

**A GUIDE  
TO  
SMALL CLAIMS COURT  
INCLUDING  
COMMERCIAL CLAIMS**



- **NEW YORK CITY**
- **NASSAU COUNTY**
- **SUFFOLK COUNTY**

**Jonathan Lippman**  
Chief Judge

**Ann T. Pfau**  
Chief Administrative Judge

## **INTRODUCTION**

In 1984, as part of the Small Claims Judges' Committee for the New York City Civil Court, Judge Beverly Cohen and I wrote a new "Guide to the Small Claims Court."

At that time, the book was a guide for New York City only. This year I am pleased to inform you that I have included information about Nassau and Suffolk Counties and the Commercial Small Claims Part. This guide, also known as the "Blue Book," contains information you will need to commence an action in any Small Claims Court, within New York City, Nassau and Suffolk Counties. However, wherever there is a difference in procedure between the courts, the proper procedure for each court will be noted in bold type.

Small Claims Court is known as the "People's Court," primarily because it is user friendly. It is a court where litigants, if they choose, can try their cases without the necessity of an attorney. Therefore, this guide was written to assist the self-represented litigant. In addition to reflecting recent changes in the statutes and rules, I have divided this guide into five sections: how to start your action; commercial claims; how to proceed with the collection of a judgment; important governmental agencies; and locations of all the Small Claims Courts in New York City, Nassau and Suffolk Counties.

Immediately following this page is a "quick overview" page which will allow you to determine who can use the Small Claims Court. You may also check the court's website [www.nycourts.gov](http://www.nycourts.gov)

This book is also available in Spanish and Chinese.

Finally, I hope this guide will help facilitate your Small Claims Court experience.

**Joseph A. J. Gebbia**  
Chief Clerk Small Claims Court  
Civil Court of the City of New York

## QUICK OVERVIEW

Read the appropriate section in this book for detailed information

- You must be 18 or older to sue
- You can sue for money only - up to \$5,000
- Only an individual claimant can sue \*
- Simple form available at clerk's office. State your name, address, reason for suit, amount, who you want to sue (defendant), and defendant's address.
- Fee is \$15 up to \$1,000 - \$20 for claims up to \$5,000
- Clerk will give you a court date and notify the defendant. Court starts at either 9:30 a.m. or 6:30 p.m. (6:00 p.m. in **Suffolk County**)
- **New York City** Small Claims is primarily an evening court (6:30 p.m.)  
Day court is available at 9:30 a.m. (ask the Clerk)
- **Nassau and Suffolk** are primarily day time courts - 9:30 a.m.
- If the defendant cannot be served by mail, the clerk will give you additional instructions
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### COMMERCIAL CLAIM OVERVIEW

- Fee is \$25 for claims up to \$5000 plus the additional cost for postage for each defendant.
- There is a statewide limited of five commercial claims per calendar month.
- You will need to file a special demand letter prior to purchasing the index number. See the clerk or go online at [www.nycourts.gov/courts/nyc/](http://www.nycourts.gov/courts/nyc/)

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\* A partnership may bring a lawsuit in District Court or City Court in Nassau County and in Suffolk County District Court.

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## **PART I - ABOUT SMALL CLAIMS COURT**

### **WHAT IS SMALL CLAIMS COURT?**

The Small Claims Court is a simple, inexpensive and informal court where an individual can sue for money only, up to \$5,000, without a lawyer. Claims for more than \$5,000 may not be brought in a Small Claims Court; they must be brought in another part of the court or in a different court. If you have a claim for damages for more than \$5,000, you cannot “split” it into two or more claims to meet the \$5,000 limit. (i.e. bring one \$5,000 claim and another \$1,500 claim to recover damages at \$6,500).

Since the Small Claims Court hears suits for money only, you cannot sue in Small Claims Court to force a person or business to fix a damaged item. You also cannot sue in Small Claims Court to make a person or business fulfill a promise made in an advertisement, and you cannot sue for pain and suffering.

If you want to sue an agency of the **City of New York**, the Small Claims Clerk can provide you with a list of addresses for all the New York City agencies. First you must notify the agency within 90 days of the occurrence. When you deliver your notice to the agency you will receive a claim number. You must wait 30 days for the City to make an offer of settlement or to deny your claim. If the City denies your claim, you then can proceed to the Small Claims Court office to begin your small claims case. You have one year and 90 days from the occurrence to commence your small claims action.

*If you do not notify the City within 90 days of the occurrence, your case may be dismissed.*

You can also sue a **municipality ( town, village, city) or county** in Small Claims Court. However, the law requires you first to notify the municipality of your intention to sue. That notice must be given to the municipality within 90 days after the occurrence of the incident that is the subject of your suit. You must wait 30 days for the municipality to make an offer of settlement or to deny your claim. If the municipality denies your claim you can then proceed to the Small Claims Court Office to begin your small claims case. You have one year and ninety days from the occurrence to commence your small claims action. *If you do not notify the municipality within 90 days of the incident, your case may be dismissed.*

You must go to the Court of Claims Court to commence a lawsuit against the State of New York or an agency of the State of New York.

