

THE PRO SE BRANCH OF THE SMALL CLAIMS COURT FOR CLAIMS UP TO \$3,000.00

First Municipal District
Circuit Court of Cook County

www.cookcountycourt.org

Introduction

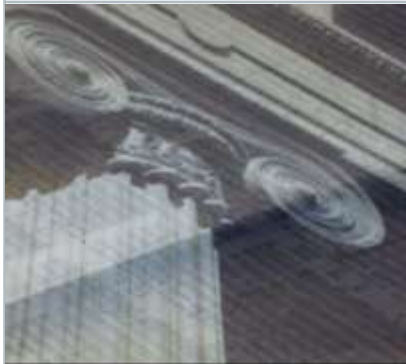
The *Pro Se* Branch of the Small Claims Court (pronounced “pro say”, which means by or for yourself) provides an avenue of recourse for individuals to pursue justice. The *pro se* court allows litigants to pursue any claim seeking up to \$3,000.00 in a timelier and less expensive manner than traditional litigation.

The person asserting the claim, also called the **plaintiff**, starts a lawsuit by filing a complaint. A **complaint** is the initial pleading that starts a civil action and states the basis for the court’s jurisdiction, the basis for the plaintiff’s claim, and the demand for relief. In other words, it is a document that tells the court the problem, includes relevant facts (who, what, when and where), and what award or compensation the plaintiff seeks.

The person or entity being sued, also called the **defendant**, may defend against the claim with or without a lawyer. If the defendant appears with a lawyer, the plaintiff has the right to acquire a lawyer and the case will remain in the *Pro Se* Branch of the Small Claims Court.

This guide provides basic information to assist plaintiffs and defendants. Sign language and foreign language interpreters are available for those who need assistance. If you would like to use an interpreter, please notify the staff at the *Pro Se* Filing Desk in Room 602 at the Richard J. Daley Center, 50 West Washington Street, Floor 6. If you need more information or help, please call 312-603-5626.

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Pro Se Filing Desk Information

LOCATION

- 50 West Washington, Chicago, IL 60602
Richard J. Daley Center, Room 602

HOURS OF OPERATION

- 8:30 a.m. to 4:30 p.m.
- **No appointments first come first serve.**
- **The staff at the Pro Se Help Desk does not give legal advice.**

WHAT WE CAN ASSIST YOU WITH:

- Completing court-required documents
- Explaining court fees
- Explaining court orders
- How to follow the judge's orders

HOW TO INITIATE A LAWSUIT IN THE PRO SE BRANCH OF SMALL CLAIMS COURT

Starting a lawsuit: Go to Room 602 at the Richard J. Daley Center, 50 West Washington Street. The staff at the *Pro Se* Filing Desk can help you get started.

Please be prepared with following information:

- Name(s) of person(s) or entity you want to sue.
- Why you are suing them.
- How much you are suing them for.
- Mailing address or address where you can serve summons.

Plaintiffs must be at least 18 years of age:

- Any parent can sue for injury or money loss to a minor child.
- A plaintiff **CANNOT** be a partnership, corporation, association, or assignees of claims.

Defendants may be:

- Any person, corporation, partnership, association, or trust.

Examples of claims you may seek money damages for (\$3,000.00 or less):

- Damage to your car,
- Loss of, or damage to, your clothes by a cleaner,
- Failure of landlord to return a security deposit,
- Failure of a former tenant to pay rent,
- Failure to make good on a guaranty or warranty,
- Failure to properly repair an auto, television, roof, etc., or
- Failure to repay a loan.

INITIATING A LAWSUIT IN THE PRO SE BRANCH OF SMALL CLAIMS COURT CONTINUED...

Starting a lawsuit:

- Please be prepared with following information:
 - ✓ Who you are suing.
 - ✓ Why you are suing them.
 - ✓ How much you are suing them for.

Pro se court fees:

WHEN FILING A SMALL CLAIMS CASE, PLAINTIFFS ARE RESPONSIBLE FOR A FILING FEE **AND** A SERVICE FEE:

Filing fee

The amount of the filing fee depends on the ad damnum amount or how much money the plaintiff seeks from the defendant...

