

## INFORMATION BEFORE YOU FILE

### DOES THE CLAIM QUALIFY AS A SMALL CLAIMS CASE?

A small claims case is a legal action filed in county court for disputes where the claim is \$8,000 or less. Any person over the age of 18, or a parent or guardian for anyone under 18 years of age, can file a small claims action. An attorney is not required.

### WHERE SHOULD THE CLAIM BE FILED?

A person or company has the right to file a suit in this county if one or more of the following took place in Alachua County:

1. Where the contract was entered into;
2. If suit is on an unsecured promissory note, where the note is signed or where the maker resides;
3. If the suit is to recover property or to foreclose on a lien, where the property is located;
4. Where the event giving rise to the suit occurred;
5. Where any one or more of the defendants reside;
6. Any location agreed to in the contract;
7. In an action for money due, if there is no agreement as to where the suit may be filed, where payment is to be made; or
8. If the cause of action is based on a dishonored check, where the drawee bank refused payment.

A defendant has the right to request that the case be transferred to another county and the Court will rule on the request.

### DETERMINE THE CORRECT NAME OF THE DEFENDANT

1. It is extremely important to have the correct names of all persons involved when you fill out your statement of claim. Incorrect names could cause delays in the processing of your case, or worse, the judgment you receive may be worthless and uncollectible.
2. To see some examples of how parties are named, go to [How Parties are Named](#) below.
3. If you need information on a company or fictitious name, records may be researched online at [www.sunbiz.org](http://www.sunbiz.org) or you can call the Secretary of State at 850-245-6500. This search will give you the legal name of the business and will also provide you with the officer's (president, etc.,) or registered agent's name and address for service on the company.
4. If you determine the business you are suing is not a registered corporation, you can contact the occupational license division of the city where the business is located.
5. If you are suing an insurance company, you need the legal name of the insurance company. You can contact the Department of Financial Services by internet at <http://www.floir.com/CompanySearch/> or by phone at (850) 413-3114 to obtain this information. The Department of Financial Services agent can tell you if the Department can accept service for the insurance company you are suing.

### SMALL CLAIMS FORMS

This is a list of the small claims forms that are available. These forms can be viewed [on-line](#) and printed, or purchased at the Clerk's office.

- |   |   |
|---|---|
| 1. Statement of Claim (Accident)        | 7. Replevin Claim                             |
| 2. Statement of Claim (Check)           | 8. Answer and Counterclaim                    |
| 3. Statement of Claim (General)         | 9. Motion for Continuance                     |
| 4. Statement of Claim (Money Lent)      | 10. Motion for/to _____(General)              |
| 5. Statement of Claim (Promissory Note) | 11. Stipulation                               |
| 6. Corporate Authorization              | 12. Affidavit of Amount Due after Stipulation |
|   | 13. Satisfaction of Judgment                  |

14. Notice of Dismissal defendants who reside outside of the State of  
15. Exhibit 'A' for personal service on Florida

### **FILL OUT THE FORM THAT PERTAINS TO YOUR CLAIM**

The small claims forms are available [on-line](#) for printing and filling out.

1. In the space for the plaintiff, insert the name and address and telephone number of the person or company filing the lawsuit.
2. Insert the name and address and telephone number of the person or business you are suing in the space marked "defendant." If you are not sure about the name, refer to the section above on how to determine the correct name of the person or company you are suing.
3. Briefly state the basis or nature of your claim and the amount you are suing for in the spaces provided. If your claim is based on written documentation, attach the documents to the original statement of claim form.
4. The statement of claim form must be fully completed and signed.
5. Make a copy of the claim and attachments for each defendant you are suing, and a copy for yourself. If you wish to have the Clerk's office make copies for you, there is a charge of \$1.00 per page.

### **FILING FEES**

Refer to the Clerk's website for filing fee information based on the amount of the claim you are filing.

