

COUNTY COURT/SMALL CLAIMS INFORMATION

A SMALL CLAIMS SUIT IS AN ACTION FOR DAMAGES WHERE THE AMOUNT IN CONTROVERSY DOES NOT EXCEED THE SUM OF \$5000.00 EXCLUSIVE OF COSTS, INTEREST AND ATTORNEYS FEES.

RESPONSIBILITY FOR WORK PREPARED BY THE CLERK-ONE SHOULD REMEMBER THAT THE CLERKS WHO ASSIST IN THE PREPARATION OF SMALL CLAIMS PROCEEDINGS ARE NOT ATTORNEYS AND CANNOT GIVE LEGAL ADVICE. THEIR ADVICE IS TO HELP AND GUIDE IN THE PREPARATION OF FORMS. RESPONSIBILITY FOR ADEQUATE PLEADINGS AND ONE'S POSITION IN A LAWSUIT RESTS ALWAYS WITH THE LITIGANT, NOT THE CLERK.

1. PLAINTIFF IS THE PARTY WHO BRINGS THE LAWSUIT. DEFENDANT IS THE PARTY BEING SUED.

2. IT IS IMPORTANT THAT YOU SUE IN THE CORRECT NAME AND FILE AGAINST THE RIGHT PARTY. IF YOU ARE THE PLAINTIFF, YOU WILL NEED THE FOLLOWING INFORMATION TO COMPLETE YOUR FORMS:

A. IF YOU ARE AN INDIVIDUAL, AND OVER THE AGE OF 18, YOUR COMPLETE NAME, ADDRESS & TELEPHONE NUMBER WHERE YOU CAN BE REACHED DURING THE DAY. IF YOU ARE AN INDIVIDUAL DOING BUSINESS AS A COMPANY, YOU MUST STATE YOUR NAME D/B/A AND YOUR COMPANY NAME. IF YOU ARE A CORPORATION, YOUR FULL LEGAL NAME UNDER WHICH YOU DO BUSINESS. NOTE: SOME JUDGES MAY OR MAY NOT REQUIRE A CORPORATION TO BE REPRESENTED BY AN ATTORNEY.

B. YOU WILL ALSO NEED THE SAME INFORMATION AS ABOVE FOR THE PERSON OR COMPANY BEING SUED. IF THE DEFENDANT IS A COMPANY, WE SUGGEST YOU CHECK THOROUGHLY TO FIND OUT IF HE IS A CORPORATION OR AN INDIVIDUAL DOING BUSINESS AS A COMPANY. THIS INFORMATION MAY BE OBTAINED BY CALLING THE DIVISION OF CORPORATIONS AT: (850) 488-9000. THE EMAIL ADDRESS FOR DIVISION OF CORP. IS www.sunbiz.org. MAKE SURE YOU OBTAIN THE CORRECT CORPORATE NAME AND THE NAME AND ADDRESS OF AN OFFICER OR RESIDENT AGENT RESIDING IN THE STATE. IF THERE IS NO LISTING AT THIS NUMBER, YOU MAY CHECK TO SEE IF IT IS A FICTITIOUS NAME BY VISITING THE OFFICE OF THE BROWARD COUNTY ADMINISTRATOR TO DETERMINE WHO HAS REGISTERED TO DO BUSINESS UNDER THAT SPECIFIC OCCUPATIONAL LICENSE BY CONTACTING THE COUNTY TAX COLLECTOR AND THE LICENSING DEPARTMENT OF THE CITY OF PRINCIPAL BUSINESS.

3. IF YOU HAVE ANY PAPERS, CONTRACTS, INVOICES, ETC., PERTAINING TO YOUR CLAIM, YOU WILL NEED ONE XEROX COPY FOR THE COURT FILE AND ONE XEROX COPY FOR EACH DEFENDANT YOU PLAN ON NAMING IN YOUR SUIT **AT THE TIME OF FILING.** ALWAYS BRING ORIGINALS OF DOCUMENTS TO BE USED IN YOUR CASE TO ALL DESIGNATED COURT APPEARANCES. REMEMBER, ORIGINALS ARE RETAINED BY THE COURT AS EVIDENCE IN PROOF OF CLAIMS OR DEFENSE SO HAVE COPIES TO OFFER IF YOU WISH TO RETAIN THE ORIGINALS.