For claims of **\$0.01 - \$250.00**, the filing fee is: **\$119.00**

For claims of **\$250.01 - \$1,000.00**, the filing fee is: **\$172.00**

For claims of **\$1,000.01 - \$2,500.00**, the filing fee is: **\$177.00**

For claims of **\$2,500.01 - \$3,000.00**, the filing fee is: **\$227.00**

Service Fee

*This fee is for the process of serving the defendant. To serve someone means to send notice to all parties in a lawsuit advising them that they are being sued for damages or money.

Fee for service by **certified mail:**

\$12.30 per service to an individual residence

Or

\$20.59 per service to a business or storefront

Accepted Forms of Payment:

- Cash
- Credit Card
- Money order
- Cashier's check

OR

Fee for service by a **sheriff:**

\$60.00 per service

Accepted Forms of Payment:

- Check
- Money Order
- Credit Card (4.75% fee)
- Example: If you pay the **\$60.00** fee to be served by the sheriff, the credit card fee would be **\$2.85** which would

Continued...

Example court fees:

A claim for **\$1,500.00** and served by certified mail to a business or storefront, the court fees would total: **\$197.84**.

A claim for **\$1,500.00** and served by certified mail to an individual residence, the court fees would total: **\$189.04**.

A claim for **\$1,500.00** and served by the Sheriff, the court fees would total: **\$237.00**.

PRESENTATION OF YOUR CLAIM TO THE COURT

Time and place your trial will occur:

- Court dates, or trial dates, are set for 14 days after the return date.
- The “return date” is located at the top right-hand corner of the complaint form. It is generally printed in bold letters. This date refers to the date the defendant, or his/ her legal representative, must file an appearance with the Clerk’s office. They do not see a judge.
- Immediately below the “return date” is the court date or trial date. As noted above, this date is 14 days after the return date. On this date, both the plaintiff and the defendant appear before the judge.
- If the defendant is not properly served after the first attempt, then you must try again. If the defendant does not properly receive the summons, in other words he is not served, then the staff at the *Pro Se* Filing Desk can help you complete and submit an alias summons. The alias summons will have a new “return date” and “trial date”. The new trial date will be 14 days after the new “return date”.
- On your trial date, report to Courtroom 1308 of the Richard J. Daley Center, or another courtroom if advised otherwise. The courtroom generally opens at 8:45 a.m.
- Court begins promptly at 9:30 a.m. It is important that you be “signed-in” before 9:30 a.m. In order to “sign in”, you approach the clerk with all necessary paperwork and tell the clerk your name and case number. The clerk will then proceed in signing you in. After you are signed in please take a seat and wait for your name/ case number to be called.



PRESENTATION OF YOUR CLAIM TO THE COURT CONTINUED...

- If the case is dismissed, you may file a motion within 30 days after the dismissal to vacate the dismissal, to reinstate the case and to have an immediate trial. The *pro se* staff will help you with preparation of the motion and notice.
- If you cannot attend a scheduled court date (because of hospitalization or illness, etc.) you may file a motion to postpone the case. The *pro se* staff will help you with the preparation of the motion and notice. It is your responsibility to notify the other parties involved. If you and your opponent agree on a new date, the judge will try to accommodate you. In any event, you or your legal representative should appear in court on the scheduled court date. The judge will then grant or deny your motion for a continuance.



What to bring on your court date:

- Any persons (witnesses) who can help you.
- Any documents such as: leases, contracts, sales or rent receipts, letters from or to the plaintiff or defendant, paid repair bills or three estimates, cancelled checks photographs, and merchandise such as damaged clothing, etc. that support your position.
- *Your papers cannot help you if you do not have them with you. If you do not know whether certain documents or papers will be needed in court, be safe and bring them with you.
- If the case is continued, bring all your materials and witnesses with you to the next court date.

Communicating with the judge, court officer, or other party:

- Calmly and clearly present who, what, when, where, and why about your case to the judge. Do not argue with the other party.
- Show your papers or your damaged clothing or any other merchandise to the judge.
- Bring your paid bills as evidence for repaired items, which replaced damaged items or evidence at the fair market value of the property before and after the damages occurred. When suing for damages to property that has not been repaired be sure to **bring three estimates of the cost of the repairs.**

YOU'RE THE DEFENDANT... THINGS YOU NEED TO KNOW

Rights and obligations of the defendant:

- Defendants may appear *pro se* (without a lawyer) or may appear with a lawyer.
- If a defendant is properly served with a summons or notice to appear in court on the trial date, and does not come to court, an “ex-parte” judgment will be entered against the defendant, unless the court continues (postpones) the case. You (or your legal representative) should come to court to ask for a continuance.

