



## SMALL CLAIMS OVERVIEW FOR PLAINTIFF

1. **Small Claims:** The small claims process is an inexpensive, quick, and informal way to resolve civil disputes up to \$3,500, plus court costs. You must sue for a monetary amount. You cannot sue the defendant related to an item, for example a boat or a dog. Be aware that there is no right to appeal a small claims judgment. If you want to reserve your right to appeal you must file your case in the civil division.
2. **Legal Advice:** Court staff is not allowed to provide legal advice. You must follow the Arizona Revised Statutes and Rules of Procedure for Small Claims Cases that apply in your lawsuit. The statutes and rules are available in many public libraries and at the courthouse. The statutes are also online at the [Arizona State Legislature](#) , and the rules are online at the [Arizona Judicial Branch Court Rules](#). For legal advice, you may contact [Southern Arizona Legal Aid, Inc.](#) or [Pima County Bar Association](#).
3. **Parties:** Persons in a lawsuit are called “parties.” There is a “plaintiff” and a “defendant.” A “plaintiff” is someone who files a lawsuit against a “defendant”.
4. **Complaint and Service:** When filing your law suit you must properly name the party(s). See examples on page 3. The complaint must briefly state the factual basis for the claim. You must serve the complaint, summons and a copy of the “Notice to Defendant(s) within 45 calendar days or your case may be dismissed. You may serve the defendant by certified mail, a constable or private process server. Proof of service must be filed with the court.
5. **Filing Fee:** The cost of filing a small claims complaint is \$55.00. You will be required to pay the filing fee prior to submitting your case to the court. If you cannot afford the filing fee you may apply for a Fee Waiver or Deferral at the court. You will not be able to file your case on-line if you are unable to pay the fee.
6. **Representation:** Individuals represent themselves in a small claims lawsuit. There are usually no attorneys unless both parties stipulate. One spouse may represent both spouses. A full-time corporate officer or authorized employee may represent a partnership; an active member or an authorized full-time employee may represent an association; and any other organization may be represented by one of its active members or authorized full-time employees.
7. **Transfer to Civil Division:** Either party may request a transfer of the lawsuit from the Small Claims Division to the regular Civil Division of the Justice Court up to 10 days prior to the hearing. A transfer will allow:
  - (1) Either party to have an attorney;
  - (2) The defendant to file a counterclaim for more than \$3,500;
  - (3) Either party to file motions that are not permitted in small claims lawsuits;
  - (4) Parties to have a jury trial; and
  - (5) A party to have the right to appeal.
8. **Motions:** There are only two motions allowed in Small Claims: Motion for Change of Venue and Motion to Vacate Judgment. A response to the motion, if filed, must be submitted within ten (10) days after the motion is served.
9. **Answer:** The defendant must file a written answer within twenty (20) calendar days from the date they are served with the summons and complaint, and mail a copy to you. If the defendant fails to answer the complaint timely you must initiate default proceedings in accordance with Rule 21(b), Justice Court Rules of Civil Procedure.

SMALL CLAIMS OVERVIEW FOR  
PLAINTIFF (continued)

**F6E Counterclaim:** The defendant may file a counterclaim asserting that you owe something. The counterclaim must be filed within 20 days of service of the summons, complaint and notice. The amount of the counterclaim cannot exceed \$3,500.

**FF6E Counterclaim Reply:** The plaintiff has 20 calendar days from receipt to file a reply to the counterclaim with the court and mail a copy to the defendant.

**FG6E Hearing:** The court will set a 30-minute hearing within 60 days from the date the answer is filed. A hearing officer who has received specialized training will conduct the hearing. Both parties must appear at all scheduled hearings and provide supporting evidence for their claims and defenses. If you fail to appear at a hearing, the court may enter a judgment against you.

**FH6E Continuance:** Either party may request a continuance for good cause. If you no longer reside in the area or attending court would result in a financial hardship you may request a telephonic hearing. However, you may be at a disadvantage since all evidence must be submitted to the court before the hearing.

**FI 6E Dismissal:** If the matter settles prior to the hearing date, file a notice of dismissal with the court. If it settles after the defendant has filed an answer, both parties must sign and submit a Stipulated Dismissal form with the court.

**FÍ 6E Default Judgment:** If you fail to file an answer within the specified time a default judgment may be filed. You must still provide evidence to support your claim

**F66E Change of Address:** You must keep the court informed of your current address and telephone number until the lawsuit is over.

The following checklist may assist you in processing your case.

**PLAINTIFF CHECKLIST**

- Date COMPLAINT filed and filing fee paid \_\_\_\_\_
- Date SUMMONS and COMPLAINT given to process server for service on defendant(s) \_\_\_\_\_
- Date COMPLAINT served \_\_\_\_\_
- Date time to ANSWER expires \_\_\_\_\_  
(twenty (20) days after defendant served / thirty (30) days if served out-of-state)

**IF ANSWER IS RECEIVED:**

- Date defendant files an ANSWER \_\_\_\_\_

**IF NO ANSWER IS RECEIVED:**

- APPLICATION FOR ENTRY OF DEFAULT filed with court and copy mailed to defendant \_\_\_\_\_

**NOTICE to PARTY filing for Default:**

Anytime after ten (10) judicial days have passed since the filing of this Application, it is your responsibility to file a Request for Entry of Default Judgment or request a hearing. Statement of Cost and proof of the claim (receipts, contract, etc.) must also be served upon all the parties in this lawsuit.