### **WHO CAN USE SMALL CLAIMS COURT?**

Anyone 18 years of age or over can sue in Small Claims Court. If you are younger than 18, your parent or guardian may sue on your behalf. Only an individual can sue in Small Claims Court. Corporations, partnerships, associations, or assignees cannot sue in Small Claims Court.\* They can, however, be sued in Small Claims Court. If you are a corporation, partnership or assignee, you can sue in the Commercial Small Claims Part. ***Refer to the Commercial section in this Small Claims book.***

If you sue in Small Claims Court, you are called the claimant; if you are sued, you are the defendant. You can sue more than one defendant at the same time if necessary.

\* A partnership may bring a lawsuit in Small Claims Court in District Court or City Court in Nassau County and in Suffolk County District Court.

If you are sued and you believe that someone else (a third-party) is responsible for the amount claimed, you may be able to bring that party into the lawsuit as an additional defendant. Contact the clerk of the Small Claims Court for information about a "third-party action."

A corporation may authorize an attorney, officer, director, or employee of the corporation to appear on its behalf to defend a small claims action.

### **DO I NEED AN ATTORNEY?**

Because the Small Claims Court procedures are informal, you do not need an attorney to represent you. You may, however, choose to hire an attorney to represent you whether you are a claimant or defendant.

### **WHERE ARE SMALL CLAIMS COURTS LOCATED?**

In **New York City**, Small Claims Court is part of the Civil Court of the City of New York. There is at least one Small Claims Court in each of the five boroughs of New York City. See Part V of this booklet for locations and hours.

In **Nassau County**, the City and District Courts have Small Claims Courts. See Part V for location and hours.

In **Suffolk County**, the District Courts have Small Claims Courts. See Part V of this booklet for location and hours.

### **WHICH SMALL CLAIMS COURT SHOULD I USE?**

You cannot sue an individual or business located outside the City of New York in the New York City Small Claims.

If the defendant resides or works or has a place of business in **New York City**, you may file your small claim in either the Small Claims Court of the New York City Civil Court located in the county where you live or in the Small Claims Court in the county where the defendant resides or works or has a place of business.

In the City Court or District Court of Nassau County or the District Court of Suffolk County, you must file your small claim in the Small Claims Court located in the court district where the defendant resides or works or has a place of business.

### **CAN I HAVE AN INTERPRETER?**

If you or any of your witnesses will need an interpreter during your court hearing, tell the Small Claims Clerk when you file your small claim. The clerk will arrange to have an “official” interpreter available for you or your witnesses at the time of your hearing. **If any other party or witness needs an interpreter they may ask the clerk when they arrive at the court for trial.**

### **WHEN IS SMALL CLAIMS COURT IN SESSION?**

In **New York City**, Small Claims Court sessions generally are held during the evening, beginning at 6:30 p.m. You should arrive 30 or more minutes early because you will have to go through magnetometers for security reasons, and this may delay your arrival in the courtroom. If you are a senior citizen (65 years of age or older) or you are disabled, or if you work during the evening, the Small Claims Clerk will schedule your case during a daytime session.

Courts **outside New York City** may hold Small Claims Court sessions during the day or the evening, or both. You should ask the Small Claims Court Clerk in the court where you will file your small claim for the days and times when Small Claims Court is in session.

### **HOW DO I START MY SMALL CLAIMS CASE?**

You, or someone on your behalf, must go to the Small Claims Court to file your claim. You may file by mail if you live outside the City of New York and want to sue a party within the City of New York. Contact the Small Claims Clerk in the county where the defendant lives, works or has a place of business. The Small Claims Clerk will provide you with the necessary form. This form will require you to give a brief statement about your claim and a description of the incident that is the basis of your small claim. Also the name(s) and address(es) of the party(ies) whom you are suing. You must give the Small Claims Court Clerk the defendant's street address. A post office box only, is not acceptable. You will be required to pay a \$15 filing fee if your claim is \$1,000 or less. If your claim is more than \$1,000 you must pay a \$20 filing fee. In **New York City** you may also file electronically. You may also go to [www.nycourts.gov/courts/nyc/smallclaims/forms.shtml](http://www.nycourts.gov/courts/nyc/smallclaims/forms.shtml)

You must be the proper person to sue in Small Claims Court. For example, if you are involved in an accident while driving an automobile that is not registered in your name, you cannot sue for the damage caused to the automobile during the accident. Only the registered owner of the automobile can sue for the damage caused to the automobile.

**Do I Have to Know the Defendant’s Correct or “Legal” Name?**

When you file your small claim, you must give the court clerk the name and address of the person or business you want to sue. You can obtain the correct or “legal” name of a business by contacting the office of the County Clerk in the county where the business is located. You do not need to know the correct or legal name of a business or a person who operates a business to file your claim. You can provide any name used by the business or by the person who operates the business. If you learn the defendant’s correct or legal name later, you can give it to the Small Claims Court Clerk before your trial or during your trial. However, if you get a judgment against a business it will be easier to collect if you know the correct legal name.

**WHO TELLS THE DEFENDANT ABOUT MY CLAIM?**

After your claim is filed, the Small Claims Court Clerk will “serve” a notice of your claim by sending it to the defendant. The notice of claim tells the defendant when to appear in Small Claims Court, and includes a brief statement of your claim and the amount of money you are requesting.

The notice of your claim will be sent to the defendant by certified mail and by ordinary first class mail. If the notice sent by ordinary first class mail is not returned by the post office within 21 days as undeliverable, the defendant is presumed to have received notice of your claim, even if the notice of claim sent by certified mail has not been delivered.