### **SCHEDULING THE PRE-TRIAL CONFERENCE**

Once your case is successfully filed with the court you will receive a notice in the mail with your pre-trial hearing date and time. The pre-trial conference will be scheduled no later than 50 days from the date you file your claim. Appearance at the pre-trial hearing is mandatory.

### **SERVING THE CLAIM ON THE DEFENDANT**

Before filing your case, you will need to decide how to serve the other party. You must have the notice for pre-trial conference and a copy of the claim served in one of the following methods:

Certified Mail - This is not an option for serving out-of-Florida residents. For Florida residents, you will need to provide an envelope addressed with the defendant's name and address, with no return address, and the service package (the statement of claim, attachments, exhibits, etc). To calculate the fee for the certified mailing view the *Certified Mail Postage Guidelines* in the Small Claims section of the online Forms. You will pay that additional fee when you pay your filing fees. The Clerk's office will mail the service package to the defendants. Note that your summons is not considered served until the Clerk receives the signed return receipt. Certified mail may be used more than once to attempt service of a summons and each attempt at service with this method requires another pretrial summons and payment of the certified mail fee.

Sheriff's Delivery in Alachua County- If the defendant resides in Alachua County, the cost is \$40 per defendant with the check made payable to the Alachua County Sheriff. The Sheriff is unable to deliver to a post office box address. If additional attempts to serve a summons are required by a deputy, each attempt requires another pretrial summons and payment of an additional \$40 fee.

Sheriff's Delivery outside Alachua County - When a defendant lives outside Alachua County, it is your responsibility to verify the addresses, payment methods and cost of service before filing your case. Payment must be made to the entity serving the papers, either that county's sheriff or a process server authorized by the court. To see the list of the sheriff's offices in Florida, go to the Florida Sheriff List in the Small Claims section of the Forms page on the clerk's website at [Small Claims Forms](#). To determine

what county a city is located in, you may see a city-county index at [City-County Index](#). The Sheriff or process server is unable to deliver to a post office box address. You will need to provide an envelope addressed to that sheriff's office or the process server with your return address and the amount of postage needed to mail the "service package" (copy of statement of claim, copy of attachments, and pretrial notice with date of hearing) to that sheriff's office or process server. To calculate the postage, use the *Postage Guidelines* in the Small Claims section of the Forms page on the clerk's website at [Small Claims Forms](#).

Sheriff's Delivery outside Florida – When a defendant resides outside the state, it is your responsibility to verify the addresses, payment methods and cost of service before filing your case. You must provide an envelope addressed to the sheriff or process server in the locality where the defendant resides and submit payment for the sheriff's or process server's service fee payable to that sheriff or process server. Attach small claim form Exhibit 'A' for personal service on defendants who reside outside of the State of Florida. The envelope must have the Clerk's return address and the amount of postage needed to mail the "service package" (copy of statement of claim, copy of attachments, and pretrial notice with date of hearing) to that sheriff's office or process server. To calculate the postage, use the *Postage Guidelines* in the Small Claims section of the Forms page on the clerk's website at [Small Claims Forms](#).

### **HOW DO I KNOW IF THE DEFENDANT WAS SERVED IN TIME FOR THE PRETRIAL HEARING?**

#### Certified Mail Service

When the defendant is being served by certified mail, the Clerk's office will not know whether the defendant has been served until the green card is received. This is often long after the defendant has received the papers, so the defendant may have received the papers and show up at the pretrial hearing, even though neither you nor the Clerk's office is sure the papers were received by the defendant. If the defendant appears at the pretrial hearing and you, the plaintiff, do not appear, the case will most likely be dismissed. Once your case is scheduled, you must appear unless you file a motion asking for a continuance, and receive a written order granting that motion and providing you with a new date.

#### Sheriff's Service

The sheriff's office that served the papers will file a return of service with the Clerk's office stating whether the defendant was served or not served. There is some delay between when the defendant is served and the receipt of the return of service. You can contact the Sheriff's office or the Clerk's office before the pretrial hearing to see if a return of service was made. It is possible that the defendant will have been served papers and appear at the pretrial hearing, even though the return of service has not been received by the clerk's office. If the defendant appears at the pretrial hearing and you, the plaintiff, do not appear, the case will most likely be dismissed.

