

SMALL CLAIMS COURT

Informational Booklet



ANDREA LYNN CHASTEEN

**Circuit Court Clerk
Twelfth Judicial Circuit
Will County, Illinois**

Printed By: Will County Records Management Department

Office Hours

**Monday through Friday 8:30 a.m. to 4:30 p.m.
Closed Saturday - Sunday and all Legal Holidays**

Internet: www.circuitclerkofwillcounty.com

**Office of the Circuit Clerk
Will County Courthouse
14 West Jefferson Street
Room 212
Joliet, Illinois 60432
Telephone: 815/727-8592
Fax: 815/727-8896**

**Office of the Circuit Clerk
River Valley Justice Center
3208 West McDonough Street
Joliet, Illinois 60431
Telephone: 815/730-7155
Fax: 815/730-7160**

**Office of the Circuit Clerk
Will County Court Annex Building
57 North Ottawa Street
Room 213
Joliet, Illinois 60432
Telephone: 815/727-8592
Fax: 815/774-4580**

**As of January 1, 2018, all non-exempt
customers must electronically file
documents using an approved EFSP
through the eFileIL system. Please see
efile.illinoiscourts.gov for further
information.**

Self Represented Litigant (Pro Se) -- Latin term meaning “for himself” or “in his own behalf” and is pronounced, “pro say”. When a *PLAINTIFF* files a case without a lawyer’s assistance, the *plaintiff* is filing the case “PRO SE.”

Rule to Show Cause -- An order by the Court directing a party to appear before the Court on a certain day to show the Court why he or she should not be held in contempt of Court for failure to comply with the Court’s previous order.

Service -- A summons issued by the Clerk of the Court in Small Claims is either served by certified mail within the county or by the Will County Sheriff or private process server and a return is made either by the return receipt from the U.S. Post Office or an endorsement on the summons by the Sheriff or private process server. Until a summons has been served, the Court does not have authority to hear the case.

Subpoena -- A writ of the Court commanding a person to testify in a pending court case. (NOTE: In order for the subpoena to be valid, the statutory witness fees and mileage must be paid at the time of service.)

Summons -- A Court document issued by the Circuit Court Clerk, which commands the defendant to file an appearance or appear in court for trial.

Turn Over Order -- An order form used to direct a garnishee to “turn over” or transfer funds or property to a specific person.

Writ of Attachment -- An order by the Court to the Sheriff commanding them to take a person into custody for Contempt of Court and directing him to hold him or her until the day of court or admitting him or her to bail for a future court date.

Writ of Possession -- A writ issued to recover the possession of land.

Legal terms and definitions:

Alias Summons -- Issued after the first instrument has not been effective or resulted in action. Filing fee is \$5.00 per alias.

Citation to Discover Assets -- This is a document presented by the Plaintiff for issuance by a Deputy Clerk, after judgment, which requires the defendant to reveal under oath the location of his or her bank accounts, property owned or name of employer if any of these exist. For amounts under \$1,000.00 the filing fee is \$15.00. For amounts between \$1,000.01 and \$5,000.00 the filing fee is \$30.00. For \$5,000.01 and over the filing fee is \$50.00.

Complaint -- A Court document that is filed by the plaintiff to initiate the lawsuit.

Defendant -- The party being sued.

Execution -- An order to the Sheriff to sell property owned by a defendant after judgment has been entered to satisfy the judgment order issued by the Court.

Mittimus -- A sentence of the Court against a party who has been found guilty of contempt of Court and ordering the Sheriff to hold the person in the County Jail.

Notice & Motion -- A written instrument sent by either the plaintiff or defendant, notifying the other party of a court date in which one of the parties is requesting the Court to take some action. If sent by U.S. Mail, the postmark must be 5 days from the Court date requested. If the NOTICE is served in person, it must be at least 2 days prior to the requested court date. The original must be filed with the Circuit Clerk before the court date. This notice does not have to be sent by certified mail.

Plaintiff -- The party who initiates a lawsuit.

ANDREA LYNN CHASTEEN

**Clerk of the Twelfth Judicial Circuit Court
Will County, Illinois**

MISSION STATEMENT

The mission of the Circuit Clerk's office is to serve the citizens of Will County and the participants of the judiciary system in a timely and cost-effective manner, providing all court records, information and services with courtesy, efficiency and impartiality.

