



Your Guide to **Small Claims & Commercial Small Claims** in:

- New York City
- Nassau County
- Suffolk County

This Guide shows you how to:

- Start your case
- File a commercial claim
- Collect a judgment
- Contact government agencies
- Find the right court for your small claim

Jonathan Lippman, *Chief Judge*

A. Gail Prudenti, *Chief Administrative Judge*

Hon. Fern A. Fisher, *Director, New York State Courts Access to Justice Program*

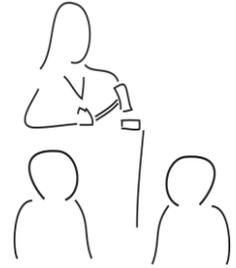
Joseph A. J. Gebbia, *Executive Director of the Small Claims Arbitrators Association*

Table of Contents

What is Small Claims Court?	1
Who can use Small Claims Court?.....	2
How do I start my small claims case?	4
Can the person I am suing sue me?	6
Who tells the person I am suing about my claim?	7
Can I postpone my trial?	8
Which Small Claims Court do I use?	9
Special rules for suing a public agency or city.....	10
How do I get ready for my trial?	11
Can I have witnesses at my trial?	11
Can the defendant and I agree to settle our case before the trial?	12
What do I do on the day of my trial?	13
What happens if one side does not go to the trial?.....	13
Who will decide my case?.....	13
What is an arbitrator?.....	14
What happens during my trial?	15
What if I do not agree with the Court’s decision?	16
How do I get my money if I win?	18
How do I find out about the judgment debtor’s money and property?	20
Commercial Small Claims	23
Special rules for consumer transaction cases	24
Resources	
Government Agencies That May Help When Collecting Your Judgment.....	27
County Clerk Offices.....	29
Enforcement Officers & Police Department.....	30
Small Claims Court Locations & Hours	31-34
Special Rules for Eastern Suffolk County.....	34

What is Small Claims Court?

Small Claims Court is a special court where you can sue for up to \$5000. You can only sue for money. You cannot sue to *make* someone do something or for pain and suffering.



Small Claims Court is sometimes called the *People's Court* because:

- It is inexpensive and easy to use,
- You do not *have to* have a lawyer,
- The Court will notify the defendant for you,*
- It has convenient hours of operation, and
- The Court can get you an interpreter, if you need one.

** If the Court is not able to notify the defendant by mail, the clerk will tell you what to do.*

Before you start your case, read these important facts:

For **small claims** you must:

- Be an individual who is 18 or older*
- Fill out a court form that explains your claim
- Pay a court fee (\$15 – \$20)

** Corporations, associations, partnerships, and assignees must start a commercial small claim. Partnerships may start a small claims case or a commercial small claims case in District Court in Nassau County or Western Suffolk County. See below.*

For **commercial small claims**, you must:

- Be a corporation, association, partnership, or assignee
- Pay a court fee (\$25 per claim, plus postage costs)
- Send a demand letter first for consumer transactions

You **cannot** file more than 5 commercial claims statewide per calendar month.

Deadline! There are strict deadlines for claims against a municipality, city, or county agency. See page 10.

There are special rules if you have a small claims case in **East Hampton, Riverhead, Shelter Island, Southampton, or Southold**. See page 34.

Who can use Small Claims Court?

If you have a small claims case in Eastern Suffolk County, read pages 1-22 of this booklet *and* page 34.

Who can use Small Claims Court?

Any person who is 18 or older can sue in Small Claims Court. If you are under 18, your parent or guardian can sue for you.

Can I sue for more than \$5000 in Small Claims Court?

No. If your claim is for more than \$5000, you must start a civil case. You cannot split your claim into smaller claims to get around the limit.

Can partnerships start a small claims case?

In New York City, partnerships can only start a commercial small claims case.

In Western Suffolk County or Nassau District Court, partnerships can start a small claims case or a commercial small claims case. See page 9 to know which court to use.

Can corporations and associations start a small claims case?

Corporations, associations, and assignees cannot start a small claims case. They must start a commercial small claims case. See page 23.

Do I need a lawyer to sue in Small Claims Court?

You do not need a lawyer to sue in Small Claims Court. But you may have one, if you want to. The other side may also have a lawyer.

What if I don't speak English well?

If you need an interpreter, tell the Small Claims Court Clerk when you file your claim. The clerk will assign an "official" interpreter to your trial if you or a witness needs one.

What if someone sues me, but I am not the responsible person?

Ask the Small Claims Court Clerk for information about a “third-party action.” You may be able to have the responsible person added to your case.

Can I sue on behalf of someone else?

Unless you are the parent or guardian suing on behalf of your child, probably not. For example, if you had an accident in a borrowed car, the registered owner of the car can sue, but you cannot sue for damages to the car.

If you sue in Small Claims Court:

- You are the *claimant* or *plaintiff*.
- The person or business you sue is the *defendant*.

How do I start my small claims case?

How do I start my small claims case?

You or someone else may start your case by filling out a court form. You may file by mail if you have a small claims case in Western Suffolk County or if you live outside New York City and you want to sue a party within New York City. The form describes your claim to the Court.

Where do I get the court form?

You can get the form from the Court Clerk in your county.

