



OFFICE OF THE STAFF JUDGE ADVOCATE
101ST AIRBORNE DIVISION (AIR ASSAULT) AND FORT CAMPBELL
CLIENT SERVICES
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SMALL CLAIMS COURT PROCEDURES

General Information.

Sometimes it is not possible to resolve a dispute by agreement and the only alternative is to take the matter to court. In Tennessee, small claims are filed in the General Sessions Court. In Kentucky, small claims are filed in the District Court. Your small claim should be filed in the county where the person you are suing lives or does business. You may be represented by an attorney in small claims courts in both Kentucky and Tennessee; however, many matters are presented without an attorney. In Tennessee, the maximum amount you can sue for in small claims court is \$25,000.00 (but there is no limit in eviction suits or suits to recover personal property). Your case will be tried before a judge, without a jury (except on appeal or transfer). In Kentucky, the maximum amount you can sue for is \$2,500.00 (amount does not include interest and court costs). You may request a jury trial if your counter claim exceeds \$250.00. Small claims matters can usually be heard and decided within two months.

How to Start a Small Claims Case.

In Tennessee: Go to www.selegal.org, click on "Helping yourself", then click on "General Sessions Court", and under "Description of General Sessions Court Forms" click on "Civil Warrants." Download and fill out the form to the best of your ability. If you wish, you can make an appointment to have a legal assistance attorney review your completed document. The Clerk of the Court will not help you fill out the forms.

File your civil warrant form with the General Sessions Court Clerk - Civil division. The Clerk's office is located on 2 Millennium Plaza, Suite 115 Clarksville TN 37040. You must pay a filing fee of \$133.50 (or \$22.00 for each defendant if you do it through the Sheriff's Office) by cash or money order. The filing fee includes the cost of having the Sheriff serve your complaint on the other party. The judge may award you the filing fee if you win. The clerk will then set a court date approximately three weeks away for a docket call. When you attend the docket call, the judge will ask the other party whether or not they contest the amount owed. If the other party does not contest the amount owed, or if they fail to show up for the docket call, ask for a default judgment which means you win. If the other party contests the amount owed, the judge will set a court date, usually within the next 30 to 60 days.

In Kentucky: The Kentucky Administrative Office of the Courts provides a "Small Claims Handbook" to guide you through the procedures of filing a small claims case at: http://courts.ky.gov/nr/rdonlyres/e452ffe9-4aa1-4879-b459-64ffbd3ab5bb/0/p6smallclaimshandbook911_web.pdf. Download the Small Claims Complaint form (AOC-175) online at: <http://courts.ky.gov/forms/formslibrarybycategory.htm>. Complete all required fields to the best of your ability. If you wish, you can make an appointment to have a legal assistance attorney review your completed documents. The Clerk of the Court will not help you fill out the forms.

File the Small Claims Complaint form with the Small Claims Division of the office of Circuit Court Clerk at 100 Justice Way, Hopkinsville, KY 42240. You must pay a filing fee of \$90 by cash only. The filing fee includes the cost of having the Sheriff serve your complaint on the other party. The judge may award you the filing fee if you win. The clerk will set a trial date for within the next 20 to 40 days.

Although a trial date is set, the judge will not hear the case unless the defendant has received a copy of the complaint. Although the county serves the complaint, it is a good idea to call the clerk about a week before trial to insure that the other party has been served. If the other party fails to show up at the trial, ask the court for a default judgment.

Getting Ready for Trial.

Although you represent yourself, you must follow established rules of evidence. All witnesses must testify in person. Written statements cannot be used. Decide who you need to prove your case (such as a mechanic to testify that your car was not properly fixed, or a friend to testify that your apartment was in good condition when you moved out, etc.)

If there is any chance your witness will not show up for trial or is unwilling to appear, have the clerk subpoena the witness. The subpoena will order the witness into court to testify. In Tennessee, it costs \$6.00 to subpoena each witness, or \$28.00 through the Sheriff's Office. In Kentucky, it costs \$50.00 for the Sheriff Office to subpoena each witness, or you can do it personally at no cost.

Gather all evidence, including papers, pictures, receipts, e-mails, contracts, etc., that you feel relate to your case. Consult a legal assistance attorney if you have specific questions about preparing your case.

Settlement.

Just because you filed a small claims action does not mean that you cannot settle the case. In fact, sometimes the filing of the warrant shows the other side that you are serious and they will want to work out an agreement. If you reach a settlement with the other party, put the settlement in writing and bring the written agreement with you to court. If the judge approves the settlement, he will issue an order giving it effect.

The Trial.

Your case will be heard by a judge who has a busy docket with several other cases to hear. Get right to the point and set out your case. All witnesses must wait outside the courtroom until it is their turn to testify, so make sure that you talk to them in advance. You will be given the opportunity to ask questions of all witnesses and the other party. Ask questions. Do not make statements when questioning witnesses. You have an opportunity to testify (usually as the first witness), and you should state your version of the facts at that time. Always be courteous and polite when presenting your case.

Appeals and Collections.

If you win and find that you cannot collect from the defendant, the Clerk of Court can give you the proper forms to initiate collection of your judgment by garnishing the defendant's wages. If you lose, you may appeal. In Tennessee, you must appeal within 10 days of the date of the judgment. In Kentucky you must file a notice of appeal within 10 days of the date the judgment was stamped "Entered." You have to pay a filing fee, and new evidence will not be heard.

More Information.

For more information on filing small claims in Kentucky, review the guide at http://courts.ky.gov/nr/rdonlyres/e452ffe9-4aa1-4879-b459-64ffbd3ab5bb/0/p6smallclaimshandbook911_web.pdf. You may request further guidance at the Fort Campbell Client Services Office, Building 2765 Tennessee Ave, across from the Military Courthouse, (270) 798- 4432.