



How to Prepare for Small Claims

by Lorie M. McCollum-Lombard

Consider this scenario: you're a successful floor finisher and have just completed a project that consisted of sanding and resurfacing a client's dining room floor. You've made the floor gleam, packed up your equipment, and even finished the job on schedule. But when you request payment the client expresses dissatisfaction. Portions of the floor were gouged, he says, and the surface appears to have bubble spots. The client refuses to pay the bill, which — labor and materials included — you've set at \$575. How can you collect payment without necessarily hiring a lawyer? By taking the matter to small claims court.

Quite often, a small contractor is in the position of seeking relatively small monetary damages from a client, supplier, or co-worker. Rather than require such cases to go through the civil docket court procedures, which can be a long and expensive undertaking, most states have incorporated an informal process that allows the average lay person (often without aid of an attorney) to pursue legal action to resolve such claims. This avenue of relief is small claims court.

Keeping Things Simple

While states vary in their precise filing requirements and court procedures for small claims court, these guidelines and rules are generally designed to keep things simple. All states, for instance, have monetary limits beyond which cases can't be considered; in Connecticut, for example, the maximum is \$2,500, while in Virginia it's \$1,000. And most small claims courts encourage the parties to represent themselves. Thus, both plaintiff and defendant must be strong advocates for their own interests.

For the sake of brevity, this article will follow the small claims procedure

for the state of Connecticut. To familiarize yourself with your state's procedures, call the small claims court there; court officials are usually quite helpful and willing to provide any information you need.

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How to Succeed in Small Claims

The most basic directive for success in small claims court is to be prepared at all stages of the process. This means collecting and organizing all the relevant evidence and testimony you can. It also means knowing what's expected of you in court. If you adhere to the following basic steps and prepare yourself well, you stand a good chance of winning.

The first step is to determine which court has jurisdiction over the location in which the incident occurred. Contact the small claims court there and discuss your claim with the clerk to make sure, first of all, that the dispute can be handled through small claims. Find out the monetary limits for damages sought, and have the clerk send you any information you'll need to file a claim. Filing a claim will probably involve submitting a "letter of intent" and a claim form with the court, which will then deliver those documents to the defendant.

Once the letter of intent and claim form have been sent to the defendant

and a court date has been set, organize your court presentation, beginning with any evidence you've accumulated. This might consist of copies of work orders, correspondence, requests for payment, canceled checks, or photographs. Photographs work particularly well to graphically support a claim.

You should also try to find witnesses who can support your claim. If a witness can't attend the court proceeding, ask the witness to write a letter stating his or her testimony so that you can read it in court. (Check the court rules on this; some courts may not allow testimony from persons not present.) Be sure you know what the witness's testimony will be before entering the courtroom.

At the actual presentation, be brief and to the point. A judge will hear your case. The plaintiff—the person seeking damages—will be heard first, followed by the defendant. If you're the plaintiff, usually the judge will simply want you to describe (and document with your supporting evidence) what happened. Referring to an outline will help things go smoothly. Also, have your documents neatly organized in chronological order to facilitate review by you, the defendant, and the judge. Neat organization will get your story across more clearly and effectively. Always give the opposing party the opportunity to ask questions, and respond in a professional manner. It is to both parties' benefit to follow court procedures and not speak out of turn.

Finally, make sure your documentation includes something—such as estimates, supply bills, or work orders—to corroborate the amount of damages you are claiming, and be prepared to explain why you are requesting this amount.

If You Are a Defendant

If you're a defendant, the guidelines above still apply. Respond to notices as requested. If you fail to contest a claim within the specified time, a judgment may be rendered in favor of the plaintiff. Judgment may also be made against you if you respond that you are contesting the claim but do not attend the hearing.

Prepare your version of events so you can explain it at the hearing. Be organized and bring whatever documentation you can. During the plaintiff's presentation, write down questions and make note of where the testimony may be contradicted. You will have the opportunity to present and document your side of the story and question any witnesses following the plaintiff's presentation.

Judgment

Once the judge has reviewed all the submitted evidence and testimony, he or she will render a judgment. In certain cases, the judgment may be delivered at the court proceedings; in others, the parties will be notified through the mail a short time afterward.

Small claims court isn't perfect. But it does provide a relatively simple and effective way to settle the sort of small legal disputes that occasionally pester contractors. Use it judiciously and you'll have a fair chance of getting justice. ■

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