



# GUIDE TO *SMALL CLAIMS COURT*

First, make sure you have **gathered all the evidence** supporting your case before you file a claim in Small Claims Court!

Next, check your local government court website for location-specific guidelines as it pertains to your client's place of residence, employment or business address. These guidelines reflect the process for **NYC Small Claims Court**.

## FILING A CLAIM

1. Fill out a statement of claim in-person, by mail, or electronically through a private vendor vetted by your local government court (NYC suggests **nCourt**).
2. Pay the court fee of \$15 - \$20 by cash, certified check, money order or bank check made out to "Clerk of the Civil Court." Personal checks will not be accepted.
3. The clerk will give you a date for the hearing (usually held after regular business hours).
4. The Small Claims Court clerk will serve a notice of your claim by sending it to the defendant. The notice of claim tells the defendant when to appear in Small Claims Court, and includes a brief statement of your claim and the amount of money you are requesting.
5. Before the date of the hearing, you should **gather all the evidence** that supports your claim or your defense.

## PREPARING FOR COURT

On the day of the hearing, arrive at the courthouse at least 30 minutes before the Small Claims session begins.

**It can be helpful to dress professionally and bring copies of any supporting documents you wish to present to the court (including your nonpaying client).**

If both sides to the action are ready, the case will be sent to an arbitrator, unless you request your case be heard by a judge. An arbitrator is an experienced attorney who is specially trained to hear and decide small claims.

Because there are typically more Arbitrators available to hear cases than there are Judges, an Arbitrator will hear your claim more quickly. The hearing before an Arbitrator is informal. The Arbitrator applies the same law to your case as a Judge would apply.

**Note this important distinction! An Arbitrator's decision CANNOT BE APPEALED because there will not be an official record of the proceedings. A trial before a Judge is heard with a court reporter or recording device: court records are necessary to process an appeal.**

Should the defendant (the client) not appear in court, the judge or arbitrator will still hear your case! If you (the claimant) present enough evidence to establish your case, the judge or arbitrator will award a default judgment against the defendant.

## COLLECTING THE JUDGEMENT

To begin collecting, you should contact the client either directly or through the client's attorney, and request payment of the judgment amount.

If the client does not pay, you are entitled to begin collection efforts. These may include one or any combination of the following:

- garnishment of wages and or bank accounts
- lien, seizure and or sale of real property and or personal property, including automobiles
- revocation, suspension, or denial of renewal of any applicable business license or permit
- investigation and prosecution by the State Attorney General for fraudulent or illegal business practices
- a penalty equal to three times the amount of the unsatisfied judgment plus attorney's fees, if there are unpaid claims.

You may require the services of an enforcement officer to collect your judgement. There are two kinds of enforcement officers: A Sheriff, who is a City of New York employee, and a City Marshal, who is not employed by the city but rather works independently. You will have to pay certain fees for the enforcement officer's services. Sometimes these fees can be added to the amount of the judgment and will be paid by the judgment debtor.

**A simple way to improve the chances of collecting your judgment is to learn the name and address of the bank where the judgment debtor keeps a savings or checking account. Look at the back of a cancelled check you may have received from them.**

You should contact an enforcement officer in the county where the judgment debtor has property. The enforcement officer will not look for the judgment debtor's assets without your assistance. You can use an information subpoena to find a judgment debtor's assets.

If the judgment debtor is a business that the court finds to be engaged in fraudulent or illegal conduct, you have the right to notify the attorney General, and, if the business is licensed, the appropriate licensing authority as well. Visit the NY State Attorney General's website for more.

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