

Evidence Is Key



Preparing Your Small Claims Case

Your chance of winning will increase if you carefully collect and prepare your evidence. Depending on the facts of your case, a few tools you can use to convince the judge you are right include :

- Eye witnesses,
- Pictures
- Letters from experts
- Written contracts.



In person witnesses

Most small claim courts will accept letters from witnesses, but check with the clerk of the court to be sure. In-person testimony is always best, but if witnesses can't come to court, letters can be effective way to prove your story.

Eyewitness letters

Letters from eye witnesses should first state who the witness is and then say how, where and when the witness saw (heard, smelled, or touched) important events or evidence.

Letters from experts

Letters from expert witnesses – such as the car mechanic who examined your car's engine or building contractor who inspected your poorly repaired roof should first establish that the witness really is an expert, and then comment on your specific situation.

Main Office:

Lafayette
1020 Surrey Street
Lafayette, LA 70502
Phone: (337) 237-4320
Toll Free: 1-800-256-1175
Email: alsclaf@la-law.org

Branch Offices:

Alexandria
1808 Jackson Street
Alexandria, LA 71301
(318) 443-7281
1-(800)-256-4343

Lake Charles
1 Lakeshore, Suite 800
Lake Charles, LA 70601
(337) 439-0377
1-877-256-0639

Acadiana Legal Service Corporation



Tel: (337) 237-4320
Toll Free: 1-800-256-1175

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Preparing Your Small Claims Case

What Are Small Claims Courts?

Small claims courts are courts where you sue to solve *minor civil law problems* or to collect *small amounts of money*.

Using them is one of your rights as a citizen. You can file suit there without having to hire an attorney and the technical rules of evidence are relaxed so you won't feel lost. You do waive (give up) your right to a trial by jury and you *must accept the judge's decision as final*.

Who May Sue?

Anyone filing on his own behalf who is *18 years of age or older* can sue in small claims court. A younger person must sue through a parent or guardian. A corporation can also sue.

Who May Be Sued?



The person or company being sued may be an individual, a corporation, a partnership, a sole proprietor, or an unincorporated association such as a club. In some cases there may be more than one defendant. *You can sue only the person/persons or company who caused you damage or injury.*

What Kind Of Suits May Be Filed?

Small claims court suits include contract arguments, money damages for injuries caused by another, action to get possession of personal property (but not real estate), eviction proceedings, and consumer problems. Common consumer complaints involve: repairs, warranties, defective products, damaged property, insurance claims and undelivered goods. *Suits involving personal injury have to be filed within one year of the date of injury.*



You *cannot* file suits involving: marriage, separation or divorce; emancipation of a minor; a state agency or the local or parish government; a public official acting on official duty. You also *cannot* sue for punitive damages, only actual damages. If someone caused you \$500 worth of damages, you can sue for that but not for another \$500.

Where Is The Suit Filed?

Ordinarily, you file suit where the person or company you're suing (the defendant) lives or does business. Contact the court in that area to see if it handles small claims. If you don't know where the court or justice of the peace is in a particular rural area, ask at the office of the clerk of court in the parish courthouse.

How Do You Begin A Suit?

It's always better to try to solve problems outside of court, so try to settle the matter first by talking to the person or company or writing letters to solve the dispute. The steps of your phone call should be:

1. Identify yourself and state the reason why you are calling;
2. Ask to speak to the appropriate person;
3. Identify yourself and state your problem again;
4. Ask for the name and title of the person you are speaking with. **Write this name down.**
5. Use your notes to describe the problem;
6. Make a *firm* demand - Example ("I expect your repairman to be out here tomorrow to fix my roof or I want my money back");
7. Get an answer, either a yes or no.

If the call doesn't do any immediate good, save your notes as evidence and send a short letter restating the information you gave in the phone call and the response you received to the person or company. Send it by certified mail, and keep a copy and the receipt:

Allow two weeks deadline for an answer to your demand but don't make threats of legal action yet. If your first letter doesn't solve the problem, send a short demand letter. Send it by certified mail, and keep a copy and the receipt. If your problem is still unresolved, go to court and use all of this as evidence.