

SMALL CLAIMS



**Office of the Staff Judge
Advocate
Eielson AFB, Alaska**

354 FW/JA

**Legal Assistance & Preventive
Law
Pamphlet Series**

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SHOULD I GO TO SMALL CLAIMS COURT?

Do you have a legal matter that can be settled for under \$10,000? If so, you can elect to try your case in Small Claims Court. Anyone 18 years or older may file a small claims case. This forum choice allows you to have your case heard in a less formal forum, while still having a court ordered payment if you win your case. Seeing the case successfully through from start to finish is much simpler in Small Claims Court than in District or Superior Court.

WHO CAN BE SUED IN SMALL CLAIMS?

- Persons 18 years of age or older or the parent or legal guardian of a person under age 18 inside the jurisdiction of Alaska.
- Partnerships, LLC's, unincorporated associations, and corporations doing business in Alaska.
- A landlord residing outside Alaska.
- An owner or operator of a motor vehicle involved in an accident in Alaska.

WHAT ARE THE COSTS TO FILING?

If the value of your claim is under \$2,500, then the cost of filing is only \$50. However, if the value you are claiming is over \$2,500, then the cost of filing is \$100.

LAWYERS

Most people who file or defend small claims cases do not use lawyers. Small claims procedures are designed to be used without a lawyer, but you can be represented by a lawyer if you wish. For more information on hiring a civilian lawyer, please see the 354 FW/JA Legal Assistance & Preventive Law pamphlet titled "Hiring a Civilian Attorney."

BEFORE YOU FILE

You should always ask the defendant for what you want before you sue. It helps if your request is in writing. Send a letter stating what you are asking for, why you are asking for it, and what you will do if you do not get it. Send the signed letter via certified mail, return receipt requested. In some cases the law *requires* you to make a written request. Evidence of this request should be brought to trial.

Obtain a copy of the *Alaska Small Claims Handbook*, available online at <http://courts.alaska.gov/forms/sc-100.pdf>. The Handbook will tell you most of what you'll need to know to navigate through the procedure successfully. It also tells you what rights you will be giving up by choosing Small Claims Court.

WHAT SHOULD I DO TO PREPARE FOR A TRIAL?

You will need to prepare for trial by obtaining all the evidence you need to prove your case. This includes any and all documents and witnesses. To get a document into evidence, you will need a witness, possibly yourself, to testify as to its relevance and authenticity. To ensure that witnesses you call will be present in court, you will need to subpoena them. The Small Claims Handbook has instructions about subpoenas. You will need to provide copies of your evidence to the defense and contact information for any witnesses you want to call to testify on your behalf. Believe it or not, presenting the evidence to the defense often helps your case by convincing them to settle before trial.

If the case goes to trial, you will need to present your evidence to the court to prove your case. This includes showing the judge the evidence you have collected and asking your witnesses questions designed to have them tell the court your side of the story. After you present your case, the defendant will have a chance to testify and present his or her evidence. During the trial, the judge may make suggestions about settlement. You can take these suggestions or not, but consider carefully what the judge says. At the end of the trial, the judge will issue his decision based on what is proven by a preponderance of the evidence.

WHAT HAPPENS AFTER THE TRIAL IS OVER?

Unfortunately, this is not the end of the case. If you win, the defendant should pay you directly and promptly. However, the defendant may ask you to accept installments. You do not have to accept this offer, but it may be the best way to recover the money. The defendant may also appeal the judgment or may simply refuse to pay. In this case, you will want to get a Writ of Execution to seize the defendant's assets to pay your judgment. If you lose, you may choose to appeal the judgment to Superior Court. You will not automatically get a new trial. You will not be allowed to introduce new evidence on appeal. Instead, you must argue that the judge made an error of law or was clearly mistaken as to the facts in evidence. The best advice before making any appeal is to take a few days to think about it first. You only have a short time to file your appeal, but do take the time to consider whether it is worth the time and effort to appeal a case that the court will probably not overturn.

CONCLUSION

Small Claims Court can provide you with a simple way to recover relatively small sums of money. However, just because you will probably not need to hire an attorney does not mean that you will not need to prepare your case.

This pamphlet is for basic information on small claims for military personnel stationed in Alaska. It is not intended to take the place of legal advice from a Judge Advocate. There may be important exceptions in some states to the information presented here. Please contact the 354th Fighter Wing Legal Office for questions and further information.

