

BRINGING A CASE IN SMALL CLAIMS COURT

SLIDE 1

Text:

Bringing a case in small claims court

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Narrator one:

In this presentation, I will discuss the steps involved in filing a small claim in small claims court. This is a brief list of the steps involved in filing a claim and each step will be explained further.

Narrator two:

Your first step in deciding whether to file a small claim is to try and resolve the dispute with the other person. Step two is to determine whether your case should be filed in small claims court and if it should, then you file the claim. Next, you will notify the other person that you have filed a claim by having him or her served with documents provided to you by the court. Step four is to deal with any response filed by the other person. Finally, you will prepare for your day in court.

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Narrator one:

In every lawsuit, the person suing is called the plaintiff and the person being sued is called the defendant. When you file a claim, you are requesting the amount someone owes you.

Narrator one:

What should you expect when you come to small claims court?

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Narrator two:

First of all, it is important to understand what small claims court is. Small claims court is a part of the district court of maryland. It handles claims for \$5,000 or less and is not as formal as other maryland courts, which means that the rules of evidence and procedure are simplified so that it is easier to represent yourself without a lawyer, although you may have a lawyer if you choose. Cases are also decided by the judge.

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Text with bullet items:

- do you have a small claim case?
- ✓ Claim for \$5,000 or less; and
- ✓ Claim is for money only; and
- ✓ Claim will not require that you subpoena documents or do a lot of factual investigation

Narrator one:

You must meet the following requirements to file a claim in small claims court: your claim must be for \$5,000 or less; your claim must be for money only, not for the return of property or the performance of a service; and you are not going to request any discovery,

that is you will not be asking the other side to answer written questions, called interrogatories, and will not be doing a lot of factual investigation.

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Narrator two:

Although small claims court is less formal, you may want to talk with a lawyer if your claim involves personal injury and medical expenses, you are seeking damages from a traffic accident, or if you are unable to fill out the necessary forms.

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narrator one:

Before you file a claim in court, you may want to consider trying to work out the dispute on your own if it is appropriate in your case.

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If you can avoid going to trial, you will probably save time and money. In addition, your opponent could appeal even if you win, and you may have to go through a new trial. Finally, if you try to resolve the dispute before taking the person to court, you may be able to use this as evidence to establish your case.

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Narrator two:

First, you may want to consider talking to the person that you are thinking of suing. Before your conversation, think about the amount of money you think they owe you and decide the amount you would accept as a settlement. Try to talk to the person face-to-face and if you come to an agreement, put it in writing. Also, both you and your opponent should sign the agreement.

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Narrator one:

If you cannot resolve the dispute by talking with your opponent, you may want to write them a letter. Start by describing the issue, clearly and politely state your request for payment, and include a date by which you expect to receive this resolution. Also include in the letter a statement that if you do not receive payment, you will sue in small claims court. Make sure you keep a copy of the letter and send it by certified mail, with return receipt requested.

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Narrator two:

Another option before going to court is mediation. Mediation is a process where a trained, neutral person called a “mediator” helps the disputing parties to find a solution to which all can agree. The district court’s alternative dispute resolution program provides help on mediation. For further information about mediation, ask for the brochure entitled “mediation – is going to trial your best option? – alternative dispute resolution.” You can also call the alternative dispute resolution office at (410) 260-1676 for further information.

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Narrator one:

If you are unable to come to a resolution through talking with your opponent, writing them a letter, or through mediation, you may want to file a claim.

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Narrator two:

Before you file a claim you should evaluate whether you are likely to win your case.

Narrator one:

First, your claim must be within the statute of limitations, which is a law that requires that suits are brought within a certain time period. Usually, a claim must be brought within three years after it arose. Second, you should ask yourself whether you can prove your case, as the plaintiff, by a preponderance of the evidence. In other words, you must have evidence to convince a judge you are most likely right.

Narrator two:

How do you prove your case? You must present to the court evidence, which could include testimony from a witness, a contract, a letter, an invoice, or an estimate.

Narrator one:

In addition to deciding whether you are likely to win your case, you should also evaluate whether filing a claim will be worth the time and effort you will have to put into it. You should consider what the maximum amount of money is that you are likely to win and whether you will be able to collect from the other person.

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Text: filing a small claim.

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Narrator two:

There are four steps in filing a small claim. First, you will file a complaint form with the court. Next, you pay the filing fee. Then, the court issues a writ of summons to notify the other side that the suit has been filed. Finally, you provide proof to the court that the other side has been served.

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Shot of a district court complaint form.

Narrator one:

You can begin a small claim by filling out a complaint form. A complaint is a legal paper that starts a case. You can find a complaint form online on the judiciary's website --- www.mdcourts.gov. Click on Forms, District Court, then scroll down to Form DC/CV 1.