For Western Suffolk County and New York City, you can also get the form from the Internet:

- Western Suffolk County:
www.nycourts.gov/courts/10jd/suffolk/dist/pdf/DC-283web.pdf
- New York City:
www.nycourts.gov/courts/nyc/civil/forms/CIV-SC-50.pdf
- In Nassau County:
www.nycourts.gov/courts/10jd/nassau/smallclaims.shtml#Forms

For information about e-filing in New York City, go to:
www.nycourts.gov/courts/nyc/smallclaims/startingcase.shtml.

There is a fee for this service.

What information will I need to fill out the form?

You will need the correct name and street address of each defendant and claimant. You **cannot** use a P.O. Box.

What if I do not have the defendant's correct, legal name?

You can still start your case. You can use any name that the business or person operating the business uses. But once you get the correct information, give it to the Court Clerk. (If you do not

provide the correct information, it will be very hard for you to collect your money judgment, if you win.)

To find the correct, legal name of a business, contact the County Clerk's Office in the county where the business is located. See page 29 for County Clerks' contact information.

What do I do with my completed form?

File it (or ask someone to file it for you) at the Small Claims Court Clerk's Office. If you are filing the form by mail in Western Suffolk County you must sign it in front of a notary first. See pages 31-34 for *Small Claims Court Locations & Hours*.



Do I have to pay to file my claim?

Yes. You must pay a court fee (cash or money order). Nassau and Western Suffolk County accept credit cards in the courthouse. Western Suffolk County accepts personal checks. Checks and money orders should be made payable to "The Clerk of the Court." The fee to sue in Small Claims Court is:

- \$15 for claims up to \$1000, and
- \$20 for claims over \$1000.

Is there another way to solve my problem *without* going to Court?

Yes. Every county in the state of New York has a community dispute resolution center that offers mediation for free.

You can find the location of a community dispute resolution center near you:

- In the phonebook,
- At the Small Claims Court Clerk's Office, or
- At: www.nycourts.gov/ip/adr/ProgramList.shtml

Can the person I am suing sue me?

Can the person I am suing sue me?

Yes! If the person you are suing (the defendant) wants to sue *you*, s/he may file a small claims *counterclaim* against you.

In Small Claims Court, a counterclaim can only be for money, and the limit is \$5000. The defendant will have to pay a \$5 filing fee plus the cost of mailing to file a counterclaim.

How will I know if the defendant files a counterclaim?

The Court will send you a notice or you will be told on the trial date. If the defendant files a counterclaim, s/he must do so:

- Within 5 days of getting the notice of your claim, or
- On the day of the trial.

If the defendant sues me, will my case be postponed?

If the defendant files the counterclaim *on the day of the trial*, you may ask the judge to postpone the case so you can have time to prepare.

But if you received notice of the counterclaim *before* the date of your trial, you must be ready to present your claim and defend against the counterclaim on the date of your trial.

Who tells the person I am suing about my claim?

Who tells the person I am suing about my claim?

After you file your claim, the Small Claims Court Clerk will serve the defendant a notice by mail. If the defendant cannot be served by mail, the clerk will tell you what to do.

Service of the notice lets the defendant know about your claim. It tells the defendant:

- What the claim is about,
- How much money you are asking for, and
- The date of your Small Claims Court trial.

How do I know if the defendant was served?

The clerk will mail the defendant two copies of the notice:

- One by regular, first-class mail, and
- The other by certified mail.

If the Post Office does not return the notice that was sent by regular mail to the clerk's office within 21 days (30 days for consumer transaction cases), the Court considers the defendant to have been served – even if the notice sent by certified mail was not delivered.

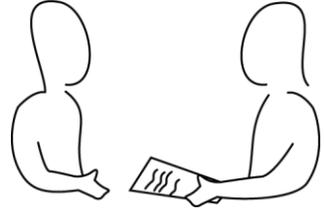
What if the Post Office was not able to deliver either notice?

If neither notice could be delivered, the clerk will:

- Tell you how to have the defendant served, and
- Give you a new date and time for your trial.

How do I have the defendant served?

Someone who is 18 or older – **not** you or anyone else involved in this case – can serve the notice. The Clerk will give you instructions. You can also hire a process server.



If 4 months go by after you first file your claim, and you have not been able to personally serve the defendant, the Court will dismiss your case. Later, if you find out about the defendant's location, you can file your claim again.

Important! You cannot have a trial if the defendant was not served.

Can I postpone my trial?

Can I postpone my trial?

You can ask the Court to postpone your trial, but unless you have a good reason, the Court may not agree.

How do I ask to postpone my trial?

You cannot ask to postpone (adjourn) your trial by calling the Court. Send a letter to the Court and to the other side asking to postpone the case. If the other side agrees in writing, bring the letter to the Court and give it to the Clerk. The Clerk will send you the new trial date. If the other side does not agree or does not answer, you (or someone who can speak for you) should go to the Small Claims Court on the date of the trial and explain to the Court why you need a postponement.

If you or someone else on your behalf can not come to Court on the trial date, the Court will read your letter, but may **not** postpone the case and your case may be dismissed. If you are the defendant, the Court may hear your case even if you are not there. If the Court postpones the case, you will be notified of the new trial date.

Which Small Claims Court do I use?

Which Small Claims Court do I use?