If the post office cannot deliver the notice of your claim (for example, the defendant may have moved without

leaving a forwarding address), the court clerk will give you a new hearing date and will tell you how to arrange for personal delivery of the notice to the defendant. Anyone who is not a party to the small claim and who is 18 years of age or older (including a friend or relative) can personally deliver the notice of claim to the defendant. The claimant or any other party to the action, may not serve the notice of claim personally on the defendant.

If the notice of your claim cannot be served on the defendant within 4 months after you filed your claim, your claim will be dismissed. If you learn new information about the defendant's location at a later date, you can file your claim again.

A small claims case will not proceed to trial until the defendant has been served with a notice of your claim.

### **WHAT IS A COUNTERCLAIM?**

A "counterclaim" is a claim filed against you by the person you have named in your small claim. The counterclaim must be for money only. The amount of the counterclaim cannot be more than \$5,000. Any counterclaim for more than \$5,000 must be brought in another part of the court or in a different court.

The defendant may file a counterclaim within five days after receiving the notice of your claim and must pay a \$5 filing fee plus the cost of mailing the counterclaim to you. The defendant may also file a counterclaim on the day of the hearing. If the defendant files a counterclaim on the day of the hearing and you are not prepared to defend against the counterclaim, you can ask the Judge to postpone the hearing

until another day. In some cases, the Judge might decide to delay the hearing, even if you do not ask for an adjournment.

If you receive notice of a counterclaim before the date of your hearing, you must be prepared to present your claim and defend against the counterclaim on the day of the hearing.

### **CAN I CHANGE THE DATE OF MY HEARING?**

Adjournments in the Small Claims Court are discouraged. Only the Judge decides if an adjournment is to be granted.

### **How Do I Ask For an Adjournment?**

Adjournments by telephone are not available in **New York City** or in **Nassau** and **Suffolk Counties**.

If you are going to ask for an adjournment, you should notify the court by mail before the scheduled date of your trial (if possible), and mail a copy of your letter to the other party as well. On the day of the trial, either you or someone else should appear in the Small Claims Court to explain to the Judge why you are not prepared for trial.

If you do not have a good excuse, your request for an adjournment may be denied. If your request for an adjournment is denied and you are not ready to start your hearing, your small claim may be dismissed. If you are the defendant and you do not appear, the Judge may award the claimant an inquest (default judgment) against you, even though the Judge has not heard your side of the story.

## **HOW DO I PREPARE FOR MY HEARING?**

Before the date of the hearing, you should gather all the evidence that supports your claim or your defense. Evidence may include: photographs, a written agreement, an itemized bill or invoice marked “paid,” receipts, written estimates of the cost of services or repairs (you must present two different itemized estimates for services or repairs), a canceled check, a damaged item or article of clothing, or letters or other written documents.

## **Who Can Testify at My Hearing?**

Testimony is a sworn statement made by you or another person, given in court, before the Judge or Arbitrator. Anyone who knows something about your claim, including you, can testify during the hearing. For example, a person who saw what happened, or someone who has special or expert knowledge and experience concerning the subject of your claim, can be a witness at the hearing.

## **How Can I Get an Expert Witness to Testify?**

The testimony of a person who has special or expert knowledge and experience concerning the subject of your claim may be necessary for you to prove your case. For example, if your claim involves the quality of medical care, you must find a doctor who is willing to give an opinion, in court, about the quality of the care you received. While you might find an expert witness who will testify at no cost to you, it is more likely that you will have to pay for expert witness testimony. You cannot use a subpoena to compel an expert witness to appear.

### **What Can I Do if a Witness Will Not Testify Voluntarily?**

If a witness will not testify voluntarily, you can ask the Small Claims Court Clerk to issue a “subpoena.” A subpoena is a legal document that commands the named person to appear in court to testify or to produce records. The Small Claims Court Clerk will assist you in preparing the necessary documents.

You must arrange for service of the subpoena on the appropriate person. The person subpoenaed is entitled to a \$15 witness fee and in some cases travel expenses, which must be paid at the time the subpoena is served. You are responsible for paying these fees. Anyone who is not a party to the small claim and who is 18 years of age or older (including a friend or relative) can serve the subpoena. As the claimant or the defendant, you cannot serve the subpoena.

A subpoena can be served any time before the hearing. However, a witness should be given a “reasonable” amount of time before s/he must appear. Generally, it is considered reasonable to serve the subpoena at least five (5) days before the hearing date. This will allow the person subpoenaed sufficient time to prepare the items you request or appear at the hearing.

### **WHAT SHOULD I DO ON THE DAY OF MY HEARING?**

On the day of the hearing, you should arrive at the courthouse at least 30 minutes before the Small Claims Court session begins. When you arrive at the courthouse, look for a Small Claims Court calendar. Usually it is posted

outside the Small Claims courtroom. Your case will be listed by your last name and by the last name of the defendant. If your case is not listed on the Small Claims Court calendar, or if a calendar is not posted outside the Small Claims courtroom, speak to the court clerk.

If a claimant does not arrive at the courthouse on time, the claimant's case may be dismissed. If the defendant does not arrive at the courthouse on time, the Judge or Arbitrator may hear and decide the case based only on evidence provided by the claimant.