You can fill out the form on your computer by clicking on the fields and typing in the information. For example, to put in your county, select the county from the drop down box. Fill out your name where it says plaintiff and make sure you check the box for \$5,000 or less. You may fill out the affidavit judgment section if you believe that your documents prove your case. You can find more information on filling out the complaint by clicking on this link for the brochure. You may also ask the clerk for help. You can also pick up copies of the forms at court locations across the state.

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Narrator two:

Once you complete the complaint, file the original signed copy along with one copy for each defendant with the court and pay the filing fee. If you cannot afford the fee, you may ask that the fee be waived.

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Narrator one:

You must ask in writing. Most courts provide a form to request a fee waiver. Go to www.mdcourts.gov. Click on the Forms Link. District Court Form CC/DC 8. Submit three copies with the complaint. There is also a fee if you want the court to notify the other party that the complaint has been filed.

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Narrator two:

Service of process is the act of notifying the other person in an official way that you have filed suit against them and is required by the rules.

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You have three options for serving the other side. You or the clerk can mail the documents by certified mail, you can serve it via private process, or the sheriff or constable can serve the other person.

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Narrator one:

After you file the complaint, the court will issue the writ of summons for service on the other person. If you are serving the other person by certified mail or by a private process server, the court will mail the writ to you. If the sheriff is serving the other person, the court will give the writ to the sheriff.

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Narrator one:

You can serve the other person by mailing the documents yourself by certified mail with return receipt requested. Make sure you keep a copy of all the documents mailed, the certified mail tracking documents and receipts. Provide the court with proof of service by submitting the receipt of delivery to the court. You can also ask the clerk to mail the documents by certified mail when you file and you will pay a fee for this.

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Narrator one:

You can also serve the other side by private process, which is service by another person. That person must be over the age of 18. You cannot serve the other side yourself. Provide the court with proof of service by filing the form DC/CV 2 "Request for service/Order for Service/Proof of service," which you can obtain from the court.

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Narrator two:

When you file the papers with the clerk, you can ask at that time that the local sheriff serve the other side. If you do that, the clerk will arrange for the sheriff to serve the respondent and give the writ of summons to the sheriff. You will pay a fee for that service.

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After the other side has been served, they will most likely file a written response.

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Narrator two:

The other side will then have 15 days to respond if served in maryland and 60 days to respond if served out of state. If the other side wants to challenge the claim, he or she must file the notice of intention to defend. This document indicates that they plan to argue that they are not required to pay you the money you claim you are owed. The court will let you know if the other side has filed an Intention to Defend.

The other person may also respond by attempting to settle the claim with you.

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Narrator one:

What if the other side ignores the complaint and summons?

Narrator two:

If you requested affidavit judgment, and the other person fails to respond to the complaint, you may receive judgment without having to appear for trial if the judge finds that you have presented enough proof. However, if the judge does not find you have presented enough proof and does not sign the order entering the judgment, you will be notified of a new trial date on which to appear and present evidence.

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Narrator one:

What if the other side claims that the complaint and summons were not received?

Narrator two:

The other person may claim he or she was not properly served with the complaint and summons in one of two ways: (1) by filing a pre-trial request that the case be dismissed because they were not served properly, in accordance with the rules; or (2) by making the argument at the trial. In either case, the trial is postponed, and you may have to re-serve the other person with a new summons.

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Narrator one:

What happens if the other side believes that you actually owe him or her money?

Narrator two:

The other person may respond to your lawsuit by filing one of their own, which is called a counterclaim. You should consider preparing evidence to disprove the other side's claim. The other side may also claim that another person is responsible for the debt and file a third-party claim.

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Narrator one:

Finally, you should prepare for your day in court.

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You can find court locations and directions on the md judiciary's website at www.mdcourts.gov. You should prepare what you are going to say, organize and present your exhibits, which are documents or other objects that are introduced as evidence into the court, and choose and prepare witnesses

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Narrator one:

We have covered a lot of material in this video to help you understand what to expect when you come to small claims court. We went over the steps of bringing a claim in small claims court. The first step is to try to resolve the dispute without going to court.

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Next, you should determine if small claims court is appropriate and if so, then file a claim.

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The third step is to notify the other side that you have filed a claim by serving him or her with documents provided to you by the court.

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Step four is to deal with the other side's response, if given.

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Finally, you will prepare for your day in court.

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Narrator two:

For more information, feel free to contact a district court clerk or visit the judiciary's small claims webpage and brochure at

<http://www.courts.state.md.us/district/forms/civil/dccv001br.html>.