If the defendant lives, works, or has a place of business in **New York City**, you can use the Small Claims Court in:

- The New York City County where you live,
- The New York City County where the *defendant* lives or works, or has a place of business.

If the defendant does **not** live or work or have a place of business in New York City, you **cannot** file a small claim in New York City.

If the defendant lives in New York City, but *you* do not, contact the Small Claims Clerk in the county where the defendant lives, works or has a place of business. Ask the clerk how to file by mail.

If the *defendant* lives, works, or has a place of business in **Nassau County**, you must use the Small Claims Court listed on page 32, *Small Claims Court Locations & Hours*, to know which court you must use.

If the *defendant* lives, works, or has a place of business in Babylon, Brookhaven, Huntington, Islip, or Smithtown in **Western Suffolk County**, you must use the Small Claims Court listed on page 33, *Small Claims Court Locations & Hours*, to know which court you must use.

If the *defendant* lives, works, or has a place of business in East Hampton, Riverhead, Shelter Island, Southampton, or Southold in **Eastern Suffolk County**, you must use the Small Claims Court listed on page 34. There are special rules for small claims cases in Eastern Suffolk County.

Where are the Small Claims Courts?

The addresses, telephone numbers, and hours are listed on pages 31-34, *Small Claims Court Locations & Hours*.

Special rules for suing a public agency, city, town or village

Can I sue a public agency in Small Claims Court?

You *can* use the small claims courts to sue a:

- town,
- village,
- city, or
- county agency.

You *cannot* sue the federal government or a state agency in Small Claims Court. Sue a state agency in the Court of Claims: www.nyscourtofclaims.state.ny.us/index.shtml

Do I *have to* tell the agency that I plan to sue them?

Yes! By law, you have only **90 days** to notify the agency. Start counting from the day you were injured or your items were damaged. You cannot sue unless you notify the agency.

What if I miss the 90-day deadline?

The Court may dismiss your case, even if you are only 1 day late.

How do I notify the agency?

Get the notice form from the agency you are suing. Fill it out. The agency will give you a claim number. In New York City, the Small Claims Clerk can give you addresses for all New York City agencies.

What do I do after I notify the agency?

The agency may:

- Make you an offer to settle your claim,
- Deny (refuse to pay) your claim, or
- May not respond.

After 30 days, you may start your case in Small Claims Court.

Deadline! You have 1 year + 90 days to file (or 1 year + 30 days if you are suing the MTA). Start counting from the date you were injured or your items were damaged.

How do I get ready for my trial?

Before your trial, organize all your evidence that supports your claim, including:

- Photos, written agreements, letters, or other documents,
- Itemized bills, canceled checks, receipts or invoices marked PAID, damaged items, etc.

If you are asking for money to make repairs, you must get two signed itemized written estimates.

Can I have witnesses at my trial?

Yes. You can have witnesses at your trial. A witness can be:

- You,
- Someone who knows something about your claim, or
- Someone with a lot of knowledge or experience with the reason for your claim. (This is called an *expert witness*.)

Before speaking to the Court (testifying), all witnesses must first swear or affirm to tell the truth.

Do I need an expert witness to testify at my trial?

If the reason for your claim requires expert knowledge to understand, it's a good idea to have an expert witness. For example, if your claim is about medical care, you will need a doctor with expert knowledge of your type of claim. That doctor must be willing to testify at your trial. In most cases, you must pay an expert witness to testify. You cannot use a subpoena to *make* an expert witness testify.

What if a witness does not want to testify or give me records?

You can ask the Small Claims Court Clerk for a subpoena. A subpoena is a court order that can order your witness to:

- Send documents or records to the Court, or
- Go to your trial to testify.

The Small Claims Court Clerk will help you fill out a subpoena.

Who gives (serves) the witness the subpoena?

You must arrange for the witness to be served the subpoena. The server can be a friend or relative who is 18 or older. Neither you nor anyone else involved in this case can be the server.

Do I have to pay the witness?

The witness has the right to receive a \$15 witness fee, which must be paid when the subpoena is served. **You** must pay the witness fees, and in some cases, you may have to pay travel expenses, too.

Is there a deadline to serve a subpoena?

The subpoena **must** be served before the trial date. You should give the witness a “reasonable” amount of time to prepare for the trial and/or to produce the items listed on the subpoena. Reasonable usually means 5 or more days before the trial.

Can the defendant and I agree to settle our case before the trial?

Yes. In fact, it is almost always *better* if you and the defendant can make an agreement either before or during the trial. You may feel certain that you will win your case, but the Court may not agree with you.

If you make an agreement **before** your trial date, and the claim has been paid in full, notify the Small Claims Court Clerk in writing. The clerk will mark the case settled, and neither side will have to go to Court.

If you agree to settle, but the defendant has **not** paid you in full by the trial date, or you need more time to finish your agreement, go to Court on your trial date. Ask for a postponement so you can finish your agreement and get your claim paid. (This is called an *Adjournment Pending Settlement*.) The Court will give you a new trial date. If the claim is still not settled by the new trial date, go to court on the new date.

What do I do on the day of my trial?