### **WHAT IF THE DEFENDANT HAS NOT BEEN SERVED?**

Unless you receive an order continuing, your case will remain on the first scheduled pretrial hearing docket even if the defendant is not served. If you appear at your first scheduled pretrial hearing and there is either a return of service from the sheriff that the defendant was not served or the certified mail was unclaimed, the case will be reset for another pretrial hearing date and you will need to make another attempt to serve the defendant, either choosing a different method of service (i.e. sheriff's service instead of certified mail), or finding a better address for the defendant. Unless you have previously contacted the Clerk's office with another address for the Defendant, you will receive a notice, but it will be your responsibility to contact the clerk with another address, and pay the required fee to attempt service again. Additional fees for additional attempts to serve the defendant must be paid, since they are not included in the payment for the first attempt to serve the defendant. If you are still unable to locate and serve the defendant, and would like to request a continuance of your hearing by 2/27/19

the court, your request must be in writing and filed with the clerk. Unless you receive a written order granting your request for continuance, you must appear in court at the time of your scheduled hearing. Failure to appear may result in your case being dismissed.

### **MEDIATION**

All contested small claims cases must be mediated. If the defendant disagrees with any part of the claim a mediator will be assigned at the pre-trial hearing. If the parties are not able to reach an agreement the case will be set for trial for the judge to resolve the issues.

### **TWO-HEARING PROCESS**

Alachua County uses a two-hearing procedure; a pretrial conference and a final hearing. If the case is not resolved at the pretrial hearing or mediation, then you will have to return for a final hearing at which time you will have to present all of your evidence, including any witnesses you wish the court to consider.

### **AFTER JUDGMENT**

The court does not collect the judgment for you. Information can be obtained from the Department of State, Division of Corporations, on the Internet at [www.sunbiz.org](http://www.sunbiz.org) or by phone at (850) 245-6039. You may wish to contact an attorney for guidance.

## HOW PARTIES ARE NAMED

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Here are some examples:

1. If you are suing an individual:  
Your name vs. John Smith
2. If you are suing a sole proprietorship\* (an individual doing business under a fictitious name):  
Your name vs. John Smith, d/b/a Sample Business
3. If you are suing a partnership\* (several individuals doing business under a fictitious name):  
Your name vs. SJG Enterprises, a partnership  
OR -- SJG Enterprises, Ltd., a limited partnership  
OR -- SJG Enterprises, Limited, a limited partnership

**For Partnerships** –Make sure to obtain one of the partner’s name and address.

**For Limited Partnerships** - Make sure to obtain the registered agent’s name and address. You will need this to serve the Registered Agent.

1. If you are suing a corporation  
Your name vs. XYZ, Inc.  
OR – XYZ, Corp.  
OR – XYZ, Co.
2. If you are suing a corporation doing business under a fictitious name:  
Your name vs. XYZ, Inc. d/b/a Business  
OR -- XYZ, Corp d/b/a Business Name
3. If you are suing a limited liability company:  
Your name vs. Business Name, L.L.C.  
OR -- Business Name, L.C.

These are some examples of invalid party names:

John Smith d.b.a. XYZ, Inc.  
OR XYZ

If you need to find out information on a company or fictitious name, records may be researched online at [www.sunbiz.org](http://www.sunbiz.org) or you can call the Secretary of State at 850-488-9000.

- a. If your claim involves an estate:  
Your name vs. John Doe, as a personal representative of the estate of John Doe, deceased.
- b. If your claim involves an insurance company:  
Your name vs. Exact name of Insurance Company
- c. If your claim involves a minor child:  
Your name vs. Parent or Guardian of Minor Child
- d. If your claim involves a trust:  
Your name vs. John Doe as Trustee of XYZ Trust