

# Collecting Money in Small-Claims Court

by Quenda Behler Story

Sometimes, despite your best efforts, it all goes wrong, and you have no choice but to try to get help from the legal system. Today in most states, the “legal system” includes a small-claims court, an alternative designed to produce faster judgments at a reduced expense. Small-claims courts have big advantages over the more standard courts where, even if you win, you still spend buckets of money on legal fees, and consume hours and hours of time that you could have better used making a living.

## Payment Problems Only

Small-claims court is designed to help people recover money. Arbitration or courts of greater jurisdiction would be better alternatives for more complex problems, but if all you’re doing is trying to collect money owed you, small-claims is simple, less expensive, and lots quicker.

The amount of money that you can collect in small-claims court is limited, however — here in Michigan, for example, it has to be less than \$1,750. Some states permit higher amounts, so the first thing you need to do is check on the maximum allowed. Then, make sure to structure your customers’ payment schedules so that no more than the maximum amount allowed by small-claims court is owed at the final payment. For most smaller jobs, a final payment of no more than 10% should keep you within the limits.

Though lawyers sometimes appear in small-claims court, they are not required — defendants and plaintiffs plead their own cases. They may not do it as well as a trained lawyer, but they don’t charge themselves \$100 per hour either. Suing

in small-claims court is not a complicated procedure, and the whole process, from starting your lawsuit to collecting your judgment, might take only a few weeks. Here’s a brief look at how the system works. Procedures in your state may vary, however; the small-claims court can usually provide a brochure that explains what you need to do.

## Filing a Complaint

You file your lawsuit in small claims by filling out a standard form, sometimes called a “Complaint.” The fill-in-the-blanks-type form typically requires you

requested). You pay the fee — typically less than \$50 — to the court, and the court mails the complaint for you.

## The Hearing

Within 30 to 60 days, the court will give you a “docket” number — an ID number for your complaint — and tell you the date of your hearing. The hearing is a kind of informal trial. When you go to your hearing, take all of your evidence with you. That includes copies of your contract and all change orders, material receipts, time records, your telephone log (if you noted conversations

If you just need to collect money, small-claims court is simple, inexpensive, and quick

to provide the date, your name and address, and the name and address of the person or business against whom you are making the complaint. There is also a space to explain your claim. You simply write a brief description of the work you did, where you did it, for whom, and the amount of money still owed you. You don’t need to describe your evidence on the complaint form, although if you have a written contract you should mention it.

Be sure to supply the defendant’s exact address so that the court officers can serve him or her. You can request personal service — that’s where the court officer walks up and puts the claim in the defendant’s hand — but it’s cheaper and usually just as effective to ask for service by certified mail (return receipt

with your client in it), your bid or estimate, copies of all letters to and from your client, copies of invoices you have sent your client, copies of your license and your insurance certificates, and before and after photographs of the job site. If you completed a punch list with your client, take that, too, so that if last-minute objections are raised at the hearing about incomplete work, you can point out that this was not a problem before the client was asked to pay.

You may not have everything I’ve listed, but take what you do have, whether you expect to use it or not. You won’t get to go back to the office for something you didn’t bring because you didn’t think you’d need it.

At the hearing, tell the judge in your

own words what you want and what your evidence is. If you have supporting witnesses, they will give their testimony directly to the judge. The defendant will also tell his or her side to the judge, as will any witnesses the defendant may have. In most small-claims courts, the judge asks all the questions. If there is some question about truthfulness or accuracy, you tell the judge and the judge will deal with it.

### Pre-Trial Settlements


As with many lawsuits, there is often some eleventh-hour bargaining. Typically, the fact that you have shown up prepared for trial in small-claims court is enough to change the defendant's mind about holding out any longer. If

your client offers to settle the case before trial, use your own best judgment. The offer will usually be less than the full amount, but, as with any trial, there is some risk in going before a judge who may not fully understand your position or agree with you.

If you decide the offer is adequate, get paid on the spot. Then go to your bank immediately and deposit the check. Ask the teller to clear the check while you wait. This will reduce the chances that your client will have a change of heart while driving home.

### Collecting a Judgment

If you go to trial and win, you still have to collect that judgment, and that can be more difficult than winning

your lawsuit. There are several ways to collect a judgment. If the defendant has a job, you can garnish wages. If the defendant owns personal property or has a bank account, you can attach it. If you don't know what the defendant's assets are, you can ask the court to order the defendant to appear and answer questions about his or her assets. The court clerk can explain the alternatives, and can give you the appropriate form for whichever procedure you decide to use. 

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