You should:

- Get to the courthouse at least 30 minutes early. (It takes time to go through security and find your courtroom.)
- Find your Small Claims Courtroom, then look for the Small Claims Court calendar. The calendar is a list of the day's cases. It is usually posted outside the courtroom.
- Look for your last name and the defendant's last name on the calendar. If your case is not listed on the calendar, or if there is no calendar posted, ask the Court Clerk for help.

What happens if one side does not go to the trial?

If you, the claimant, are not in Court when the Small Claims Clerk calls the case, the Court will dismiss your case.

If the defendant is not in Court when the Small Claims Clerk calls the case, the Court will hear your case without the defendant. (This is called an *inquest*.) If you show enough evidence, you may win your case. If this happens the Court will enter a *default judgment* against the defendant. Defendants in default judgment cases can ask the Small Claims Court Clerk how to re-open a case.

How will I know when my case starts?

The Court follows these steps:

1. The clerk will call your case and your name.
2. Stand up and say your name.
3. Unless you are asking for a postponement, say, "Ready."
4. If you want to postpone your trial or make another request say, "Application."
5. If you and the defendant are both ready, the trial will start.

Who will decide my case?

In New York City and Nassau County, it could be a judge or an arbitrator. You get to choose.

In Western Suffolk County, an arbitrator will decide your case.



What is an arbitrator?

An arbitrator is an experienced lawyer with special training in small claims cases. Arbitrators and judges apply the same law to your case, but a trial with an arbitrator is less formal.

If an arbitrator will decide your case, your trial will take place on your trial date. All cases are heard at the courthouse.

What if I choose a judge?

If a judge will decide your case, you may have to return on another date. In New York City, if the Court cannot hear your case on that date, it may send you to mediation or a *pretrial conference*. The conference may help you to settle your case. If your case does not settle, the Court will give you a new trial date.

Important! Cases decided by a judge **can** be appealed. Cases decided by an arbitrator **cannot** be appealed.

Will there be a jury?

Small claims cases decided by an arbitrator do not have juries. Small claims cases decided by a judge do not have juries unless the defendant demands it. The defendant would have to pay a \$70 jury fee and an additional \$50 fee. (The \$50 fee will be given to the side that wins the case.) The defendant must also file a sworn notarized statement, called an "affidavit," saying:

1. S/he is asking for a jury trial in good faith, and
2. The claim has at least one question of fact that must be decided by a jury.

The clerk can provide more information about how to ask for a jury trial.



What happens during my trial?

The trial starts...

You, the claimant, go first. You will take an oath to tell the truth, and then you will tell your side of the story and show the Court your papers and other evidence. It's up to you to prove your claim.



Next, the Court and the defendant may ask you questions about the case.

If you have witnesses, they will take an oath and testify next. The Court and defendant may ask them questions, too.

Then the defendant takes an oath and tells his/her side of the story. The defendant can show papers and other evidence, and witnesses can testify on his/her behalf. Before they testify they must also take an oath to tell the truth.

You (the claimant) and the Court can ask the defendant and the defendant's witnesses questions.

You may ask the Court to question the defendant about his/her assets, such as a car, house, or bank accounts. This information may help you collect your judgment if you win your case.

The Court will decide.

When the trial is over, the Court does not usually make a decision right away. In most cases, the Court needs some time to consider your case. The Court will mail its decision to both sides within a few days.

Important! If you did not have the defendant's correct name when you started the case, you may ask the Court to correct it now. If you do not do this now, it will be very hard for you to collect your money judgment if you win.

What if I do not agree with the Court's decision?

If the judge or arbitrator ordered a *default judgment* ...

The defendant may ask the Court to open the case again if s/he has a valid defense *and* a good reason for not going to the trial. If the Court agrees to open the case again, the clerk will schedule another trial. The Court may take your case on that date or postpone it to a later date. Defendants in default judgment cases can ask the Small Claims Court Clerk how to re-open a case.

If an *arbitrator* decided your case...

You cannot appeal the arbitrator's decision.

In Western Suffolk County, any party who is not in default has 35 days from the date of the mailing of the arbitrator's award to ask the court for a new trial before a judge. (This is called a *trial de novo*.) If you ask for a trial de novo you will have to pay a \$75.00 fee. For more information, visit:

www.nycourts.gov/courts/10jd/suffolk/dist/AfterJudgmentTDN.shtml.

If a *judge* decided your case...

You can ask a higher court to review your case. This is called an "appeal."

Is it hard to win an appeal?

Yes. Very few small claims decisions are appealed, and very few appeals are successful. The higher Court will only decide if there was substantial justice between the parties. That means deciding if the trial was basically fair. The higher Court will not change a small claims decision because of a technical mistake made at the trial.

Do I need a lawyer to ask for an appeal?

No. But if you hire one keep in mind that it may cost you more to appeal your small claims case than what you could win.

Is there a deadline to ask for an appeal?

Yes. You must file a *Notice of Appeal* within 30 days of the Court's judgment. The Small Claims Court Clerk can give you more information.

Do I have to pay for an appeal?

Yes. You will have to pay a fee for a Notice of Appeal. You will also have to pay for a typed trial transcript for the higher court.

Do I still have to pay the judgment if I ask for an appeal?

Unless you deposit a sum of money equal to the amount of the judgment or file a bond with the Small Claims Court Clerk, you must pay the judgment. The bond or money deposited guarantees payment of the judgment if you lose the appeal.