### **What Do I Do When the Clerk is Calling the Calendar ?**

The Small Claims Court Clerk will announce your case and call your name. When your name is called, you should stand, repeat your name, and answer "ready", or if you are not ready to begin and instead need to ask for an adjournment, or if you have some other request, you should tell the court at this time by saying "application." If you and the party you are suing are both ready, the case will go forward to trial.

### **Should I Choose a Judge or an Arbitrator?**

In **New York City** and **Nassau County**, you can choose a Judge or Arbitrator to try your claim. In **Suffolk County**, your case will be sent directly to an Arbitrator for trial.

An Arbitrator is an experienced attorney who is specially trained to hear and decide small claims. Because there are more Arbitrators available to hear cases than there are Judges, an Arbitrator will hear your claim more quickly. The hearing before an Arbitrator is informal. The Arbitrator applies the same law to your case as a Judge would apply.

One important difference between a Judge and an Arbitrator is that an Arbitrator's decision cannot be appealed because there is no official record of the proceedings. A trial before a Judge will result in a decision that can be appealed, as the trial will be heard with a court reporter or recording device, therefore there will be a court record necessary to process an appeal.

### **Can I Have a Jury Decide My Claim?**

As the claimant in a small claims action, you have waived your right to a jury trial. A defendant, however, may demand a trial by jury. If you are the defendant and you demand a jury trial you will have to pay a jury fee of \$70 and also must pay \$50 to the court for any costs that the court awards to the claimant. A defendant who requests a jury trial also must submit an "affidavit," a sworn notarized statement, in which the defendant must state that the claim involves one or more factual questions that must be decided by a jury and that the request for a jury trial is made in good faith. See the court clerk if you request a jury trial.

### **WHAT HAPPENS DURING MY TRIAL?**

The claimant has the burden of proving the claim and any damages. The claimant's case is presented first. After being sworn as a witness, the claimant will tell his or her version of the incident. All papers or other evidence should be shown at this time. When the claimant has finished testifying, the Judge or Arbitrator or the defendant may ask some questions to clarify matters. Other witnesses can be presented in support of the claim, and they, also, can be questioned. All witnesses will be sworn in.

### **The Defendant Tells His or Her story**

After the claimant has offered all the evidence that supports the claim, the defendant will take an oath and tell his/her side of the story. The defendant may offer papers and other evidence, and can call other witnesses to testify on his/her behalf. The defendant and any witnesses who testify for the defendant also must take an oath to tell the truth and can be questioned by the Judge or Arbitrator and by the claimant.

### **If You Are Suing a Business**

During the hearing, the Judge or Arbitrator should determine a defendant's true business name. If the legal name of the business is different from the name that is written on your notice of claim, ask the court to have the name on the notice of claim corrected by the clerk.

### **Disclosure of Assets**

If you are the claimant, it is your responsibility to collect information on the defendant's assets i.e. property that the defendant owns - in the event you receive a judgment in your favor and the defendant does not pay [SEE PART III - COLLECTION in this booklet]. You can ask the Judge or Arbitrator to question the defendant about his/her assets. The defendant's assets are property, such as a car, a house or money, that can be used to pay your judgment. The Judge or Arbitrator can direct the defendant not to sell or give away those assets before paying any amount you are awarded.

## **The Decision**

After the claimant and the defendant have offered all their evidence, the Judge or Arbitrator will normally “reserve decision,” which means that the Judge or Arbitrator needs time to evaluate the evidence and that the decision will be mailed to the claimant and the defendant after the hearing. In rare cases, the Judge or Arbitrator may announce the decision immediately after the hearing.

## **WHAT HAPPENS IF ONE PARTY DOES NOT APPEAR?**

### **If the Claimant Does Not Appear**

If the claimant does not appear in court on the court date, when the small claims case is called, the claim will be dismissed.

### **If the Defendant Does Not Appear**

If the defendant does not appear, the court will direct an “inquest.” This means the Judge or Arbitrator will hear your case even though the defendant is not present. If the claimant presents enough evidence to establish his/her case, the Judge or Arbitrator will award a “default judgment” against the defendant.

### **If a Default Judgment is Awarded**

If a default judgment is awarded because the defendant did not appear, the defendant may ask the court to re-open the case so that s/he can offer evidence in defense of the small claim. A defendant who does not appear on the scheduled date and then asks the court to re-open the small

claim must have a valid excuse for not appearing “excusable default” and must be able to show that s/he has a valid defense. A Small Claims Court Clerk will assist in preparing the necessary papers to ask the Judge to re-open the case. The Small Claims Court Clerk also will set a date when the claimant and the defendant must return to court.

When the claimant and the defendant return to court, the Judge will decide whether to re-open the case. If the Judge does re-open the case, the claimant and the defendant must be ready to present their evidence at that time. However, the Judge may decide to adjourn the trial to a later date.

### **CAN I SETTLE MY SMALL CLAIM BEFORE THE JUDGE HEARS THE EVIDENCE?**

Although you may be confident that you will win your small claim, the Judge or Arbitrator may make a decision that you do not like. It is almost always better for the claimant and the defendant to settle their dispute themselves. The claimant and the defendant can agree to settle the small claim before the court date and before the Judge hears the evidence, and even during the hearing.