A Message From The Court Clerk

This booklet will be helpful to you if you want to use the Small Claims Court to settle a dispute with a person or company. You are not required to have an attorney represent you in Small Claims Court. This booklet will explain the procedures involved and how you should prepare your case. My staff will assist you in procedural matters, however, we are prohibited by law from giving **legal advice**. These procedures apply only to Will County. If you have any questions which are not answered in this booklet, you should contact an attorney for advice.

If you need an attorney, you can contact the Will County Bar Association, Lawyer Referral Service (815/726-0383).



Andrea Lynn Chasteen

Clerk of the Twelfth Judicial Circuit Court
Will County, Illinois

Twelfth Judicial Circuit Will County, Illinois

Legal Court Holidays

January	1	2018	New Year's Day
January	15	2018	Martin Luther King, Jr. Day
February	12	2018	Lincoln's Birthday
February	19	2018	Washington's Birthday (Obs.)
March	30	2018	Good Friday/Spring Recess Day
May	28	2018	Memorial Day
July	4	2018	Independence Day
September	3	2018	Labor Day
October	8	2018	Columbus Day (Obs.)
November	12	2018	Veterans' Day
November	22	2018	Thanksgiving Day
November	23	2018	Day Following Thanksgiving Day
December	25	2018	Christmas Day

Year 2019

January	1	2019	New Year's Day
January	14	2019	Martin Luther King, Jr. Day
February	11	2019	Lincoln's Birthday (Obs.)
February	18	2019	Washington's Birthday (Obs.)
April	19	2019	Good Friday/Spring Recess Day
May	27	2019	Memorial Day
July	4	2019	Independence Day
September	2	2019	Labor Day
October	7	2019	Columbus Day (Obs.)
November	11	2019	Veterans' Day (Obs.)
November	28	2019	Thanksgiving Day
November	29	2019	Day Following Thanksgiving Day
December	25	2019	Christmas Day

Although every attempt at accuracy has been made, the Circuit Clerk does not in any way warrant the legal correctness of the information contained in this booklet and strongly urges you to consult with an attorney of your choice.

FREQUENTLY USED PHONE NUMBERS

All Phones are Area Code: 815

Circuit Clerk Office: 727-8592

Fax: 727-8896

River Valley Justice Center

Circuit Clerk's Juvenile Division	730-7155
Juvenile Probation	730-7120
Public Defender	730-7090
State's Attorney	730-7075
CASA	730-7072

Other Important Telephone Numbers

Adult Detention Facility	740-1250
Adult Probation	727-6535
Arbitration Center	740-5151
Chief Judge	727-8540
Ground work	729-1228
Jury Commission	727-8614
Law Library	727-8619
Public Defender	727-8666
Sheriff	727-8895
State's Attorney	727-8453
Will County Bar Association	726-0383
Will County Legal Aid	727-5123

What kinds of cases are heard in Small Claims Court?

In Illinois, the Small Claims Court can only be used for claims under **\$10,000.00**. You can use the Small Claims Court if:

- you buy something that doesn't work and the store refuses to return your money
- your landlord refuses to return your security deposit even though you left the apartment clean and undamaged
- your employer refuses to pay you the wages he or she owes you
- someone damages your property and refuses to pay you for the damage
- you believe for any other reason that someone has harmed you or owes you not more than **\$10,000.00** and that person refuses to pay

Is there anything I should do before starting a small claims suit?

Yes, it is always best to first try to settle your dispute without going to court. Send a letter to the person who owes you the money and ask him to pay it and tell him why he owes it to you. Keep a copy of the letter for yourself. Sometimes all it takes to solve a problem is a clear explanation of what the problem is.

If your dispute is with a business, you can also complain to the local Chamber of Commerce or Better Business Bureau. If you believe that you have been cheated by a business, contact the local office of the Illinois Attorney General's Consumer Fraud Division. These organizations exist to control dishonest and unscrupulous businesses.

If your dispute can be settled at this point, you will have saved yourself some time and money. However, if it can't be settled, you certainly haven't lost anything by trying to settle out of court.

How do I begin a small claims suit?

A lawsuit in Small Claims Court starts when you electronically file a legal document called a Complaint. The Complaint tells the other party and the Judge why you are starting the lawsuit. You will need to provide the following information on the Complaint:

1. Your name, address, and telephone number (you will be called the *Plaintiff*);
2. The exact name and address of the person or business you want to sue (this party is called the Defendant);
3. The amount of money you claim that person or business owes you;
4. A simple and short explanation of what happened and why you are suing.