If you receive a notice of appeal, call the Small Claims Court to ask if a bond or the judgment amount has been paid to the Court. If it hasn't, you can start enforcing your judgment right away.

How do I get my money if I win?

After the trial, the Court will mail you and the other side a *Notice of Judgment*.^{*} Read it carefully. It says:

1. The Court's decision about how much money the other side has to pay you,
2. The Sheriff's office address and phone number, and
3. Ways to collect your judgment.

^{*}In Western Suffolk County the Court's decision is called the *Arbitrator's Award*.

If you win, you are the **judgment creditor**.
The side that owes the money is the **judgment debtor**.

Will the Court collect (enforce) the judgment?

No. The Court will not collect the money for you. You must collect the judgment yourself. But the judgment is valid for 20 years. Even if you won your case, there is no guarantee that you can collect your money. If the defendant does not pay willingly, there are legal steps that you can take. See below.

How do I collect my judgment?

You can call or write the judgment debtor and ask for payment, read pages 20-22 for collection suggestions, or you can contact an *enforcement officer*.

What is an enforcement officer?

An enforcement officer is a **sheriff** or **marshal** who is authorized to take money or property from the judgment debtor to pay your judgment.



Who does the enforcement officer work for?

Marshals work on their own. They are not public employees. Sheriffs work for the county.

How can I find an enforcement officer?

In **New York City**, you can get a list of marshals from:

- The Small Claims Court Clerk,
- The phone book, or
- At: www.nyc.gov/html/doi/html/marshals/list.shtml

In **Nassau and Western Suffolk Counties**, read the instructions included with the Court's decision.

What do I say to the enforcement officer?

Say that you are the judgment creditor in a small claims case, give the officer your small claims number, and say that you want to ask the Court for an *execution*. An execution is a court order that allows the officer to take property or money to get your judgment paid.

Do I have to pay the enforcement officer?

Yes. If the judgment will be taken from the judgment debtor's income, you may have to pay a \$50 fee in advance. If the officer is taking property to pay the judgment, you must also pay the officer's mileage fees in advance.*

If you and the judgment debtor agree to settle *after* you hire an enforcement officer, you must pay the enforcement officer 5% of the settlement amount, whether the enforcement officer helped you settle the case or not. In a settled case, you will not be able to recover any fees already paid.

**Sometimes these fees can be added to the judgment so the judgment debtor would have to pay you back.*

How does the enforcement officer know what assets the judgment debtor has?

You must find out about the judgment debtor's assets and give that information to the officer. The officer will want to know about the judgment debtor's property, including:

- Checking and savings accounts.
- The type of property and the location of the property.

How do I find out about the judgment debtor's money and property?

You can use an *information subpoena*. This is a legal document signed by the Small Claims Court Clerk that orders the judgment debtor and others to answer questions about the judgment debtor's assets.

Where can I get an information subpoena form?

You can get an information subpoena form with preprinted questions:

- At a legal stationery store,
- From a legal forms book from any law library, or
- From the Small Claims Court Clerk (\$2-3 fee)

Or you can write your own questions based on what you know about the judgment debtor, if you prefer.

Who should I send the *information subpoena* to?

Send it to the judgment debtor and anyone else who may know about the judgment debtor's assets, including the judgment debtor's:

- Employer,
- Landlord,
- Phone or utility company, or
- Banks.

Will the clerk deliver the information subpoena for me?

No. The clerk will *sign* the information subpoena, but will not deliver it for you. Send the signed information subpoena to the judgment debtor along with:

- Two copies of the questions, and
- A self-addressed stamped envelope. *Make sure you put enough postage!*



You can use regular or certified mail, return receipt requested.

How else can I find out about the judgment debtor's assets?

Try to find the judgment debtor's bank.

You or someone you know may have paid the judgment debtor with a check. If so, look on the back of the canceled check for the bank's information.

If you can find the name and address of the judgment debtor's bank, the enforcement officer can seize (take) money from the account to pay your judgment.

Find out if the judgment debtor has a car.

Contact the New York Department of Motor Vehicles to find out if the judgment debtor owns a car. If s/he does, the enforcement officer can seize (take) it, then sell it to pay your judgment.

Ask DMV for this information:

- Vehicle model,
- Year,
- License plate number, and
- Address where the vehicle is registered.

Caution! If the judgment debtor still owes money on the car, that loan must be paid before you can get any money. You will also have to pay the enforcement officer towing and storage fees in advance (about \$150 or more).

Find out if the judgment debtor owns real estate.

Real property can be sold to pay your judgment. Go to the County Clerk in the county where you believe the judgment debtor owns property. If the judgment debtor does own property, ask the Small Claims Court Clerk for a *transcript of judgment*, and then file it with the County Clerk. See page 29 for the County Clerks' contact information.

Then you can ask the enforcement officer to sell the property to pay your judgment. You will have to fill out papers to sell the property. Then after it is sold, the officer's fees and expenses, as well as any mortgage, tax liens, and previous judgments owed by the judgment debtor will be deducted from the proceeds of the

sale. If there is money left over, it can be used to pay your judgment.

Are there *other* ways to make a judgment debtor pay?

Yes. In certain kinds of cases, you may be able to get the judgment debtor's driver's license or professional or business license suspended until the judgment is paid.