### **If the Case is Settled Before the Court Date**

If the claimant and the defendant settle the small claim before the court date, and any money requested has been paid, the claimant should notify the Small Claims Court Clerk by mail. The claimant and the defendant then do not have to appear in court.

### **Adjournment Pending Settlement**

If the claimant and the defendant settle the small claim before the hearing date, but the money has not been paid, or if the claimant and the defendant expect to settle the dispute, but still are negotiating the terms of the settlement, the claimant must appear in court on the scheduled hearing date so that the small claim is not dismissed. The claimant should ask the Judge for "an adjournment pending settlement," and a new hearing date will be scheduled. If the claimant and the defendant then cannot settle the small claim case, they must appear in court on the new scheduled hearing date prepared to present their evidence to the Judge or an Arbitrator.

In the **New York City** Small Claims Court, if both parties appear on the trial date, and request the case be heard by the Judge, but the court realizes that the case cannot be heard on that date, the parties may be asked to participate in a pre-trial conference. The purpose of this conference is to attempt to settle the small claims case. If the case is not settled, it will be adjourned to the next available court date.

### **CAN I APPEAL THE JUDGE'S DECISION?**

When you "appeal" a decision, you ask a higher court to review it for any error. You can appeal a judge's decision. You cannot appeal an arbitrator's decision.

Few small claims decisions are appealed, and very few appeals are successful. The appellate court will consider only whether substantial justice was done between the parties. The appellate court will not reverse a small claims decision because a technical mistake was made during the trial.

You may need the help of an attorney to appeal your small claims decision. Because the amounts involved in small claims are small, the expense of appealing your small claims decision may be greater than the amount awarded. In addition, the appealing party must purchase a typed transcript of the hearing for the appellate court.

If you decide to appeal, you must file a Notice of Appeal and pay the required fee within 30 days after the judgment is entered. Consult the Small Claims Court Clerk for further information.

The party who appeals a small claims decision must pay any amount awarded unless a bond or undertaking is paid to the Small Claims Court to guarantee payment of the judgment if the appeal is lost. If you receive notice of an appeal, you should call the Small Claims Court to find out if a bond or an undertaking has been paid. If a bond or an undertaking has not been paid, you can begin to collect your judgment immediately.

**DO I HAVE TO GO TO SMALL CLAIMS COURT TO SOLVE MY PROBLEM?**

No. There are community dispute resolution centers available in every county of New York State. These centers serve as a community resource where you and another person can discuss and solve your dispute through mediation. Mediation is a confidential, informal procedure guided by a neutral third party called a mediator. A mediator is trained to help people resolve their disputes. A mediator does not offer an opinion about the problem or about whether one side or the other might succeed in court. A mediator cannot make a

decision. A mediator helps you and another person to identify the problem, explore different ways to solve your problem and to find a solution that is acceptable to both people involved. A mediation often results in a written agreement between the people involved.

There normally is no charge or filing fee. Your case will be scheduled quickly at a time and place convenient to the people involved. You can find the address and telephone number for the community dispute resolution center near you in your telephone book. You can also get a brochure at the Small Claims Court office that lists local dispute resolution centers.

In **New York City**, during the school year, law school students from various law schools are available in the Small Claims Court to mediate small claims. These law students are trained by the court to assist litigants to mediate their disputes. If one of the parties asks for the court and the court determines that the case will not be heard by the Judge you will be asked to mediate your case. If your case is not settled, you will be given a date to return for trial. Arbitrators are also available, after they have completed their trials, to mediate your small claim.

## **PART II - COMMERCIAL SMALL CLAIMS PART**

*If you want to start a Commercial Small Claims case read part I of this book along with the exceptions noted below for the Commercial Claims Part.*

### **WHAT IS THE COMMERCIAL CLAIMS COURT?**

The Commercial Claims Court is an informal court where corporations, partnerships and associations can sue for money only, up to \$5,000, without a lawyer.

For example, if you feel that a person or business damaged something of yours, you may sue that person or business for the monetary amount of your damages. You also may sue a person or business for money damages arising out of a dispute over a contract. You cannot, however, in Commercial Claims Court, compel that person or business to fix the damaged item or require the performance of the act promised in the advertisement. Your lawsuit can be only for money.

### **WHO CAN USE THE COMMERCIAL CLAIMS COURT?**

Any corporation, including a municipal corporation or public benefit corporation, partnership, or association, which has its principal office in the State of New York, or an assignee of any commercial claim, may file a claim. A corporation, partnership, or association may not bring more than five commercial claims actions or proceedings per calendar month anywhere in the State.

If you sue in Commercial Claims Court, you are the claimant (plaintiff); if you have been sued, you are the defendant. You can sue more than one defendant in the same case if necessary.

If you choose you may be represented by an attorney at your own expense. In addition to being represented by an attorney, a partnership may be represented by any of the partners. A corporation may be represented by any authorized officer, director or employee of the corporation provided that the representative has the authority to settle the case or conduct the trial on behalf of the corporation. If there are attorneys on both sides, the case shall be transferred to the Civil Court. The claimant shall pay any additional fees.

