

LEGAL AID, HIRING A LAWYER, AND SMALL CLAIMS COURT



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LEGAL AID

Because the Peterson AFB legal office cannot represent you in court, the following are resources that may be available to you if you meet certain income restrictions and other eligibility requirements.

Pro Bono (Free Legal Representation)

- Legal Aid Foundation of Colorado: Provides free legal representation to clients living at or below 125% of the federal poverty guideline. This means the annual income ceiling for a family of four cannot exceed \$32,188. For more information visit <http://legalaidfoundation.org/>
- The Pikes Peak Pro Bono Project: Sponsored by the El Paso County Bar Association, the Pikes Peak Pro Bono Project provides free legal services to clients with very low income.

Discounted Legal Services:

- Modest Means Program: For those who exceed the minimum guidelines for pro bono legal services, the Modest Means Program may be an affordable alternative. This program provides low cost legal representation to individuals who earn too much to qualify for legal aid, but cannot afford traditional legal fees. Lawyers who are willing to accept Modest Means clients will agree to charge no more than \$125 per hour for any services and may assess a fee of \$40 for an initial consultation. The client will be asked to pay a retainer that will be no more than \$750. For more information or to apply, visit <https://www.elpasocountybar.org/resources/Documents/Modest%20Means%20Program%20Application.pdf>

OTHER LEGAL RESOURCES

Every month, El Paso and Teller County make attorneys available to answer legal questions.

- TESSA advocates are available in the Self Help Center of the Courts (Room S101) all month to assist victims of intimate partner violence, sex assault, and stalking. The advocates will assist with filing temporary protection orders between the hours of 08:00am and 09:30am, Monday-Friday.
- For Family law issues, visit the El Paso County Courthouse, Room S101 between 0830am and 1130am every first and second Tuesday. Call 719-471-0380 for more details.

Pro Se Veterans Issues Clinics:

- This clinic provides free legal help and information to veterans that are representing themselves on certain legal issues, including family law, bankruptcy, eviction, foreclosure, consumer issues, and benefits. Appointments are available in the evenings on the second Tuesday of every month. To schedule an appointment, call 719-473-6212 and leave a message with your name, phone number, and a brief description of your legal issue.

SELF HELP RESOURCES

Self Help Center:

- Located in the EL Paso County Courthouse in room S101 of the Clerk's Office, the Self Help Center is staffed by clerks who can answer questions and provide information on various court proceedings. They have computer software that will calculate child support that can be used for free and they have a booklet that provides a step-by-step guide for each of the forms required in the divorce process.

Colorado Self Help/Forms:

- Colorado maintains a website with many helpful instructions and forms for legal proceedings. You can download these forms for free at http://www.courts.state.co.us.Self_Help/Index.cfm

HIRING A CIVILIAN LAWYER

Do I need to hire a lawyer?

It depends on your particular legal issue. It's legal to represent yourself in court and handle your own legal matters, but judges and court personnel cannot give you legal advice. If you have a claim that is eligible for small claims court. However, for more complex claims hiring a lawyer may well be a prudent decision.

How do I find a lawyer who can help with my particular issue?

The El Paso County Bar Association maintains a referral service which will provide you with the name and number of one or more attorneys who practice in the local area and who have expertise in the field which pertains to your legal issues. These are private attorneys and they charge a retainer and hourly fees. You can reach the referral service by phone at 719-636-1532 or by visiting their website at <http://www.elpasocountybar.org/find-a-lawyer>

How do Lawyers Set their Fees?

Not all legal services incur the same type of fees. Generally there are four ways that an attorney will charge to work on your case. An attorney should always provide you with a written statement explaining how you will be billed.

- Hourly – the fees is based on the amount of time the lawyer spends working on your case
- Fixed Fee – this is a flat fee charged no matter how long the lawyer works on your case. This is common with a will, simple bankruptcy, or an uncontested divorce.
- Contingent Fee – the lawyer receives a percentage (usually between 30% - 40%) of any amount he recovers on your behalf. This is common in a personal injury action.
- Retainer – A client makes a down payment and future costs are billed against that amount.

Can I change lawyers?

Yes, you are entitled to have your attorney stop representing you if you wish. Giving notice to your attorney is a matter of courtesy and may be necessary so that if a lawsuit has been filed, the attorney may ask the court for permission to withdraw. You may still be obligated to pay for any services which have already been performed on your behalf, and costs which have been incurred. You are entitled to a return of your files, provided your attorney does not have a valid attorney's lien.

SMALL CLAIMS COURT

Can I resolve my specific legal issue in Small Claims Court?

Generally speaking, three types of cases may be brought in this forum

- Claims for money damages less than or equal to \$7,500
- Claims to rescind/revoke contracts less than or equal to \$7,500
- Claims for enforcement of restrictive covenants in a subdivision where the cost of compliance is less than or equal to \$7,500

The \$7,500 cap does not include interest on the amount owed or court costs for bringing the lawsuit. In other words, you may potentially recover these amounts in addition to an award of \$7,500.

Small Claims Court cannot order a person to return property, perform work, or accept a debt payment plan. It also cannot award damages arising from a claim of libel/slander or award an injunction.

Does it cost me any money to file a claim in Small Claims Court?

Usually, yes. The Court charges a filing fee in most cases. However, if you cannot afford to pay a filing fee, the Court may waive this fee. To apply to have your fee waived, you must submit a "Motion to Waive Costs And Fees." In this motion, you should describe your household income and assets. Call the Clerk's office to get a copy.

What Rules Apply in Small Claims Court?

- At least one of the Defendants must live, be a student, be employed, or have a place of business in El Paso County
- Trials are conducted by a magistrate, not a judge. There are no juries in Small Claims Court;
- Usually, no lawyers are allowed in Small Claims Court. However, a defendant may choose to have a lawyer represent him if the defendant provides the person bringing the claim notice of his intent to do so at least 7 days before trial. In this situation, the person bringing the claim may then have a lawyer.
- The Small Claims Court uses simplified procedural rules which prohibits the use of most written motions.
- Formal rules of evidence do not apply in Small Claims Court. The Court will consider all types of evidence such as pictures, written statements by witnesses, estimates/appraisals, video, etc.
- Cross Examination is generally discouraged. Testimony is provided in a narrative form rather than in the traditional question and answer format. The Magistrate, in his discretion, may allow limited questioning of another party's witness.

How do I file a claim in Small Claims Court?

Generally, the steps from filing a claim proceed as follows: (1) you prepare a complaint, (2) you have the complaint served on the defendant, (3) the defendant files an answer to the complaint which may also include a counterclaim, (4) a trial is held, (5) either party may appeal the result to the District Court within 15 days after trial.

The Small Claims Court Address: 270 S. Tejon, Room 407, Colorado Springs, CO 80903. The Clerk can be reached at 719-448-7795.

Sources:

<http://www.elpasocountybar.org/>

http://www.courts.state.co.us/Forms/Forms_List.cfm

The information provided in this document is meant for the sole use of Active Duty service members, retirees, and their families. The information is general in nature and meant only to provide a brief overview of various legal matters. Rights and responsibilities vary widely according to the facts and circumstances in each case. Laws can vary across states, services, and civilian jurisdictions. Do not rely upon the general restatements of background information presented here without discussing your specific situation with a legal professional.