Here are some examples:

- **If your claim had to do with the judgment debtor's car or how s/he drove a car**, DMV may suspend the judgment debtor's driver's license and car registration until your judgment is paid. Your judgment must be for \$1000 or more, and it must be unpaid for more than 15 days. Ask the Small Claims Court Clerk for more information.
- **If your claim was about the judgment debtor's licensed or certified business**, notify the state or local licensing agency if the judgment debtor has not paid you. The agency may decide to revoke, suspend, or refuse to grant or renew a business license.

It must be at least 35 days since the judgment debtor received notice of the judgment.

See a list of some agencies that may be able to help you on pages 27-28.

- **If a judgment debtor has 3 or more unpaid recorded judgments including yours**, but s/he has the ability to pay them, you may be able to sue the judgment debtor for 3 times more than your original judgment. This is called *treble damages*. Ask the Small Claims Court Clerk if the judgment debtor is listed in the Small Claims Court's index of unsatisfied judgments.
- **If the Court finds the judgment debtor's business is fraudulent or illegal**, you can notify the Attorney General. If the business is licensed, also notify the agency that licensed the business.

Commercial Small Claims

To start a commercial small claims or consumer transaction case, read pages 1-22 of this booklet *and* the text below.*

**This section does not apply to Eastern Suffolk County. Corporations, partnerships, associations and assignees must start a civil case in Eastern Suffolk County.*

What are commercial small claims?

Any money claim by a corporation, partnership, or association for up to \$5,000 is a commercial small claim. You cannot sue to make someone do something or for pain and suffering.

Here are some examples of commercial small claims:

- You are a corporation and you have a contract to sell bananas to Joe's grocery store. You deliver the bananas, but Joe does not pay. You can sue for the money you are owed.
- You are a homeowner's association and you hire Ernie's lawn company for landscaping. You pay half the money owed up front. The landscaping is done poorly. You can sue for your money back.

If your claim is against an individual, not a business, and the claim is about goods or services that were mainly for personal, family or household use, the commercial small claim is a "*consumer transaction*." You must follow the special rules below.

Here is an example of a consumer transaction claim:

- You are a corporation and you sell a dining room set to Rochelle. She does not pay you for the furniture. Your claim can ask for the money you are owed.

Who can file a commercial small claims case?

Any corporation, partnership, or association that has its principal office in New York State, or an assignee of any commercial claim, may file a commercial small claim* for up to \$5,000.

***"Corporation" includes: municipal corporations and public benefit corporations.*

Can a collection agency file a commercial small claim?

Yes. Collection agencies or other entities with a claim on a debt assigned to them may file a commercial small claim as long as they did not buy the claim for the purpose of bringing an action.

Is there a limit on how many commercial small claims can be filed?

Yes. You **cannot** file more than 5 claims statewide per calendar month.

Can a commercial small claimant sue more than one person or business?

Yes. There can be more than one defendant in a commercial small claims case.

Do you need a lawyer to bring a commercial small claim?

No. You do not *have to* have a lawyer to file a commercial small claims case. But you may have one at your own expense, if you want one.

Can the defendant have a lawyer?

Yes. The other side may have a lawyer. If both sides have a lawyer, your case may be transferred to Civil Court. You (the claimant/plaintiff) must pay any additional court fees.

Is there a fee to file a commercial small claims case?

Yes. The fee is \$25, plus postage costs.

What are the special rules for starting a commercial small claims case that is a consumer transaction?

Consumer transaction cases must follow these rules:

1. You must send the defendant a demand letter *before* you file your commercial small claim. Do this at least 10 days (but not more than 180 days) before you file your claim.
2. You must certify that you sent a demand letter.

Where can I get a demand letter form and certification for my consumer transaction case?

You can get a demand letter form and certification from the Court Clerk or at: www.nycourts.gov/courts/nyc/smallclaims/forms.shtml
or
www.nycourts.gov/courts/10jd/suffolk/dist/commercialclaimsinstr.shtml
or
www.nycourts.gov/courts/10jd/nassau/smallclaims.shtml#Forms

Where do I get the court form to start my case?

You can get the form from the Court Clerk in your county.

For Western Suffolk County and New York City, you can also get the form from the Internet:

- Western Suffolk County:
www.nycourts.gov/courts/10jd/suffolk/dist/commercialclaimsinstr.shtml
- New York City:
www.nycourts.gov/courts/nyc/civil/forms/CIV-SC-70.pdf
- In Nassau County:
<http://www.nycourts.gov/courts/10jd/nassau/smallclaims.shtml#Forms>

Where can you file a commercial small claims case?

The addresses, phone numbers, and hours are listed on pages 31-34, *Small Claims Court Locations & Hours*.

When will the trial take place?

The clerk will tell you the trial date when you file the claim. The clerk will also mail the defendant two copies of the notice:

1. One by regular, first-class mail, and
2. The other by certified mail.

If the Post Office does not return the notice that was sent by regular mail to the clerk's office within 30 days, the Court considers the defendant to have been served – even if the notice sent by certified mail was not delivered.

Important! You cannot have a trial if the defendant was not served.

What will the notice say?

The notice lets the defendant know about your claim. It tells the defendant:

- What the claim is about,
- How much money you are asking for, and
- The date of your trial.