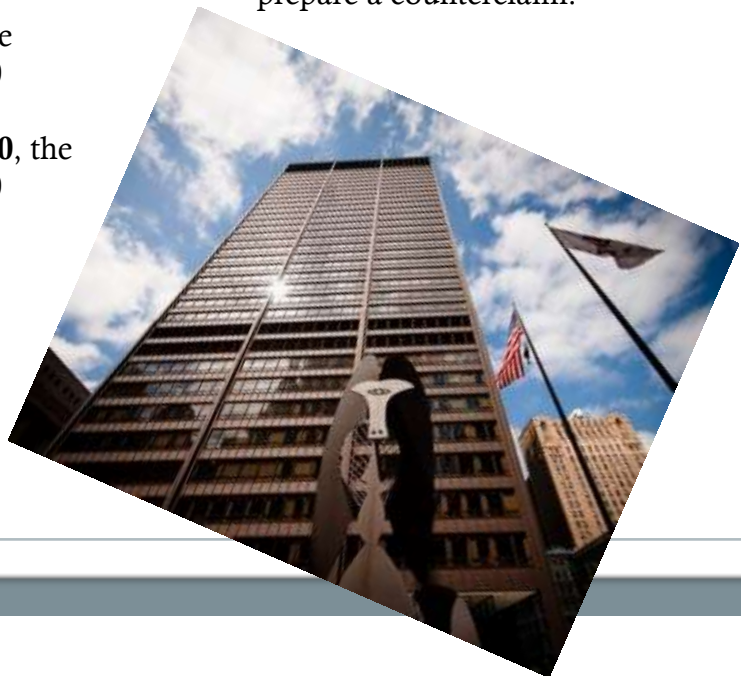
Contesting the claim as a defendant:

- If you need more time, you or a person authorized to act on your behalf (such as an attorney) must come to court and ask for a continuance.
- The defendant must file an appearance, as directed in the summons. By filing an appearance, the defendant acknowledges that he/ she received the court documents, and is aware of the case pending against him/ her. The fee for the appearance is payable to the clerk in Room 602 of the Daley Center.
KEEP YOUR RECEIPTS
- The defendant must be in court for the trial. The date for the trial will be 14 days after the “Return Date” which is shown near the top of the Pro-Se Complaint as the “Trial Date”. If the defendant does not appear at the trial, a judgment may be entered for the plaintiff.
- *Defendants appearing in Courtroom 1308 are not required to submit a written response addressing the allegations in the complaint.
- If you believe that the plaintiff owes you money, you may file a claim against the plaintiff. This is called a **counterclaim**. The *pro se* staff in Room 602 will help you prepare a counterclaim.

Appearance fees are as follows:

For claims of **\$0.01 - \$1,500.00**, the appearance fee is: **\$176.00**

For claims of **\$1,500.00 - \$3,000.00**, the appearance fee is: **\$186.00**



SETTLEMENTS, JUDGMENTS, AND COLLECTIONS

Judgment

- After hearing both the plaintiff's argument and the defendant's argument, the judge will issue a ruling (or judgment).

5 general outcomes of a *pro se* small claims trial:

1. **Judge rules in favor of plaintiff:** A judgment will be entered and the defendant is responsible for the judgment amount plus court costs if so ordered by the court.
2. **Judge rules in favor of the defendant:** The case will be dismissed.
3. **Plaintiff does not appear on trial date:** The case will be dismissed.
4. **Defendant does not appear on trial date:** The judge may enter an "ex-parte" judgment (meaning one sided). If the ex-parte judgment is not set aside by the court (on a motion filed by the defendant within 30 days after the judgment is entered) it is open to collection.
5. **Settlement:** The parties may be given an opportunity to meet with a mediator to resolve their case. Mediators are volunteers who try to help the parties reach an agreement. They are not judges and do not render decisions. If the dispute is not resolved in mediation (generally allotted 40 minutes with mediators), the case will proceed to trial.

Settlement

- Both parties can try to settle the case. The judge can also help the parties reach a settlement. Most cases involving lawyers end in settlements. Remember, a bad settlement could be better than a good lawsuit.