It is important to know the exact legal name and address of the person or business you want to sue, because if you list the wrong name you may not be able to get your money. Sometimes the name on a store may not be its real legal name.

If your claim is based on a contract or lease or other written document, a copy of that document must be submitted as an attachment to the Complaint.

After you have filled out the complaint and uploaded a copy to electronically file you will have to pay a filing fee, which may range from **\$149.00 to \$284.00** depending on how much money you are demanding. If you cannot afford the filing fee, you have the right to ask the Court to allow you to file your complaint without paying the filing fee. In order to do this, you must fill out an *Application For Waiver of Court Fees and the Order For Waiver of Court Fees*. The application form tells the reviewing Judge what your income is and why you can not afford to pay the filing fee. Both forms need be submitted electronically with the Complaint. The reviewing Judge could grant or deny your application.

You should know that if you win your case, the *Defendant* can be ordered to also pay your court costs, which includes all fees accrued. Be sure that you ask for the amount and the words "Plus Court Costs" on the complaint.

WILL COUNTY SHERIFF'S OFFICE CIVIL PROCESS FEE SCHEDULE

(Effective January 1, 2017)

<u>Town</u>	<u>Township</u>	<u>Fee Total</u>
Aurora	Wheatland	\$68.00
Beecher	Washington	\$91.00
Bolingbrook	DuPage	\$66.00
Braidwood	Reed	\$78.00
Channahon	Channahon	\$64.00
Crest Hill	Lockport	\$58.00
Crete	Crete	\$86.00
Custer Park	Custer	\$86.00
Elwood	Jackson	\$58.00
Frankfort	Frankfort	\$66.00
Godley	Reed	\$78.00
Goodenow	Washington	\$91.00
Green Garden	Green Garden	\$71.00
Joliet	Joliet	\$52.00
Lemont	DuPage	\$66.00
Lockport	Homer	\$66.00 (5 digit add)
Lockport	Lockport	\$58.00 (4 digit add)
Manhattan	Manhattan	\$64.00
Minooka	Channahon	\$64.00
Mokena	Frankfort	\$66.00
Monee	Monee	\$75.00
Naperville	Wheatland	\$68.00
New Lenox	New Lenox	\$59.00
Orland Park	Homer	\$66.00
Park Forest	Monee	\$75.00
Peotone	Peotone	\$76.00
Plainfield	Plainfield	\$62.00
Ritchie	Wesley	\$75.00
Rockdale	Joliet	\$52.00
Romeoville	DuPage	\$66.00
Shorewood	Troy	\$59.00
Steger	Crete	\$86.00
Symerton	Florence	\$68.00
Tinley Park	Frankfort	\$66.00
University Park	Monee	\$75.00
Wesley	Wesley	\$75.00
Will	Will	\$83.00
Wilmington	Wilmington	\$71.00
Wilton Center	Wilton	\$71.00
Woodridge		\$66.00

Please note: The above fee schedule represents only one service at a specified address. If more than one service is needed, a new fee will be added for each individual to be served. Alias papers previously sent to this office for service (same address/name/case number) will cost \$5.00 each service. Certified mailings are \$16.00. Our work load does not permit short date papers; therefore, ten working days are required to provide a proper effort for service, return and processing of your paper.

SMALL CLAIMS FILING FEES

\$.01	to	\$ 250.00.....	\$ 149.00
\$ 250.01	to	\$ 1,000.00.....	\$ 174.00
\$ 1,000.01	to	\$ 2,500.00.....	\$ 184.00
\$ 2,500.01	to	\$ 5,000.00.....	\$ 234.00
\$ 5,000.01	to	\$ 10,000.00.....	\$ 284.00

SMALL CLAIMS FORMS

19A & 19B

SMALL CLAIMS JURY DEMAND FEES

6 Person Jury - \$12.50

12 Person Jury - \$25.00

FORCIBLE ENTRY (EVICTIONS) FILING FEES

Possession only or \$0 - \$15,000.00.....	\$209.00
\$15,000.01 - \$50,000.00.....	\$359.00

FORCIBLE ENTRY (EVICTIONS) FORMS

19 E & 19 F

CERTIFIED MAILING FEES

\$10.00 plus postage costs

\$2.00 plus cost of postage (**Small Claims:** Summons/Alias Summons only)

Certified mail with restricted delivery must be requested and requires an additional *fees.*

As of January 1, 2018, all non-exempt customers must electronically file documents using an approved EFSP through the eFileIL system. Please see efile.illinoiscourts.gov for further information.