### **WHERE ARE THE COMMERCIAL CLAIMS COURTS LOCATED?**

Commercial Claims Courts are located in the New York City Civil Court, in all City Courts, and in the District Courts in Nassau

Collection agencies, or entities that take assignments of debts for the purpose of bringing an action in the Commercial Claims Court, may not use the Commercial Claims Court.

### **WHAT IS A CONSUMER TRANSACTION?**

If you are suing on a claim based on a consumer transaction—one where the money, property or service which is the subject of the transaction is primarily for personal, family or household purposes—you must send a demand letter to the defendant at least 10 and no more than 180 days before you start the lawsuit. You can get a demand letter form from the clerk of the court or at [www.nycourts.gov/courts/nyc/smallclaims/forms.shtml](http://www.nycourts.gov/courts/nyc/smallclaims/forms.shtml).

In **New York City**, the defendant must reside work or have a place of business within New York City. You may also file electronically at [www.nycourts.gov](http://www.nycourts.gov) (starting a Small Claims case).

A filing fee of \$25 plus the cost of mailing a notice of the claim to the defendant(s) is required. You will must also file a verification that no more than five (5) commercial claims have been instituted by you anywhere in the State during the calendar month. In a claim based on a consumer transaction. You also will have to certify that you sent a demand letter.

When the claim is filed, the clerk will tell the claimant the trial date. The clerk will then send the notice of claim to the defendant by both certified mail and ordinary first class mail. The notice of claim tells the defendant when the case will be tried and gives a brief statement of your claim and the amount of money you are seeking. If the copy of the claim sent by ordinary mail is not returned as undeliverable within 21 days (30days for a claim based on a consumer transaction), the defendant is presumed to have received notice even if the claim sent by certified mail has not been delivered.

## **PART III - COLLECTING YOUR JUDGMENT**

### **WHAT DO I DO IF I WIN?**

If the claimant wins, the court will enter a judgment for a sum of money. The claimant then must "enforce" or collect the amount of the judgment. The court also may require the claimant to take certain action - for example, to return damaged merchandise to the defendant - before entering judgment.

### **How Can I Collect My Judgment?**

Both sides will receive a "Notice of Judgment" from the court. The Notice of Judgment will include the Judge's or Arbitrator's decision, as well as, information about the location of the sheriff's office and ways to collect your judgment. You must read all the information, printed on both sides of the Notice of Judgment, before you can begin your collection efforts. In **Suffolk County**, you will receive an Arbitrator's award, and the collection information is printed on one side only. Winning a judgment does not guarantee you will collect your money. A money judgment is legally enforceable for 20 years.

The person awarded a judgment is called the judgment creditor, and the person who owes the amount awarded is called the judgment debtor.

Contact the judgment debtor and request payment of the judgment amount. If the judgment debtor refuses to pay the judgment amount, you may need the services of an enforcement officer.

### **What is an Enforcement Officer?**

An enforcement officer can seize a judgment debtor's assets to pay your judgment. The Sheriff is employed by the county, and is an enforcement officer. A City Marshal is also an enforcement officer. A City Marshal is not employed by the government, but instead works independently. In **New York City** the clerk can provide you with a list of City Marshals or you can consult the telephone book.

### **How Does an Enforcement Officer Work?**

In **New York City** when you contact an enforcement officer, ask the officer to request an "execution" from the court. The execution allows the officer to seize a judgment debtor's property or money. Before the officer asks the court for an execution, s/he must know what assets the judgment debtor has and where they can be found. It is your responsibility to provide this information, the enforcement officer will not look for the judgment debtor's assets without your assistance.

In **Nassau and Suffolk Counties** instructions on how to enforce your judgment will be included with the decision of the court.

### **Will I Have to Pay the Enforcement Officer?**

You will have to pay certain fees for the enforcement officer's services. For example, you must pay the enforcement officer a mileage fee in advance for a property execution. You may have to pay up to \$50 in advance for an income execution. An income execution orders the judgment debtor's employer to pay a certain amount of the debtor's

wages to you until the full amount of the judgment is paid. Sometimes these fees can be added to the amount of the judgment to be paid by the judgment debtor. If you reach a settlement with the judgment debtor after you hire an enforcement officer, you will not recover the fees already paid, additionally, you will be responsible to the enforcement officer for 5% of the settlement amount. This is true even if you negotiate the settlement without any assistance from the enforcement officer.

### **HOW DO I FIND A JUDGMENT DEBTOR'S ASSETS?**

You can use an "information subpoena" to find a judgment debtor's assets. An information subpoena is a legal document that tells a person, corporation or other business to answer certain questions about where the judgment debtor's assets can be found. There are two parts to an information subpoena: The court's direction to provide information and the questions about the judgment debtor's assets. You can use pre-printed questions or you can write your own questions. An information subpoena may be sent to the judgment debtor and to any person, corporation or other business that you believe has knowledge about the judgment debtor's assets - for example, the telephone or other utility company, an employer, a landlord or a bank.

The clerk will provide an information subpoena for a \$2 fee. You can also purchase the necessary forms from a legal stationary store or copy the necessary forms from a legal forms book that can be found in any law library.

The information subpoena must be signed by the court clerk. After the form is signed, send the information subpoena, two copies of the written questions and a self-

addressed envelope with the correct amount of postage attached. You can send these documents to the judgment debtor by regular mail or by certified mail, return receipt requested.