- Date time to REPLY TO COUNTERCLAIM expires \_\_\_\_\_

If the defendant files a counterclaim YOU must file a reply to the counterclaim within twenty (20) calendar days. If you fail to file a reply, the defendant may obtain a default judgment against you.

**DEFENDANT CHECKLIST**

- If you object to the venue (*the precinct in which the complaint was filed*) you must file a Motion for Change of Venue for Improper Venue before the answer is filed.
- Date answer filed and filing fee paid \_\_\_\_\_  
(Within twenty (20) calendar days of the date you were served / thirty (30) days if served out-of-state)

***If you fail to file an answer, the plaintiff may obtain a default judgment against you.***

- Date COUNTERCLAIM filed and copy mailed to plaintiff \_\_\_\_\_

If you intend to file a counterclaim you must do so at the same time the Answer is filed. You must use the proper form and mail a copy to the plaintiff.

- Date time to REPLY expires \_\_\_\_\_

- Date plaintiff files a REPLY \_\_\_\_\_

**IF NO REPLY TO COUNTERCLAIM IS RECEIVED:**

- APPLICATION FOR ENTRY OF DEFAULT filed with court and copy mailed to plaintiff \_\_\_\_\_

**NOTICE to PARTY filing for Default:**

Anytime after ten (10) business days have passed since the filing of this Application, it is your responsibility to file a Request for Entry of Default Judgment or request a hearing. Statement of Cost and proof of the claim (receipts, contract, etc.) must also be served upon all the parties in this lawsuit.

## HOW TO DESIGNATE AND SERVE A PARTY

### AN INDIVIDUAL

John Jones  
1234 S. Main Street  
Tucson, AZ 85040

*SERVE: The party must be served with a copy of the summons and complaint.*

### HUSBAND AND WIFE

John and Mary Jones, husband and wife  
1234 S. Main Street  
Tucson, AZ 85040

*SERVE: Each spouse must be served a copy of the summons and complaint. One spouse may be served with the other spouse's copies if they reside at the same residence.*

### TWO OR MORE DEFENDANTS

JOHN SMITH  
1234 S. Main Street  
Tucson, AZ 85040

MARY JONES  
1000 E. First Street  
Tucson, AZ 85040

*SERVE: Each named defendant must be served a copy of the summons and complaint.*

### WHEN THE NAME OF THE DEFENDANT IS UNKNOWN

Matilda DOE  
JOHN DOE Taylor  
XYZ Corporation

*Upon service, when the defendant's true name is discovered, the pleadings may be amended to reflect the true name.*

### SOLE OWNERSHIP

John Jones, Dba  
Jones' Delicious Candy Shoppe  
1234 S. Main Street  
Tucson, AZ 85040

*SERVE: The Owner*

### PARTNERSHIP

JOHN SMITH and JOE JONES, Partners  
Dba JJ's Cafe  
1000 E. First Street  
Tucson, AZ 85040

*SERVE either:*

1. A Partner
2. A Managing or general agent
3. An Agent authorized by appointment

### CORPORATION LLC COMPANY UNINCORPORATED ASSOCIATION

ABC Candy Store, Inc.  
1234 S. Main Street  
Tucson, AZ 85040

*SERVE: Statutory Agent, as follows:*

John Jones, Statutory Agent  
5678 N. Eezee St.  
Tucson, AZ 85040

If serving a statutory agent, you must mail a copy to the party on whose behalf the agent received service.

Service may also be effected upon:

1. An Officer of the corporation - President, Vice-President, Secretary, Treasurer
2. A Managing or general agent
3. An Agent authorized by appointment or law

**CORPORATION COMMISSION:** To determine Statutory Agent for a business or corporation contact: State of Arizona Corporation Commission 400 W. Congress, Tucson, AZ 85701 Phone: (520) 628-6560

### PARENTS OF A MINOR

If the minor is under 16 years of age,  
*SERVE: The Minor and the parent or guardian*

John and Mary Jones, husband and wife  
Parents of Johnny Jones, a minor  
1234 S. Main Street  
Tucson, AZ 85040

If the minor is 16 years of age or more,  
*SERVE: The Minor*

### SERVING THE DIRECTOR OF INSURANCE

*SERVE: The Statutory Agent*

If the statutory agent is the DIRECTOR OF INSURANCE  
*SERVE: The DIRECTOR OF INSURANCE*  
400 W. Congress #152  
Tucson, AZ 85701

### SERVING THE REGISTRAR OF CONTRACTORS

*SERVE: Registrar's Legal Officer and the Bonding company must be named as a defendant and served.*