4. IF YOU ARE FILING YOUR SUIT BY MAIL, YOU WILL NEED TO OBTAIN THE NECESSARY FORMS BY SENDING A **SELF-ADDRESSED STAMPED ENVELOPE** REQUESTING SAME AND WE WILL FORWARD THEM TO YOU. YOU MAY REQUEST FORMS AND FILE YOUR SUIT AT ANY ONE OF OUR FOUR OFFICES LOCATED IN BROWARD COUNTY. THE ADDRESSES ARE:

NORTH COURTHOUSE
1600 W. HILLSBORO BLVD
ROOM 160
DEERFIELD BEACH, FL
33442

SOUTH COURTHOUSE
3550 HOLLYWOOD BLVD
ROOM 100
HOLLYWOOD, FL
33021

WEST COURTHOUSE
100 N. PINE ISLAND ROAD
ROOM 160
PLANTATION, FL
33324

CENTRAL COURTHOUSE
201 S.E. 6th STREET
ROOM 120
FT. LAUDERDALE, FL
33301

FOR TELEPHONE INFORMATION REFER TO REAL TALK IN WHITE AND YELLOW PAGES OF TELEPHONE DIRECTORY

WHERE YOU FILE YOUR SUIT IS WHERE YOUR CASE WILL BE HEARD, OUR OFFICES ARE OPENED MONDAY THRU FRIDAY FROM 8:00 A.M. TO 4:30 P.M. WHEN RETURNING SUITS BY MAIL, PLEASE HAVE YOUR STATEMENTS OF CLAIM SIGNED AND NOTARIZED. ALSO, MAKE SURE YOU SEND IN YOUR FILING FEE AND SHERIFF'S SERVICE FEE BY MONEY ORDER OR CASHIER'S CHECKS. THIS OFFICE DOES NOT ACCEPT PERSONAL CHECKS. BOTH OF THESE FEES MUST BE SEPARATE CHECKS. A RECEIPT FOR YOUR FILING FEE WILL BE SENT BACK TO YOU BY OUR OFFICE WITH YOUR PRETRIAL HEARING DATE ON IT. YOU ARE REQUIRED TO APPEAR, EITHER IN PERSON OR BY AN ATTORNEY. PLEASE DO NOT BRING WITNESSES TO THE PRETRIAL CONFERENCE. YOU WILL BE MAILED A RETURN OF SERVICE FROM THE SHERIFF'S OFFICE, PRIOR TO YOUR PRETRIAL HEARING. IT IS IMPORTANT THAT YOU VERIFY THAT YOUR DEFENDANT HAS BEEN PROPERLY SERVED TO ENSURE THAT YOUR PRETRIAL HEARING WILL BE HEARD AS SCHEDULED.

5. IF YOU ARE THE PLAINTIFF AND YOU FAIL TO APPEAR ON THE DESIGNATED DATE, EITHER IN PERSON OR BY AN ATTORNEY, YOUR CASE MAY BE DISMISSED. IF YOU ARE THE DEFENDANT AND FAIL TO APPEAR ON THE DESIGNATED DATE EITHER IN PERSON OR BY AN ATTORNEY, A JUDGMENT MAY BE ENTERED AGAINST YOU.

6. IF AT ANY TIME A SETTLEMENT IS REACHED BETWEEN THE PARTIES, THIS OFFICE SHOULD BE NOTIFIED IN WRITING BY THE PLAINTIFF PRIOR TO THE HEARING. (VOLUNTARY DISMISSAL FORMS ARE AVAILABLE FROM THE CLERK'S OFFICE FOR FILING BY PLAINTIFF.)

7. YOU **MUST** ADVISE THE CLERK, IN WRITING, OF ANY CHANGES IN YOUR MAILING ADDRESS.

8. **JUDGMENT** - THIS IS THE OFFICIAL JUDICIAL FINDING BY THE JUDGE THAT A PARTY IS OR IS NOT ENTITLED TO THE DAMAGES ASKED FOR IN HIS OR HER CLAIM. THIS JUDGMENT GIVES THE WINNER ADDITIONAL LEGAL RIGHTS SUCH AS A LIEN ON THE LOSING PARTY'S REAL PROPERTY, THE RIGHT TO HAVE THE SHERIFF LEVY ON PERSONAL PROPERTY. GARNISHMENT RIGHTS AND OTHER RIGHTS TO COMPLEX TO DISCUSS HERE. **THE CLERK CANNOT COLLECT YOUR JUDGMENT FOR YOU.** IF THE LOSING PARTY DOES NOT HAVE ANY ASSETS WHICH YOU CAN ATTACH OR BANK ACCOUNTS TO GARNISH, IT MAY BE DIFFICULT TO COLLECT YOUR JUDGMENT. **THE CLERK CANNOT GUARANTEE COLLECTION.**

9. ANY PARTY HAS 10 DAYS FROM THE DATE OF JUDGMENT TO APPLY FOR A NEW TRIAL, SEE THE CLERK FOR INSTRUCTIONS.

10. **APPEALS** - EITHER PARTY IS ALLOWED THE RIGHT TO APPEAL THE JUDGMENT ENTERED BY THE COUNTY COURT JUDGE WITHIN 30 DAYS AFTER IT IS RENDERED, AN ATTORNEY SHOULD BE CONSULTED IF AN APPEAL IS CONTEMPLATED. IT MAY BE DIFFICULT TO HAVE A JUDGMENT REVERSED ON APPEAL UNLESS THE PROCEEDINGS BEFORE THE JUDGE WERE RECORDED AND TRANSCRIBED BY A COURT REPORTER.

IF YOU HAVE ANY FURTHER QUESTIONS REGARDING PROCEDURES, THIS OFFICE WILL ASSIST YOU.