### **Are There Any Other Ways to Find a Judgment Debtor's Assets?**

A simple way to improve the chances of collecting your judgment is to learn the name and address of the bank where the defendant keeps a savings or checking account. One way to do this is to look at the back of a canceled check you or a friend may have given to the defendant. With this information, the enforcement officer can seize money in the defendant's account and use the funds to satisfy your judgment.

You can check with the New York State Department of Motor Vehicles to find out if the judgment debtor owns a car. If the judgment debtor owns the car, the enforcement officer can take the car and sell it to pay your judgment. You must give the enforcement officer the model, year, license plate number and location of the car. If the judgment debtor borrowed money to buy the car, that loan must be paid before you can get any money. Also, you will have to pay towing and storage fees in advance to the enforcement officer. These fees can typically be \$150 or more.

### **What if the Judgment Debtor Owns Real Estate?**

If the judgment debtor owns real estate, it can be sold to pay your judgment. The court clerk can tell you how to determine if the judgment debtor owns a particular piece of real estate. If s/he does own real estate, you must get a

"transcript of judgment" from the clerk and file it with the County Clerk. Then you must contact the Sheriff about selling the real estate to pay your judgment. It will be your responsibility to prepare the papers to sell the property. The Sheriff will deduct fees and expenses from the proceeds of the sale, and also will have to pay any mortgage, tax liens or prior judgments owed by the judgment debtor before your judgment can be paid.

### **Are There Other Ways to Make a Judgment Debtor Pay?**

#### **Claims Based on Motor Vehicle Ownership**

If your small claim was based on the judgment debtor's ownership or operation of a car, the New York State Department of Motor Vehicles may suspend the judgment debtor's driver's license and registration privileges until your judgment is paid. The amount of your judgment must be more than \$1,000, and it must be unpaid for more than 15 days. The Small Claims Court Clerk can give you more information about this enforcement method.

#### **Licensing Agencies**

If your small claim relates to the judgment debtor's business, and the business is licensed or certified by a state or local authority, you can notify that authority if your judgment is not paid within 35 days after the judgment debtor received notice of the judgment. Failure to pay a judgment may be considered by the licensing authority as grounds for revoking, suspending, or refusing to grant or renew a license to operate a business. You will find a list of prominent licensing or certifying authorities for New York City, Nassau and Suffolk Counties, in PART IV of this guide.

**The Judgment Debtor Has Failed to Pay Three or More Judgments**

If a judgment debtor fails to pay three or more recorded judgments despite having sufficient resources to pay them, you may be able to sue the defendant for triple damages. Check with the Small Claims Court Clerk to find out if the judgment debtor is listed in the index of unsatisfied judgments maintained by the Small Claims Court.

**Fraudulent or Illegal Conduct**

If the judgment debtor is a business that the court finds to be engaged in fraudulent or illegal conduct, you have the right to notify the Attorney General and, if the business is licensed, the appropriate licensing authority as well.

## **PART IV- IMPORTANT GOVERNMENT OFFICES**

The Department of Consumer Affairs enforces the Consumer Protection Law and city and state weights and measures statutes. It also licenses various types of businesses and activities. The Department also conducts research about consumer issues, educates the public about consumer issues and resolves consumer complaints.

### **NEW YORK CITY**

#### **NEW YORK CITY DEPARTMENT OF CONSUMER AFFAIRS**

42 Broadway  
New York, New York 10004  
CALL 311 or 212NY

### **NASSAU COUNTY**

#### **THE NASSAU COUNTY OFFICE OF CONSUMER AFFAIRS**

160 Old Country Road  
Mineola, New York 11501

### **SUFFOLK COUNTY**

#### **SUFFOLK COUNTY EXECUTIVE OFFICE OF CONSUMER AFFAIRS**

P.O. BOX 6100  
Hauppauge, NEW YORK 11788-0099  
(631) 853-4600 (8:30 a.m. - 4:00 p.m.)

## **OFFICE OF THE SHERIFF:**

**New York:** 66 John Street, 2nd Fl  
New York, N. Y. 10007  
(212) 487-8002

**Bronx:** 3030 3rd Avenue, Rm 240  
Bronx, New York 10455  
(718) 993-3880

**Kings:** 210 Joralemon Street, Rm 909  
Brooklyn, New York 11201  
(718) 802-3545

**Queens:** 144-06 94th Avenue  
Jamaica, New York 11435  
(718) 298-7550

**Richmond:** 350 St. Marks Pl..  
Staten Island, New York 10310  
(718) 815-8407

**Nassau County:** County Office Building  
100 Carman Avenue  
East Meadow Avenue, 11554  
(516) 572-4100

**Suffolk County:** 100 Center Drive  
Riverhead, NY 11901  
(631) 852-5600

## **NEW YORK CITY MARSHALS**

A copy of all city marshals is available at the Small Claims Office, or consult the telephone book for information.

## **POLICE DEPARTMENT**

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

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 occurred **within 30 days**.

**After 30 days**, contact the New York State Department of Motor Vehicles, (518) 474-0710 obtain an accident report.

## **NEW YORK STATE**

### **ATTORNEY GENERAL'S OFFICE**

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

### **Banking Department**

The Banking Department regulates all activities relating to the New York State chartered banking industry. The department also enforces laws and policies dealing with consumer credit and other financial services, the prevention of illegal lending, and other consumer abuses.

