

## Can I Take Everything From the Party I Sue?

No. Some property is exempt from satisfying a judgment, Exempt property cannot be taken. The County Court Clerk's office will supply more detailed information on exempt property.

## What If I Am Sued?

Go to the pre-trial hearing at the time and place stated on the Notice. You do not have to file a written answer in a small claims action, although you may do so. You will tell the judge all of your defenses at the pre-trial. Read the notice carefully to know your rights and duties. If you fail to appear, a default will be entered against you. If you have a claim of your own against the plaintiff, you must file this in writing with the court before the pre-trial hearing. A copy of this claim must be mailed or hand-delivered to the plaintiff.

## About Community Legal Services of Mid-Florida (CLSMF)

*The mission of CLSMF is to provide access to justice through high quality legal assistance to low-income persons.*

CLSMF is a nonprofit legal aid organization which provides free legal assistance to low-income people with civil legal problems in twelve counties across Central Florida. Since 1966, dedicated CLSMF lawyers, paralegals, legal assistants and advocates have worked diligently to solve civil legal problems for people facing life-changing situations, such as domestic violence, unlawful eviction, or the loss of veterans' health or public benefits.

We are committed to delivering the highest quality legal aid, with dignity and respect, for those who are seeking access to justice.

*\*We do not provide legal assistance in criminal or traffic matters*

This brochure is for general education only. It is not intended to be used to solve *individual problems*. If you have specific questions, see an attorney. CLSMF offices are listed on the back of this brochure.

The Florida Bar Foundation, with *Interest on Trust Accounts* program funding, provides support for this service.

## Community Legal Services of Mid-Florida Offices

\*BREVARD: 1-866-469-7444

CITRUS & SUMTER

106 N. Osceola Avenue, Inverness, FL 34450

(352) 726-6592 — CITRUS

1-800-984-2918— SUMTER

FLAGLER: 1-800-405-1417

HERNANDO: 1-866-801-5566

LAKE: (352) 343-6351

226 West Main Street, Tavares, FL 32778

MARION: (352) 629-6257

1610 SE 36th Avenue, Ocala, FL 34471

\*ORANGE (407) 841-7777

122 E. Colonial Drive, Suite 200, Orlando, FL 32801

OSCEOLA: (407) 933-1791

800 North Main Street, Kissimmee, FL 34744

PUTNAM: (386) 385-0928

216 S. 6th Street, Palatka, FL 32177

\*SEMINOLE: (407) 322-6673

315 Magnolia Avenue, Sanford, FL 32771

VOLUSIA : (386) 258-5600

128 Orange Avenue, Daytona Beach, FL 32114

Client toll-free number: 1-800-363-2357

ADMINISTRATIVE OFFICE: (386)523-9181

*\*Certain legal services not offered*

info@clsmf.org

Apply for help online at:

[www.clsmf.org](http://www.clsmf.org)



## Going to Small Claims Court



## Small Claims Courts

Small Claims Courts were established with the goal of providing speedy, inexpensive and simple justice in cases involving smaller amounts of money.

Small Claims Court will not rule on claims exceeding \$5,000. The basics you should know about making your claim in court are outlined in this brochure.

**The question you should ask before going to court is:**

Have I done all I can to talk to the other party and resolve this matter through compromise or other appropriate means? You should know that there is no guarantee that you will win your case, and an out-of-court settlement may be less costly than legal action.

### Where Do I Go To Start Proceedings?

Proceedings may be started in the county where you live, the county where the other party lives, or the county where payment is to be made. (Generally, the case will be heard at the courthouse nearest the defendant's residence, but you may file at any office.)

First, contact the Clerk of the Court — Small Claims Division. The clerk will be located in the local county courthouse. The clerk's office will help you prepare a Statement of Claim and other required papers. This office will also advise you of procedures to follow. Charges for filing small claims actions vary depending on the amount for which you sue.

## Do I Need A Lawyer?

You do not have to obtain a lawyer, but you may choose representation if you wish. Either way, you are expected to be present at the hearing(s).

### Who's Who?

The PLAINTIFF is the one making the claim.

The DEFENDANT is the one being sued.

### Must I Appear In Court?

Both sides must attend the court hearing (s). Failure of the defendant to appear usually results in a judgment awarded to the plaintiff. Failure of the plaintiff to appear results in the case being dismissed.

### What Happens at the Hearing?

The special feature of small claims court is the pre-trial hearing. At this hearing both parties are expected to make a sincere effort, with the assistance of the court, to settle their differences and resolve the matter. Witnesses are not required, and written pleas are not necessary. However, books, receipts, or other documents related to the claim should be produced at this time. If both parties agree that the defendant owes the plaintiff money, the judge may rule on a payment plan. If the payments are not paid on time, the plaintiff may request the court to render a final judgment. If the parties cannot settle the case, the judge will set a trial date.

## Do I Need Witnesses?

At any trial, bring witnesses who have personal knowledge of the facts or who are experts in the subject. If you are not sure that your witnesses will attend, the Clerk of the Court will assist you in securing their attendance by issuing a subpoena.

### How Do I Present My Case?

Bring with you brief notes of what you want to say when the judge calls upon you to speak (this applies to both the pre-trial hearing and the trial). Don't hesitate to refer to these notes. They will help you to state all the facts.

### What is a Final Judgment?

The final judgment is an order to the defendant to pay a specified amount to the plaintiff. Your county court can help you collect your judgment as stated below.

### What Can Be Done To Collect the Award?

To collect real estate (land or property) of the defendant's (other than the defendant's homestead):

Take a copy of the judgment you received in the mail to the Clerk's office and have it CERTIFIED. If you need a copy, there is an additional charge. Take the certified copy to the Records Division of the Clerk's office in the courthouse. For a fee, your judgment will be recorded, creating a lien of record (a charge against) on any real estate (in the county where recorded), which is then or thereafter owned by the defendant in his or her name. This lien must be paid off before the property can be sold.

To collect other property of the defendant:

Another means to get payment is to seize the defendant's property, real or personal, and sell it to obtain funds to pay the judgment. This must be done by the Sheriff of the county in which the defendant lives or where he or she has property. A Writ of Execution must first be obtained from the Clerk of the County Court's office after the judgment has been entered. The Sheriff requires the Writ and a cost deposit for the expenses of seizing, storing and selling the property. If the sale brings in enough money to cover these costs, as well as satisfying preexisting liens, the deposit will be refunded.

From other people indebted to the defendant:

A Writ of Garnishment may be obtained from the Clerk of the County Court if you know of any person who may owe the defendant any money or is holding any of the defendant's property. This could mean an employer, tenant, mortgager, bank, etc. This Writ, when served, orders the person to hold the money or property for disposal by the court. The court may then order the money or property turned over to you.

If other ways to collect have failed, consider talking to a collection agency. These are privately owned and state-licensed companies that specialize in collecting past due debts of all types. A fee is charged (usually a percentage of the amount collected), and varies with the type of case. There is usually no charge if no collection is made. Local credit bureaus also offer this service. Look in the Yellow Pages under "Collection Agencies" for assistance.