THIS OFFICE CANNOT FURNISH YOU WITH LEGAL ADVICE.

THE FOLLOWING

MAY HELP YOU TO

- 1. RECORD YOUR JUDGMENT.** We suggest you first obtain a certified copy of the judgment from the originating Clerk of Courts office and record it in any county in which the debtor owns real estate. The judgment then becomes a lien on any real estate the debtor owns in that county. The lien acts as a defect on the title to the real estate and normally must be paid off if that property is ever sold. It will also reflect on the debtor's credit history. In Broward County, the judgment should be recorded at the Office of the County Recorder, @ 115 S. Andrews Ave. Room 114, Ft Lauderdale. They can be reached @ (954) 357-7283 to obtain general information including recording fees.
- 2. FILE A WRIT OF EXECUTION.** Writs of Executions are issued by the Clerk's office but are enforced by the Sheriff's office. It is for this reason that we recommend that you first contact the Sheriff directly for pertinent details including fees and procedures. The Broward Sheriffs Office is located at: 2601 W. Broward Blvd. Ft. Lauderdale, Fl 33311, Phone, (954) 831-8787. Ten (10) days after the judgment has been entered by the Court, the Clerk will issue a document called a Writ of Execution upon your request. Take this document to the Sheriff's office located in the county where the debtor has personal property or moveable goods. When the Writ of Execution is filed with the Sheriff, the Sheriff will then have authority to seize and sell the property of the debtor to pay off your judgment. At the time of the sale of the property, the Sheriff will pay the judgments in the order in which the Writs of Execution were filed so it is important to file your writ with the Sheriff as soon as possible in the event there are many creditors.
- 3. LEVY AND EXECUTION.** If you can locate personal property of the debtor and have an exact location of that property, you can then give the Sheriff written instructions to seize specifically identified personal property of the debtor. The form used is called, Instructions for Levy and varying fees are required. You should contact the Sheriff's Civil Executions department at the phone number above to obtain proper fees. After the Sheriff has seized the property, he will publish a notice announcing the date of a public sale of the seized goods. At that sale, people will bid on the property. Any money received at the sale after payment of the Sheriff's expenses will be given to you to pay or partially pay your judgment. If the monies received do not pay the entire judgment amount awarded, you may repeat the process. Writs will be paid off according to the order in which they were filed.
- 4. LOCATING THE DEBTORS PROPERTY.** There are many ways to find out what property the debtor owns. The County Tax Collector's office can tell you if he owns a vehicle registered in the state. You may also write to the Department of Highway Safety & Motor Vehicles, Division of Motor Vehicles, at The Neil Kirkman Bldg. Tallahassee, Fl 32399-0500 to see what vehicles he/she owns.

The office records of the county, located at 115 S. Andrews Ave. Ft. Lauderdale, Fl may also reflect what real estate a debtor owns in the county however, searching these records can be complicated and you may choose to have an experienced person assist you.

If you do not find any property of the debtor through research of the records, you may wish to file a motion available through the court called "Ex-Parte Motion for Hearing in Aid of Execution" together with an "Order for Hearing in Aid of Execution". Upon the presiding Judge's consideration of the motion, he or she will order a judgment debtor to appear at a hearing for the purpose of inquiring of the debtor under oath as to earnings, financial status, and any assets available in excess of exemptions to be used towards the satisfying of a judgment. A certified copy and a true copy of the order must be obtained by the Plaintiff for the purpose of service on the Defendant as required.

Another way to obtain information regarding a debtor's property is with a Deposition in Aid of Execution. A deposition is a method in which the debtor is subpoenaed to appear before a court reporter or notary public and made to answer similar questions under oath. It is mandatory that you have an attorney for this procedure.

5. **GARNISHMENTS.** Your debtor may also be owed money by a third party, such as an employer or bank where they have an account. In this case, you may wish to enforce your Judgment using Garnishment proceedings. To obtain a Writ of Garnishment, you must file a motion (request) for one with the Clerk of Court and pay a filing fee. The Sheriff would then serve the Writ on the Garnishee (eg: the employer or bank of the debtor) who would then be required to submit a written report producing information regarding any monies owed to the debtor and the revelation of any property of the debtor in the process or control of the garnishee. Then, unless the debtor is entitled to an exemption, (see below), the garnishee would have to pay the money to you or give the property to the Sheriff for execution to satisfy your judgment. This procedure can be complicated and you may wish to consult an attorney.

6. **RECORD OF UNSATISFIED JUDGMENTS.** If you had filed an action for damages resulting from an automobile accident and have received a judgment, you may effectively suspend the defendant's drivers license after 30 days from the date of the judgment, providing there are no appeals filed. You must obtain the form "Record of Unsatisfied Judgment" from the Drivers License Bureau, have the clerk from the County Courts issue the forms and then forward it to the Bureau of Financial Responsibility at PO Box 5775 Tallahassee, FL 32314. For additional information you may contact the Bureau directly.