

LAW IN BRIEF

HOW DO I FILE A CLAIM IN NEBRASKA SMALL CLAIMS COURT?

Introduction to Small Claims Court

Small Claims Court provides a relatively quick and inexpensive method to solve minor disputes. Most of the complexities that are typically associated with “going to court” are eliminated or simplified. For example, lawyers may not participate in Small Claims Court, although they may assist you in preparation. Lawyer’s fees would likely be higher than the amount sought in Small Claims Court. This Law in Brief will guide you through the process of filing a claim in Small Claims Court in Nebraska and provide some information on the process after filing.

Preparing to File a Claim in Small Claims Court

1. Determine if Your Case is Acceptable for Small Claims Court.

Small Claims Court is limited to non-

criminal disputes over things like money owed, damages to property, or failure to return property. The highest amount of money a Plaintiff can recover in small claims court is \$3600. Therefore, criminal issues or civil issues resulting in being owed more than \$3600 should not be brought to Small Claims Court.

2. Determine Who You are Suing.

You must provide the Court with the proper name and address of the person or company you are suing. If the party is a company and you do not know its proper name, you can check the Nebraska Secretary of State Website Business Search:

http://www.sos.ne.gov/business/corp_serv/index.html or call them at (402) 471-4079.

You will also need to determine who the registered agent is for the company or organization.

3. Determine What County Court to File Your Claim In. You must file your claim in the county where the other party lives or, if it's a company, where it does business.

Filing Your Claim in Small Claims Court

To file a claim in Small Claims Court, you must file a Small Claims form (Plaintiff's Claim and Notice to Defendants, CC 4:1) with the clerk of the county court you determined was best prior to filing. This Small Claims form is available at the county court or you can print one at:

<https://supremecourt.nebraska.gov/forms>.

The following information will explain how to fill out the Small Claims form:

1. County Court Name: County where you will file your claim. (*See previous section: "Preparing to File a Claim in Small Claims Court."*)

2. Plaintiff: This is you.

3. Defendant: This is the party you are suing.

4. Brief Description of the Claim:
Your description should include:

- A specific dollar amount you feel is owed to you or a specific description of the property you feel the other party should return to you.
- The date you feel the incident happened.
- Why you believe you are owed money or property from the other party.

5. Statement of Claims Filed: On the form, below the description, you will see "I have filed _____ small claims this week and _____ claims this year." You must provide the number of Small Claims you have filed in the past, because as an individual you may not file more than two small claims per week or 10 in a calendar year. If you exceed this, your claim may be dismissed.

6. Select How to Serve the Other Party: Next you will check the box for how you want to "serve" the other party of your suit. Service of Process is simply the notification to the other party that you have initiated a lawsuit and that they must appear. There are three ways to serve the other party:

- Certified mail through the post office

- Process Serving Company
- Sheriff's Office

See Step 9 in this section for more information on serving the other party.

7. Sign the Claim in Front of an Authorized Person. A Small Claims form must be signed before a clerk, deputy or assistant clerk of the county court, a notary public, a judge, or other person authorized by law to take acknowledgments.¹ DO NOT sign the form on your own without an authorized person.

8. Submit the Claim to the County Clerk. The form may be submitted to the county clerk in person or may be mailed. **It must be accompanied by a filing fee.** You may call the county clerk to ask about current filing fees, or they can be found on the Supreme Court website: <https://supremecourt.nebraska.gov/rules/administrative-policies-schedules/fees#smallclaims>.

9. Serve the Other Party. There are three ways to serve the other party:

- **Certified Mail:** Send a copy of the Small Claims form to the person (or registered agent of the company/organization). You will need to do this at a post office and request certified mail. If the post office delivers it, it will provide you with a green slip that you must then file with the Court. You can bring the slip to the county clerk or mail it with a Small Claims Certified Mail Return Slip (CC:45) found on the Supreme Court form page: <https://supremecourt.nebraska.gov/forms>.
- **Process Server:** To do this, you must set it up with the process server company.
- **Sheriff:** To do this, you must set it up with the sheriff's office.

Defending Your Claim in Small Claims Court

Once you have filed your case in Small Claims Court, the clerk will tell you when you are scheduled for a hearing.

¹ <https://supremecourt.nebraska.gov/self-help/small-claims/filing-small-claims-case-nebraska>

Tips for Preparing for Hearing:

- **Prepare Evidence.**
 - (1) Locate any documents, photos, recordings, etc. that you will use to defend your claim. Have the originals **and** make 3 copies of the documents. You will need a copy for yourself, the other party, and the judge.
 - (2) Request witnesses to testify on your behalf BEFORE the hearing. If they are reluctant, you can ask the court to compel them to testify on your behalf.
- **Write out Your Argument.** No lawyers are allowed in Small Claims Court. Therefore, it will be your job to convince the judge that your claim is valid. Write out how you are going to do this. This will give you confidence going into the hearing and keep you prepared during the hearing.
- **Select Nice Clean Clothes to Wear.** While Small Claims Court is an informal court, it is still a Court of Law, thus you should come dressed as if you are taking it seriously.

Tips to Remember During the Hearing:

- **Be Polite and Courteous.** This is true for all people involved in the case, as well as clerks and the judge. NEVER argue with the judge, interrupt the other party, or make threats or personal attacks against anyone.
- **Listen.** The judge will be asking questions that you will need to answer to convince him/her of your case. Listen carefully, answer thoughtfully.

Hearing Procedure for Small Claims Court

Shortly before the time set for your hearing, let the staff know that you are present and ready for trial. They will help you find the proper courtroom.

When it is time for your case, you will present evidence first. It is your job to convince the judge that your claim is valid. To do this, you can present your documents and witnesses to give to the Court as evidence. You will then argue why your claim is valid.

Next, the Defendant will get the chance to present his/her evidence and argument

to the judge. Do not interrupt while the other party is presenting evidence.

After both sides have had a chance to present evidence, the judge will make a decision on the case. There are four possible outcomes that can come out of a Small Claims filing:

1. **Settlement:** This occurs if you and the other party can settle the matter before it gets to the hearing stage. The Court encourages parties to attempt to settle before the hearing.²

Mediation: Mediation is a way to settle out of court. Nebraska has six court approved mediation centers. You can find them here if you would like to mediate your Small Claims case:

<https://supremecourt.nebraska.gov/programs-services/mediation/odr-approved-meditation-centers> or call Nebraska Mediation Association for assistance at (402)302-1025.

2. **Judgment Decision for the Plaintiff (You):** The judge finds merit in your claim and orders the Defendant to return property or pay the amount owed.

3. **Judgment for the Defendant:** The judge does not find merit in your claim and the Defendant does not need to pay money you feel is owed or return property you feel should be returned. **Note:** You are responsible for ensuring payment/collection of property. The clerk should provide you with forms to help you do this.

4. **Default Judgment:** This occurs when one party does not appear and the judge rules in favor of the party that did appear. For example, if the Defendant does not appear at the hearing (and he/she was properly notified of the hearing), then the judge will give a judgment in favor of the Plaintiff.

² <https://supremecourt.nebraska.gov/self-help/small-claims/filing-small-claims-case-nebraska>