You have the right to also request a jury trial at the time of filing your Complaint, which means that a jury hears your case instead of a Judge. You are required to complete and submit electronically a jury demand and pay the required fee of either **\$12.50** (6 person jury) or **\$25.00** (12 person jury). A jury trial is a very complex proceeding, and suggest that you may want to consult with an attorney.

When your pleadings have been successfully submitted electronically, the reviewing Clerk could approve or reject them. If approved then the pleadings will be filed with the Clerk and a case number will be assigned.

Does it make a difference where I file suit?

Yes, in Illinois, a Complaint must be filed either in the county where any of the *Defendant(s)* live or the county where the events occurred that you feel gives you a right to sue.

How is the defendant notified that he's being sued?

At the time that your are preparing the complaint, you will also want to prepare and submit electronically a summons on which you must choose an appearance date so the reviewing Clerk can issue it. The appearance date is the first court date that all parties must attend. You may choose any M-F at 9:00 a.m. in courtroom 111. **The summons must be served on the Defendant in order for the Court to hear your case.** If you want the Clerk to serve this summons by certified mail or certified mail/restricted delivery, please indicate that at the time of filing your complaint and summons as there are additional fees required. Mail is cheaper and easier, but the *Defendant* may refuse to accept the mailing. If this happens or you think it might happen, it may be better to have the Will County Sheriff or a private process server (PPS) attempt to serve the *Defendant*. If your *Defendant* lives in a different county than where you filed your suit, then you could have the Sheriff of the County attempt to serve the summons. Outside of Cook County a licensed PPS may also serve summons without special order of the court.

The Will County Sheriff's Office - Civil Process Fee Schedule is referenced in this booklet. You can inquire with them directly as to their procedures and process, provide payment options or inquire if they will honor an Order for Waiver of Court Fees signed by a judge.

What happens on the appearance date?

Proof that the *Defendant* was or was not served should be electronically filed before the appearance date. The appearance date stated on the summons is your first chance to tell your story to the Judge. Obviously, you must be present in court at the proper time or your case may be dismissed.

If the *Defendant* shows up and agrees with you that he owes you the money, the Judge will enter a judgment in your favor. Judgment for the *Plaintiff* means that the Judge has decided that you are right and the *Defendant* does owe you the money you are claiming.

If the *Defendant* shows up and states that he does not owe you the money, the Judge may set another date for the trial. However, in some counties, the Judge will hold the trial on the Appearance Date. You should be prepared to go ahead with the trial on this date.

If the *Defendant* does not show up, the Judge will probably continue the case for service to be completed or enter a default judgment in your favor.

How do I prepare my case?

In order for the Judge to decide in your favor, you must be able to prove that the *Defendant* owes you a certain amount of money. This proof can be sworn testimony in court, or the sworn testimony of witnesses who will testify that what you are saying is true. For example, a friend may have seen your neighbor drive his car over your bicycle. Proof can also be physical objects, such as a contract, lease, receipts, bills for repairs, photographs, or cancelled checks. For example, if you are suing a dry cleaning store because they ruined your dress, bring the dress with you to court. You should bring with you *anything* that you have that will help you prove to the Judge that your story is true.

Note: Physical evidence may not be required to be filed electronically.

If there is someone who would be a good witness for you, but he refuses to come with you to court, you can prepare and submit a Subpoena electronically. A subpoena is a legal document ordering a person to appear in court at a certain time and place. This subpoena must be served on the witness, and you will have to pay a service fee and a small witness fee. Once the subpoena is served, the witness must appear in court. These fees may be required to be paid by the *Defendant* should you prevail in your suit.

Associate Judges

Dinah L. Archambeault
Brian E. Barrett
Matthew G. Bertani
Bennett J. Braun
Robert P. Brumund
Edward A. Burmila
M. Thomas Carney
Jessica Colon-Sayre
Elizabeth H. Dow
David A. Garcia
Chrystal L. Gavlin
Frederick V. Harvey
Theodore J. Jarz
Victoria M. Kennison
Cory D. Lund
Raymond A. Nash
Domenica A. Osterberger
Roger D. Rickmon
Arkadiusz (Art) Z. Smigielski
Kenneth L. Zelazo

