

# SMALL CLAIMS COURT



prepared by  
**PETERSON AFB  
LEGAL OFFICE**  
(719) 556-4871



## INTRODUCTION

The Small Claims Court was created to provide a relatively cheap and efficient way for people to resolve their disputes. Because the legislature wanted the process to be inexpensive and fast, the rules of procedure and the rules of evidence in Small Claims Court are different than in other courts. However, the basic rules of law and the basic constitutional rules that apply in all other courts apply in the Small Claims Court.

This guide is intended to provide you with the information you need to present a case in the Small Claims Court of El Paso County. Please read through this guide carefully. If you have questions after you have read the guide, contact the clerk in the Small Claims Division. The Small Claims Court is located at 270 S. Tejon, Room 407, Colorado Springs, CO 80903. The telephone number of the Clerk is (719) 448-7795, However, the Clerks cannot give you legal advice. If you need legal advice, you should consult with an attorney.

## WHAT CASES CAN YOU BRING TO SMALL CLAIMS COURT?

Small Claims Court is a court of Limited Jurisdiction. In general, the claims that may be brought are:

- Claims for money damages in an amount of \$7,500 or less,
- Complaints to rescind or revoke contracts for \$7,500 or less; and
- Claims for enforcement of restrictive covenants in a subdivision where the cost of compliance will be \$7,500 or less.

The \$7,500 limit does not include interest on the amount owed or court costs for bringing the lawsuit, both of which may be added to the \$7,500 limit. The Small Claims Court cannot order a person to return property, order a person to perform work or labor or order a person to accept or comply with a payment plan for the payment of a debt. It cannot enter an award for damages arising from libel or slander, award an injunction to prevent someone from taking an action, or enter a mandatory injunction to force someone to take an action.

## FEES APPLY UNLESS YOU FILE AND OBTAIN A WAIVER

The Court charges a filing fee in most cases. If you cannot afford to pay a filing fee, the Court may waive the filing fee. If you believe that the filing fee should be waived in your case, you must file a Motion To Waive Costs And Fees, describing your household income and assets. A copy of that motion is available from the Small Claims Clerk.

## WHAT RULES APPLY IN SMALL CLAIMS?

Certain unique rules apply to cases in the Small Claims Court:

1. Only Certain Defendants May be Sued in Small Claims. For a case to be brought in the El Paso County Small Claims Court, at least one of the Defendants must live or be a student in El Paso County, or be employed in El Paso County, or have a place of business in El Paso County at the time the suit is filed.

2. Trials are Conducted by a Magistrate. All trials in the Small Claims Court are conducted by a Magistrate who has been appointed by the Chief Judge of the Judicial District. There are no jury trials in the Small Claims Court. A county court judge may hear a case where there are attorneys present.

3. Usually No Lawyers in Small Claims Court. Generally, you will find that parties are not represented by lawyers in the Small Claims Court. This allows parties to have their day in court while keeping expenses to a minimum. However, a **Defendant** may choose to have a lawyer represent him/her. He/She must provide notice to the Plaintiff at least 7 days before trial that he/she has hired a lawyer. At this point, the Plaintiff is also entitled to have a lawyer present in the Small Claims Court. If either party involved is a lawyer, the other party may also be represented by a lawyer. Once a judgment is entered, a lawyer may represent a party either in collecting the judgment or appealing the judgment, or both.

4. Simplified Rules of Procedure Apply in Small Claims. The Small Claims Court uses simplified rules of procedure. No written motions are allowed, except those described below, and the court provides most of the forms which may be used in Small Claims. At the trial, every party and witness will be able to tell the Magistrate the facts that they believe are important

5. The Technical Rules of Evidence Do Not Apply in Small Claims. The Small Claims Court does not apply the Colorado Rules of Evidence when it hears trials, except to the extent that the application of these rules is required to protect the constitutional rights and privileges of parties. The Small Claims Court will consider all types of evidence, if the evidence is relevant to the case. Written statements of witnesses or other persons, photographs, photocopies, and written estimates or appraisals all may be used in the Small Claims Court, along with the testimony of witnesses who appear in the Court. Parties often find that the testimony of witnesses in open court is more persuasive than a written statement, but written statements of witnesses will be considered. You can view videotapes (VHS) in the Court, however, you cannot take testimony by telephone, or examine audio recordings or computer displays. If you do bring a videotape, make sure the courtroom has the proper equipment or you may need to bring your own.

6. Cross Examination of Witnesses is Discouraged. The testimony of witnesses is given in narrative (rather than question and answer) form. The Magistrate may ask questions if the Magistrate needs additional information. Parties are usually not allowed to cross examine each other's witnesses, but if a party has questions for a witness, the Magistrate may allow the party to ask the questions. If you are allowed to ask a witness questions, you should ask questions only. The opportunity to ask questions is not your opportunity to argue with the witness or to testify about your case.

## PROCEDURES FOR FILING IN SMALL CLAIM COURT

In general, the following steps will be followed:

1. Plaintiff prepares the Complaint;
2. Plaintiff has the Complaint served on the Defendant(s);
3. Defendant files an answer to the Complaint, which may also include a "Counterclaim" against the Plaintiff,

4. A trial is held; and,

5. Either party may appeal the result to the District Court within 15 days after the trial.

## WHAT HAPPENS IF YOU WIN?

If the Plaintiff wins at trial, or is given a default judgment, the Plaintiff may begin collecting the judgment as soon as the Court can process the paperwork. The Court does not automatically send any paperwork to the Plaintiff or the Defendant after the judgment is entered. The Court does not collect judgments for the parties. The Court will provide you with an outline of the collection process at the time your judgment is entered.

Even though the Plaintiff may begin collecting the judgment as soon as it is entered, both parties have a right to appeal the decision. The Court will provide you with an outline of the appeal procedure.

The Defendant may stop the collection process if it was due to a default judgment by filing a Motion to Set Aside the Default Judgment. This motion must be filed within 30 days after entry of the judgment. If the motion is filed, the Court will notify both Plaintiff and Defendant of a new trial date.

## SETTLING THE CASE

The Court encourages settlements at all stages of the process. You should send a Notice of Dismissal to the Court if you settle before the trial date. If you settle on the day of the trial, the Court will put your settlement on record, but no written copy of the settlement will be provided to you unless you request a copy from the Clerk approximately one week after the trial date. You may settle your case even after the judgment is entered. If the judgment is entered and paid in full, the party receiving payment must file a Satisfaction of Judgment with the Court.

Sources:

<https://www.courts.state.co.us/Forms/SubCategory.cfm?Category=Small>

*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.*