Collections

- **The judge and clerks do not collect money.** It is the responsibility of the plaintiff to collect any and all money awarded to them. However, the court and the *pro se* staff in Room 602 will assist you with the payment process.

Collecting a judgment requires time and patience. The plaintiff has the right to telephone the defendant at reasonable times regarding the collection of money.

5 Ways to collect a Judgment:

1. A **MEMORANDUM OF JUDGMENT**: A party must submit a motion for memorandum of judgment (MOJ). If the judge grants a MOJ, a lien (pronounced “lean”) is placed on the title of any real estate owned by the defendant.
2. A **WAGE DEDUCTION** order may be sent to the defendant’s employer requiring a certain percentage of wages be held back over specified number of weeks to pay the judgment.
3. A **GARNISHMENT** may be entered against anyone owing money to a defendant (a bank, tenant, debtor, etc.). This requires that the money owed to the defendant should be paid to the plaintiff in total or in installments, as may be permitted.
4. A **CITATION** may be issued, requiring the defendants, banks, employers, or other entities to come into court or answer questions about bank accounts, money, real estate or other assets from which the judgment may be paid.
5. **AFTER** the **CITATION** and after a rule to show cause and if the Court deems appropriate, an **ATTACHMENT** may be issued for a defendant’s arrest if the following factors are met:
 1. The court issued a citation.
 2. A ruling to show cause took place.
 3. The court deems an arrest to be appropriate

“Court Costs” and Interest:

- The term “court costs” includes fee related to:
 - Filing of complaint,
 - The appearance,
 - Issuance of summonses,
 - Procedures for collection,
 - Garnishments,
 - Citations, and
 - Attachments.
- The judge will generally order the party who loses to pay the “court costs”. In addition, the defendant may have to pay the plaintiff interest on the unpaid judgment at the statutory rate.



FREQUENTLY ASKED QUESTIONS

Can anything be done for a defendant who owes money to a plaintiff but needs time to pay? Can a claim be settled if this is the case?

Yes, the *Pro Se* Judge will help the parties create an installment payment plan, which will help defendants pay the settlement or judgment amounts in structured payments.

Is a written response to a claim required of a defendant?

No, it is not required. When you appear in court, you may state your defense, and present the facts that you want the judge to hear. However, if the defendant wishes, he/ she may submit a written response.

When is a case decided? When is a judgment entered?

After the trial has ended, and the plaintiff and defendant have been heard, the judge will render a decision.

Can a claim be made in the *pro se* court for pain and suffering?

No, the *pro se* court only deals with out of pocket money claims. If you seek damages for pain and suffering you should speak with the clerks in Room 601 of the Daley Center.

What can be done if the defendant has not paid the judgment after 30 days?

If a defendant has not satisfied a judgment within 30 days, a plaintiff has several avenues of recourse. The court can put a lien on the defendant's real estate, collect assets, wage garnishments, or non-wage garnishments. For more information, please refer to "5 ways to collect a judgment".

If the defendant acquires a lawyer and in turn, the plaintiff acquires a lawyer, will the case still be heard in the Pro Se Branch of the court?

Yes, even though the case is no longer *pro se*, the case will still stay in the Pro Se Branch of the court.

DEFINITIONS

What is a complaint?

A complaint is the initial pleading that starts a civil action and states the basis for the court's jurisdiction, the basis for the plaintiff's claim, and the demand for relief.

What is a Judgment?

An order entered by the court which states the judge's decision on the legal issue presented.

What is a counterclaim?

Defendants file counterclaims. It is a claim filed by a defendant against the plaintiff after the plaintiff made an original claim against the defendant.

What does a lien mean?

A lien (pronounced "lean") gives the plaintiff the right to lawfully retain possession of the property of another until the owner of this property fulfills his/ her legal duty to pay the monies owed.

What is a garnishment?

A wage garnishment (wage deduction) or a non-wage garnishment can be issued in order to collect a judgment. A non-wage garnishment is a court order directing a third party who holds money or property belonging to a defendant to withhold it and appear in court to answer inquiries.

Under the service fee section, what does the word "serve" mean?

To serve someone is to send a notice to a named party in a lawsuit advising him/ her that they are being sued for damages or money. The plaintiff may send this notification to the defendant by having a sheriff personally deliver it or sending it via certified mail.

What is the ad damnum amount?

This is the maximum amount of money that the plaintiff can recover under a default judgment.