## **Education Department**

The Education Department licenses approximately 30 professions, including the following:

Physicians and physicians' assistants  
Physical therapists  
Dentists and dental hygienists  
Optometrists  
Chiropractors  
Veterinarians  
Pharmacists  
Accountants  
Interior designers  
Nurses  
Podiatrists  
Engineers and architects  
Acupuncturists  
Social workers  
Psychologists

## **Judicial Branch - Appellate Divisions**

The Appellate Divisions conduct proceedings to admit, suspend, or disbar attorneys who wish to practice or who are practicing in the courts of New York State.

## **Insurance Department**

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

## **Department of Labor**

The Department of Labor has regulatory jurisdiction in the areas of employee safety and health, employee earnings, and employee coverage under unemployment insurance.

## **Department of Motor Vehicles**

The Department of Motor Vehicles regulates the registration and titling of motor vehicles and issues drivers' licenses. It also licenses or registers inspection stations, driving schools and instructors, repair shops, dealers and transporters, the vehicle salvage industry, snowmobiles, all-terrain vehicles, motorboats, and unique motor vehicles.

## **Public Service Commission**

The Public Service Commission has the power of general supervision of all gas, electric, water-works corporations, telephone and telegraph lines. Rates for privately owned gas, electric, steam, telephone, telegraph, radio-telephone, and waterworks corporations need Commission approval.

## **Department of Transportation**

The Department of Transportation regulates railroads, buses and trucking companies. It also grants licenses to public utility companies for real estate rights on Department of Transportation-controlled property.

## **PART V - COURTHOUSE LOCATIONS**

### **NEW YORK CITY LOCATIONS**

New York City Small Claims Court is part of the Civil Court of the City of New York. **Court sessions begin promptly at 6:30 p.m.** You should arrive 30 minutes earlier due to security checks. If you are a senior citizen (65 years of age or older) or you are disabled, or if you work during the evening the Small Claims Clerk will schedule your case during a daytime session.

New York County Civil Court  
111 Centre Street  
New York, New York 10013  
**(646) 386-5484**

Bronx County Civil Court  
851 Grand Concourse  
Bronx, New York 10451  
**(718) 618 - 2517**

Kings County Civil Court  
141 Livingston Street  
Brooklyn, New York 11201  
**(347) 404 - 9020**

Queens County Civil Court  
89-17 Sutphin Boulevard  
Jamaica, New York 11435  
**(718) 262 - 7123**

Richmond County Civil Court  
927 Castleton Avenue  
Staten Island, New York 10310  
**(718) 675 - 8460**

Harlem Community Justice Center  
170 East 121 Street  
New York, New York 10035  
**(212) 360-4113**

Offices of the **County Clerk** can be located in the New York City telephone book - white pages (blue section).

## **NASSAU COUNTY**

Small Claims cases are tried in three District Court locations. Small Claims cases are not, however, heard everyday in every court. You may telephone the courts listed below to find out their schedule.

Daytime Small Claims Parts ( 9:30 a.m.)

**Hempstead Part -- 1<sup>st</sup> District** - Civil Clerks Office  
99 Main Street, Hempstead, New York 11550  
Telephone (516) 572-2261

If you wish to have your case heard in the daytime, you may file your claim in one of the three courts listed above. There is no limitation with respect to the selection of the court. Many plaintiffs choose to file in a court which is convenient to their home.

Night Small Claims (Nassau County)  
Civil Part - 1<sup>st</sup> District  
99 Main Street, Hempstead, New York 11550  
Telephone: (516) 572-2262

You may initiate a night small claim at the Great Neck Part, Hicksville Part or the 1<sup>st</sup> District Part during normal business hours. **The evening session is only conducted at 99 Main Street, Hempstead, New York at 6:00 p.m.**

City Court - Long Beach  
1 West Chester Street  
Long Beach, New York 11561  
Telephone: (516) 431 - 1000

Glen Cove  
13 Glen Street- Rm. 1R  
Glen Cove, New York 11542  
(516) 676-0109

**To obtain the correct or “legal” name of a business contact:**

County Office Building  
Rm. 107 (9:00 am—4:30 pm)  
240 Old Country Road  
Mineola, New York 11501  
(516) 571-2660

**SUFFOLK COUNTY**

Suffolk County District Courts are located at the following location:

First District Court (Civil)  
3105 Veterans Memorial Highway  
Ronkonkoma, New York 11779  
(631) 854-9676

Second District:  
30 East Hoffman Avenue  
Lindenhurst, New York 11757  
(631) 854-1121

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

Fourth District:  
North County Complex  
Building C-158  
Veterans Memorial Highway  
Hauppauge, New York 11788

Fifth District:  
3105 Veterans Memorial Highway  
Ronkonkoma, New York 11779  
(631) 854-9676

Sixth District:  
150 West Main Street  
Patchogue, New York 11772  
(631) 854-1440

**NIGHT COURT IS HELD IN RONKONKOMA ON WEDNESDAY AT 6:00 PM.**

**To obtain the correct or “legal “ name if a business contact:**

**Suffolk County Clerk**  
**310 Center Drive**  
**Riverhead, New York 11901**  
**(631) 852-2000**  
**[www.co.suffolk.ny.us](http://www.co.suffolk.ny.us)**