In New York City, the defendant must live, work or have a place of business within New York City.

Who can come to Court?

If you are a **partnership**, any of the partners may represent you.

If you are a **corporation**, any officer, director, or employee who is authorized to represent the corporation or settle the case may represent you. An employee may be required to provide a written authorization signed by an officer or director of the corporation.

Government Agencies That May Help When Collecting Your Judgment

Attorney General's Office for the State of New York

120 Broadway
New York, NY 10271
(212) 416-8000

Banking Department (BD)

BD regulates all state-chartered banking activities. They enforce laws and policies dealing with consumer credit, financial services, illegal lending, and other consumer abuses.

Department of Consumer Affairs (DCA)

DCA licenses various types of businesses and activities, enforces consumer protection laws, and city and state weights and measures laws. They also research and educate the public about consumer issues, and resolve consumer complaints.

DCA in New York City

42 Broadway
New York, NY 10004
Call: 311
Outside NYC, call: 212 NEW-YORK

DCA in Nassau County

200 County Seat Drive
Mineola, NY 11501
(516) 571-2600

DCA in Suffolk County

P.O. Box 6100
Hauppauge, NY 11788
Hours: 9:00 a.m. - 4:00 p.m.
(631) 853-4600

Department of Labor (DOL)

DOL regulates certain areas of employee safety and health, employee earnings, and employee coverage under unemployment insurance.

Department of Motor Vehicles (DMV)

DMV issues driver licenses and regulates motor vehicle registration and titling. DMV also licenses or registers inspection stations, driving schools and instructors, repair shops, dealers, transporters, the vehicle salvage industry, snowmobiles, all-terrain vehicles, motorboats, and unique motor vehicles.

Department of Transportation (DOT)

DOT regulates railroads, buses, and trucking companies, and grants licenses to public utility companies for real estate rights on DOT-controlled property.

Education Department

The Education Department licenses about 30 professions, including:

Accountants	Optometrists	Acupuncturists
Pharmacists	Architects	Physical therapists
Chiropractors	Physicians	Dental hygienists
Physician assistants	Dentists	Podiatrists
Engineers	Psychologists	Interior designers
Social workers	Nurses	Veterinarians

Insurance Department (ID)

ID issues licenses and permits, conducts examinations, and administers fines relating to insurance companies, agents, brokers, and adjusters.

Judicial Branch - Appellate Divisions

The Appellate Divisions conduct proceedings to admit, suspend, or disbar practicing attorneys and attorneys wishing to practice in the New York State courts.

Public Service Commission (PSC)

PSC oversees all gas, electric, and waterworks corporations, as well as telephone and telegraph lines. Rates for privately owned gas, electric, steam, telephone, telegraph, radio-telephone, and waterworks corporations need Commission approval.

County Clerk Locations

County Clerks can:

- Search for property that the judgment debtor owns in that county, and
- Tell you the exact, legal name of a business in that county. (If you do not have the exact legal name, it may be harder to collect your judgment.)

New York City

New York County Clerk
60 Centre Street
New York, NY 10007
(646) 386-5955

Bronx County Clerk
851 Grand Concourse
Bronx, NY 10451
(718) 618-3301

Richmond County Clerk
130 Stuyvesant Place
Staten Island, NY 10301
(718) 675-7700

Queens County Clerk
88-11 Sutphin Boulevard
Jamaica, NY 11435
(718) 298-0601

Kings County Clerk
360 Adams Street
Brooklyn, NY 11201
(347) 404-9750

Nassau County

240 Old Country Road
Mineola, NY 11501
(516) 571-2664

Suffolk County

310 Center Drive
Riverhead, NY 11901
(631) 852-2000

Enforcement Officers

Sheriff's Offices

New York City

New York County
66 John Street, 13th FL
New York, NY 10007
(212) 487-9734

Bronx County
3030 3rd Avenue,
Rm 240
Bronx, NY 10455
(718) 993-3880

Kings County
210 Joralemon Street,
Rm 909
Brooklyn, NY 11201
(718) 802-3545/4029

Queens County
144-06 94th Avenue
Jamaica, NY 11435
(718) 298-7550

Richmond County
350 St. Marks Place
Staten Island, NY 10310
(718) 815-8407

Nassau County
240 Old Country Road
Mineola, NY 11501
(516) 571-2113

Suffolk County
360 Yaphank Avenue
Yaphank, NY 11980
(631) 852-5600

New York City Marshals

For a list of NY City Marshals, ask the Small Claims Clerks Office, look in your phone book, or go to:

www.nyc.gov/html/doi/html/marshals/marshal_dir.html

Police Department

Non-emergency phone number: **311**

If you are involved in an auto accident and need a copy of the accident report you must contact the local police precinct where the accident took place within 30 days.

