

INSTRUCTIONS FOR FILING SMALL CLAIMS

Instructions for filing small claims actions in Elkhart Superior Court 4, Superior Court 5 and Superior Court 6

1. A claim may be filed with the Clerk of the Elkhart Superior Court 5 or Superior Court 6 at the County Courts Building, Elkhart, Indiana, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday.
2. A claim may be filed with the Clerk of the Elkhart Superior Court 4 at the Courthouse in Goshen, Indiana, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday.
3. The costs of filing is \$125.00 for the 1st defendant and \$10.00 for each additional defendant – CASH, MONEY ORDER, CREDIT OR DEBIT CARD – plus costs of publication of notice, if any, and witness fees, if any, in an amount provided for in Circuit Court. This amount includes an initial Sheriff Service of Process fee of \$28.00. These fees apply to paper filing in the Clerk's office.

The Court costs to E-FILE are \$115.00 which includes the initial Sheriff Service of Process fee of \$28.00 or \$87.00 if you choose to perfect service yourself. You can visit <http://www.in.gov/judiciary/4267.htm> for everything you need to know about E-Filing, including access to e-file.
4. Small claim forms must be typed or printed legibly.
5. You are not required to have a lawyer to file a small claim nor are you required to have one when your case comes to trial.
6. You must know the correct name and address of the defendant. Make sure you are suing the person who is responsible.
7. You must file your claim in the county where the transaction or incident occurred, where the obligation was incurred, the defendant resides or is employed.
8. You cannot request more than \$6,000.00 and you cannot separate one claim into several suits. If you are entitled to more than \$6,000.00, you waive your right to the remainder after you win a judgment.
9. If you are suing on an account or a note, you must give the Clerk, when filing, a copy of the account or note for the Court records, and 2 copies for each named defendant. Keep the original yourself.
10. State your claim against the defendant simply and briefly. You will have an opportunity to explain your claim fully in Court.
11. Claim only those precise money damages that you believe you can prove in Court.
12. Be prepared to provide your case with any evidence you have and bring all your evidence and witnesses with you when you come to Court. Subpoenas can be issued by the County Clerk for reluctant witnesses.
13. You must appear at the time and place specified for the hearing, or any continuance thereof, and upon failure to do so, the Court may dismiss the Complaint.
14. Advise the Court of any change in your address or phone number which occurs after filing your claim.
15. You will be notified of the results of your trial in Court or within ninety (90) days after the trial.
16. The decision of the Court may be appealed to the Court of Appeals of Indiana.
17. If you need legal advice, you must consult an attorney. The Clerk of the Court cannot advise you.
18. The filing of a small claim by a plaintiff constitutes a waiver of trial by jury. If the defendant requests and is granted a jury trial, all formal rules will apply at the trial. An additional \$70.00 will be charged.
19. The defendant may believe he or she has a claim against you and may file a counterclaim with the Court. Both claims will be decided at the same trial, if the amount of the counterclaim does not exceed \$6,000.00. You will be notified of the counterclaim at least ten (10) days before trial. If you do not receive this notice at least seven (7) days before trial, you may request a continuance.
20. If you are unable to attend the trial on the date set, you may ask the Court for a continuance. Except for proven extraordinary circumstances, you are entitled to only one continuance, so use it only if you have a good reason, and only if it is absolutely necessary. All continuances must be requested in person and more than seven (7) days prior to the date and time set for trial.
21. If the parties agree to a settlement before trial, they may reduce it to writing and sign it and file it with the Court.