CHIEF JUDGE

Richard C. Schoenstedt

Circuit Judges

J. Jeffrey Allen
John C. Anderson
Amy M. Bertani-Tomczak
David M. Carlson
Paula A. Gomora
Carmen J. Goodman
Sarah F. Jones
Daniel L. Kennedy
Rick A. Mason
Susan T. O'Leary
Barbara (Bobbi) N. Petrunaro
Carla A. Policandriotes
Michael J. Powers
Daniel Rippy
Raymond E. Rossi

It is a good idea to practice ahead of time what you are going to say to the Judge. You should also write out all the questions that you want to ask your witnesses in court. Another good idea is to get to court a little early so that you can watch how other cases are handled by the Judge. This will put you more at ease since you will know what to expect when your turn comes.

What do I do when I get to court?

It is very important that you be on time for your court hearing. When the Clerk calls your case, both you and the *Defendant* should go up front to the Judge's bench. Small Claims Court is usually an informal proceeding, but remember to treat the Judge at all times with respect. He or she should be addressed as "Your Honor."

Both parties and their witnesses will be placed under oath. You, as Plaintiff, will be able to present your case first. You should clearly state to the Judge exactly what happened and why the *Defendant* owes you money. Your witnesses should then each be questioned, and all of the physical evidence (such as receipts and photographs) could be presented or the Judge should be informed that they were already filed with the Court electronically. After you have finished questioning each witness, the *Defendant* has the opportunity to question them.

When you have finished presenting all of your proof to the Judge, it is the *Defendant's* turn. He also may testify himself, ask questions of his witnesses, and present physical evidence to the Judge or inform the Judge that the physical evidence was already filed with the Court electronically. You then also have the right to question each of the *Defendant's* witnesses. You and the *Defendant* can also question each other. The Judge may also ask questions.

When the other party is telling his side of the story, it is **extremely important** that you do **not** interrupt or argue with him or lose your temper. Listen carefully to what he is saying so that you can later tell the Judge why you disagree with him. The purpose of the trial is for you, the Judge, and the other party to resolve your dispute in a fair way and if you reasonably and calmly present your evidence, the Judge will be able to come to a fair decision. Although you should be assertive in stating your case, **NEVER** get into an argument with the Judge if he or she disagrees with your position.

The Judge may make a decision immediately or may do so at a later time. The written document that states his decisions is called a final judgment. If he decides in your favor, the final judgment may be for the full amount asked for or may be for some lesser amount if he thinks you asked for too much. The *Defendant* will almost never be required to pay the full amount immediately. If you also asked for court costs, the final judgment may state that the *Defendant* is also to pay those. If the Judge decides in favor of the *Defendant*, your case will be closed. If this happens, you may have to pay the court costs accrued by the *Defendant*.

The judge decided in my favor, but the defendant refuses to pay me, what do I do now?

If the *Defendant* is a business, they very likely will pay right away. Send a reminder letter to them and keep a copy for yourself.

If they still don't pay, or if the *Defendant* is an individual who says he can't or won't pay, there are collection procedures you can start and follow to force the *Defendant* to pay you. A *Citation to Discover Assets (Form 21D)* along with: *Citation Notice [Form 21D (a)]*, *Income and Asset Form to Answer a Citation [Form 21D (c)]*, and *Certificiate of Attorney or Judgment Creditor in Citation Proceedings [Form 21D (e)]* can be filled out, submitted electronically and paid for so that the reviewing Clerk can issue it and you can attempt to serve the *Defendant*. At the court appearance date (any M-F at 9:00 am in courtroom 111), the *Defendant* will be placed under oath and you will have the opportunity to ask him questions about his income, his assets (such as bank accounts), his employment, owns real estate and any other questions relating to his ability to pay the Judgment. The Judge may then set specific terms for the *Defendant* to pay the Judgment.

Other procedures can also be used to collect your money. Some of these procedures are:

- request a Rule to Show Cause hearing to hold the *Defendant* in contempt of court for not paying as he was ordered to;
- place a lien on the *Defendant's* real estate;
- having the *Defendant's* wage or bank accounts garnished.

If you want to attempt any of these procedures, you should definitely seek the advice of an attorney. Additional forms, filing fees and service fees are required.

If the judge rules against me, can I appeal his decision?

Yes, if you file electronically a Notice of Appeal with the Circuit Clerk within 30 days of the Judgment. The other party must also get a copy of this Notice. An appeal will involve more formal rules of law, therefore, you may want to talk with an attorney if you wish to do this.