For more information, contact the New York City Police Headquarters:

One Police Plaza
New York, New York 10038
(646) 610-5000

Small Claims Court Locations & Hours

New York City

*New York County
Civil Court*

111 Centre Street
New York, NY 10013
(646) 386-5484

*Bronx County
Civil Court*

851 Grand Concourse
Bronx, NY 10451
(718) 618-2517

*Richmond County
Civil Court*

927 Castleton Avenue
Staten Island, NY 10310
(718) 675-8460

*Kings County
Civil Court*

141 Livingston Street
Brooklyn, NY 11201
(347) 404-9021

*Queens County
Civil Court*

89-17 Sutphin Boulevard
Jamaica, NY 11435
(718) 262-7123

*Harlem Community
Justice Center*

170 East 121 Street
New York, NY 10035
(212) 360-4113

In New York City, most small claims cases take place during the day between the hours of 9:30 AM and 4:30 PM. Night Court is also available on some nights and begins at 6:30 PM. Check with your local court to find out when Night Court is available.

The Clerk's office is open:

M – F 9 a.m. – 4:00 p.m.

Th* 9 a.m. – 8 p.m. (to file claims)

* Thursday schedule depends on court location. Check with your local court to find out when the Clerk's office can accept your claim.

Be on time! Get to court at least **30 minutes early**. You will need time to go through security and find your courtroom.



Contact the Court Clerk at the numbers listed above, or call (646) 386-5700, or Visit:
www.nycourts.gov/nycsmallclaims

Small Claims Court Locations & Hours

Nassau County

If the defendant lives, works, or has a place of business in Long Beach, file your claim at:

Long Beach City Court
One West Chester St.
Long Beach, NY 11561
(516) 442-8563

If the defendant lives, works, or has a place of business in Glen Cove, file your claim at:

Glen Cove City Court
13 Glen Street
Glen Cove, NY 11542
(516) 403-2441

If the defendant lives, works, or has a place of business in any other village, town, or city in Nassau County, file your claim at:

Nassau County District Court
99 Main Street
Hempstead, NY 11550
(516) 493-4125 (Day court)
(516) 493-4126 (Night court)

If you want **Night Court**, you must file your claim at the Hempstead court.

Be on time! In Nassau County, most small claims cases start at 9:30 a.m. There is Night Court once a week at the Nassau County District Court in Hempstead that starts at 6:00 p.m.



Contact the Court Clerk at the numbers listed above, or Visit: www.nycourts.gov/suffolkdistrict

Small Claims Court Locations & Hours

Western Suffolk County

There are 6 Courts that hear small claims cases in Western Suffolk County. If the defendant lives, works, or has a place of business in: Babylon, Brookhaven, Huntington, Islip, or Smithtown, you can file in person or mail* your claim to *any* of these District Courts.

** If you file your claim by mail you must sign it in front of a notary first.*

Note: The First District Court in Ronkonkoma is for Night Court only.

First District Court
3105 Veterans Memorial Hwy.
Ronkonkoma, NY 11779
(631) 854-9676

Second District Court
30 East Hoffman Avenue
Lindenhurst, NY 11757
(631) 854-1121

Third District Court
1850 New York Avenue
Huntington Station, NY 11746
(631) 854-4545

Fourth District Court
North County Complex, Bldg. C-158
Veterans Memorial Hwy.
Hauppauge, NY 11788
(631) 853-5408

Fifth District Court
3105 Veterans Memorial Hwy.
Ronkonkoma, NY 11779
(631) 854-9676

Sixth District Court
150 West Main Street
Patchogue, NY 11772
(631) 854-1440

In Western Suffolk County, most small claims cases start at 9:30 a.m. There is Night Court once a month at the First District Court in Ronkonkoma every third Wednesday that starts at 6:00 p.m.

The Clerk's office is open: M-F, 9 a.m. – 1:00 p.m. and 2:00 p.m. – 5:00 p.m. To file a claim the clerk's office is open: M-F 9 a.m. – 12:30 p.m. and 2:00 p.m. – 4:30 p.m.



Contact the Court Clerk at the numbers listed above, or
Visit: www.nycourts.gov/courts/10jd/suffolk/dist/Forms.shtml

Special Rules for Eastern Suffolk County

What are the special rules for small claims cases in Eastern Suffolk County?

There are 5 Justice Courts that hear small claims cases in Eastern Suffolk County: Riverhead, Southold, East Hampton, Southampton and Shelter Island. The rules for these towns differ from New York City, Nassau and Western Suffolk Counties. In Eastern Suffolk County you must:

- Be an individual who is 18 or older. You can not file a commercial small claim in Eastern Suffolk County.
- Have a claim for up to \$3,000.
- Pay a court fee (\$10– \$15).
- Contact the Court Clerk to get the small claims form and find out the days and hours that Court is open.

Locations

If the defendant lives, works, or has a place of business in: Riverhead, Southold, East Hampton, Southampton or Shelter Island, you must file your claim in the Justice Court in that town.

Justice Court Town of Riverhead
210 Howell Avenue
Riverhead, NY 11901
(631) 727-3200 x229

Justice Court Town of Southold
53095 Route 25, Box 1179
Southold, NY 11971
(631) 765-1852

Justice Court Town of East Hampton
159 Pantigo Road
East Hampton, NY 11937
(631) 324-4134

Justice Court Town of Southampton
32 Jackson Avenue
Hampton Bays, NY 11746
(631) 702-2990

Justice Court Town of Shelter Island, Box 1632
46 N. Ferry Road
Shelter Island, NY 11964
(631) 749-8989



Contact the Court Clerk at the numbers listed above, or Visit: www.nycourts.gov/courts/townandvillage/index.shtml

