

The small claims court is a division of the circuit court presided over by an associate circuit judge. The small claims court is a people's court and was established to help people handle their small cases without an attorney. The clerks are there to help prepare the proper papers to file a claim and, if you win, to help collect your money. However, if you feel you cannot adequately represent yourself and protect your own interests, you may retain an attorney to assist you. For those who are unable to pay for legal assistance and are eligible for legal aid, the legal services project in your area may be able to help.

Small claims proceedings are informal in nature. You must fill out all required forms and present your own evidence in court. There are no jury trials. While the small claims court system was designed to settle uncomplicated disputes, filing and winning a claim as well as collecting your money can be far from uncomplicated. There are specific rules that must be followed if you are to succeed on your claim. This handbook is designed to introduce you to many of those rules and to assist you in pursuing your claim in small claims court.

## II. THINGS TO CONSIDER BEFORE BRINGING A CLAIM

### A. WHO YOU CAN SUE AND WHAT YOU CAN SUE FOR

Any person or business with a civil claim that DOES NOT EXCEED \$5,000.00 may bring a suit in small claims court. The \$5,000.00 limit does not include court costs and interest on the \$5,000.00 which the judge may award you. You may still file a claim if the amount exceeds \$5,000.00. However, if you choose to do this, you give up your right to claim any amount exceeding \$5,000.00 both in your present suit and in any other claim involving the same person or business and the same issues.

You can only file a claim in small claims court against someone who owes you money; you may not file a claim against a person who owes someone else money. Furthermore, an assignee of a claim (i.e., a person or business that purchases or otherwise has the right to a claim) may not file in small claims court. You may file no more than twelve claims in small claims court in any calendar year. **THE COURT CAN ONLY HANDLE CLAIMS FOR MONEY.** Therefore, the court cannot force anyone to return property to you, nor can the small claims court be used by landlords to evict tenants. Furthermore, **THE COURT IS NOT RESPONSIBLE FOR COLLECTING THE MONEY THAT THE JUDGE MAY DETERMINE IS OWED TO YOU.**

### B. WHEN YOU MUST SUE

Depending on the type of claim you are making, you have a certain amount of time in which to file the claim. This time limit is called the statute of limitations, and you must file your claim before the time period expires. The time period begins to run when the injury or damage occurs or when the injury or damage should have been discovered.

The time period allowed varies with different types of claims. Claims for personal injury or damage to your property and claims for money damages for breach of contract must be filed within five years. Claims to recover money for breach of a written promise to pay must be filed within ten years from the date of the breach of the written promise. The time periods for other types of actions vary, however, you generally have two years to file a claim. To be safe, you should file your claim as soon as possible.

### C. ATTEMPT TO SETTLE YOUR CLAIM BEFORE YOU SUE

Pursuing a claim in court is a serious matter with unpredictable results. If you sue you may lose. Be sure you feel you can adequately explain and prove your claim to a judge. Even if you win, you are responsible for collecting the money from the defendant.

(The defendant is the person or business you name in the claim.) If the defendant refuses to pay you voluntarily, you must use specific court procedures in order to compel your opponent to pay — **THE SMALL CLAIMS COURT DOES NOT PAY YOU MONEY IF YOU WIN.** Furthermore, the defendant may file a valid

written correspondence to show the judge that you have made reasonable attempts to settle the claim and that you are not suing just to harass the defendant.

If your dispute is with a business, there are consumer protection agencies in some areas that may assist you in settling your claim before you sue. One