judgment against you for the full amount requested plus the court filing fee and the service of process cost. The defendant can ask that the default judgment be set aside within 15 calendar days of the entry of the judgment. If that deadline is missed, the judgment is final. If the default judgment (against the defendant) or dismissal (of the plaintiff's case) is set aside, the case starts again from the beginning.

Q: Can I appeal a Small Claims Court judgment?

A: Yes, although it is not an "appeal" but a brand new trial. Either side can appeal. The party appealing must file a notice with the Small Claims Court clerk within 30 calendar days after the day the judgment is entered. The filing fee is currently \$235 (two hundred thirty-five dollars). The appeal is heard by a District Court judge at a courthouse within the county where the Small Claims hearing was held. Because this is "de novo" (from the beginning), both parties must present their sides of the case again just as if no prior hearing had occurred.

Q: If a Small Claims Court judgment is entered, how does the winner get paid?

A: The Small Claims Court judgment form has information about how to collect a judgment. It is possible to garnish wages and to take (or file a lien against) non-exempt property owned by the debtor. It's also possible to require the debtor to appear in court from time to time to answer questions about the debtor's income and assets. Debtors who get a notice to appear in court (for a "Supplemental Proceeding") must go and must answer the questions. No one can be forced to give up exempt property or income. And no one can be thrown in jail for owing a debt. But failure to appear in court when ordered to do so usually results in a warrant for the arrest of the person who failed to appear. When apprehended, the debtor must either pay the bail amount (usually \$100 or more) or go to jail.

Q: If a landlord files an eviction in District Court, can the landlord sue the tenant in Small Claims Court after the tenant leaves the rental unit in order to collect unpaid rent or property damage?

A: No. An eviction case filed in District Court can result in both the eviction of and a money judgment against the tenant. Once the landlord chooses to file in District Court, the landlord must pursue that case. Oftentimes, the landlord will only get an eviction order in District Court ("Order of Restitution") and then drop the matter. If the landlord waits until after the tenant has vacated before filing a court case, the landlord can choose to file in Small Claims Court.

Q: Are there alternatives to Small Claims Court?

A: You can call Utah Dispute Resolution (877-697-7175 toll free) to ask if they can help you mediate a solution to your claim against the other party. If UDR has a mediator who can help you, the mediator will contact the other party to ask if it is possible to work out a solution. The other party need not agree to mediation and need not agree to a solution. But if mediation does occur, it is often successful. Both parties agree to a solution that's acceptable to both.

Utah Legal Services

New clients call 9 – 2 M – F: 801-328-8891 in the Salt Lake valley; 800-662-4245 elsewhere in Utah

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