



**OFFICE OF THE STAFF JUDGE ADVOCATE
101ST AIRBORNE DIVISION (AIR ASSAULT) AND FORT CAMPBELL
CLIENT SERVICES
(270) 798-0910/0918**

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. Prior to going to court, you should always send a written letter to the other party attempting to resolve the dispute. 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 or where the contract was signed or outlines. 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. The request for jury trial must be made at least seven days prior to trial. 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.

If you file in Montgomery County, 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 \$168.50, which includes the cost of having the Sheriff serve your complaint on the other party. For any additional parties, you must pay \$28.00 for each defendant. If you are not serving defendants via the Sheriff's Office (e.g., hiring a private company or doing it yourself), the filing fee is \$140.50. The filing fee must be paid by cash or money order. 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. Note: filing fees vary by county, so check with the court clerk to see how much you will be charged in your particular county. And not all counties use the docket call system, check with the court clerk to see if your particular county does. If you cannot afford the filing fees you can request an "affidavit of indigency" from the court clerk to help lower the costs.

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/resources/publicationsresources/Publications/P6SmallClaimsHandbookweb.pdf>

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.). 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.

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. The request must be submitted to the Clerk's Office no later than seven days before trial.

Settlement.

Just because you filed a small claims action does not mean that you cannot settle the case. 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.

Arrive early, dress appropriately, and tell the Judge what money is owed and why right. 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 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.

Contact the Fort Campbell Client Services Office, Building 2765 Tennessee Ave, at 29th Street, (270) 798-0910/0918, or book an appointment with an attorney at www.sjaclientservices0366.setmore.com.