

Adams County Small Claims Manual

(Revised January, 2022)

Adams County
Small Claims
Manual

FILING FEES AS OF JANUARY 2022

- Paper filings for Court Costs are \$97.00 if your claim is against one person. \$10.00 is assessed for each party thereafter.
 - Example: 1 defendant=\$97.00, 2 defendants=\$107.00, etc.)
 - Service by Sheriff: \$28.00 is assessed to serve paperwork before Judgment. A \$28.00 service process fee shall be collected one time after judgment. The payment of these fees shall be collected by the Clerk.
 - Service by Certified Mail (Paper Filings Only): Filing fees include the cost of serving 2 parties at one address each at initial filing. For service at additional addresses or upon parties and after initial filing, the requesting party shall serve upon parties with the Clerk's return address.

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Application of Manual

This manual has been prepared to provide you with general knowledge of the operation of Small Claims Court in Adams County.

Please read it in its entirety. It will not address all areas of law or procedure, but it does deal with many problem areas experienced in small claims court and, hopefully, will aid you in preparing your case. If you have questions about a particular procedure, practice, or Court policy, check with the Clerk's Office; he/she may be able to assist you.

If you ask a question of the Court or the Clerk staff that is explained in this manual, you will be advised to locate your own answer within the packet. Please bear in mind that not all cases are "typical" and each has special circumstances that makes it different from any other. Because of this, your case may produce questions that are not covered in this manual. It is then acceptable to ask questions of the staff.

Although the Clerk's staff, nor the Court staff, can give legal advice, they will attempt to answer any questions you may have **AFTER YOU HAVE READ THE MANUAL**. At any point a question is considered too technical or legal in nature, the personnel will refuse to answer, and will instead instruct you to research the question yourself or speak with an attorney for advice.

Important Information about Suing in Small Claims Court

Small Claim Courts have simple rules of procedure that allow you to represent yourself without an attorney. As a result, many feel that all you need to do to win your case is to appear in Court on the day of the trial. Others feel that it's the Judge's job to develop and help present evidence at trial. Still others believe that there is some "magic" associated with the courtroom or that the Judge has supernatural insight that helps him or her to find the truth without the benefit of evidence. None of these beliefs is correct.

The Judge's job is simply to settle a dispute between two (2) or more parties that cannot be resolved amongst them. The Judge's decision must be based solely on the evidence given by the parties at the time of the trial and in accordance with the applicable law. The Court, like a hammer or saw, is only a tool that you may use to settle your dispute. Like any tool, the end product will show your skill in using the tool. A good case could be lost if you do not prepare your case before trial or if you fail to effectively present evidence when you get to trial. Proper preparation and effective presentation of evidence greatly increases your chances of being awarded a judgment in Court.

Introduction

The Small Claims Court allows every citizen to bring a lawsuit in an informal manner and does not require that a party hire an attorney. You may hire an attorney if you so choose; however, in most instances you will be unable to recover your legal fees from

the opposing party, even if you win, unless there is a written agreement making the other party liable for such expenses.

The Small Claims Courts were created so that you would have a speedy, reasonably inexpensive, uncomplicated means of determination of your claim. It is for your benefit and it is your right. Do not be afraid to use it. The Court's staff and the Clerk's staff can assist you, but once again, they cannot give you legal advice.

The procedures are not complex. The Plaintiff fills out a simple form called a *Notice of Claim* form stating why the Defendant owes him or her money or that the Defendant has property which should be returned to the Plaintiff. Each party explains his or her side of the story to the Judge at trial. The Judge may ask questions of each party to determine the complete facts of the case. The Judge will make a decision based upon the facts and evidence presented by the parties and on the law as it applies to the facts.

Definitions

Agreed Judgment – A written agreement between opposing parties that will settle the dispute, subject to the Judge's approval.

Affidavit – A written statement made upon affirmation that the statement is true under the penalty of perjury or under oath before a notary public or other person authorized to administer oaths.

Body Attachment – An order of arrest issued when a party does not appear at a *Rule to Show Cause* hearing.

Contempt – An act or a failure to act that tends to obstruct or interfere with the operation of the Court.

Continuance – Postponement of a hearing or trial to a later date.

Counterclaim – A written demand filed by a defendant against a plaintiff for money or possession of property.

Damages – A sum awarded by the Court as compensation for an injury.

Default Judgment – Decision for the plaintiff when the defendant fails to appear in Court.

Defendant – The person being sued.

Discovery – A request for disclosure of information held by the adverse party.

Dismissal – The removal of a claim from the Court prior to a trial.

Eviction – The legal process of removing someone from real property.

Garnishee Defendant – A third party served with a written notice to apply property to a judgment.

Garnishment – A request that property (cash or other items of value) controlled by a third person be used to pay a judgment.

Immediate Possession – A procedure for expedited return of real property or personal property.

Injury – Any wrong or damage done to another, either to a person, or his or her rights or property.

Interrogatories – Written questions.

Judgment – The decision of the Court.

Jurisdiction – The authority of the Court to hear and decide cases.

Notice of Claim – Written statement of a claim against the defendant. This serves as notice that a lawsuit has been filed and that the party is ordered to appear in Court.

Open Account – A running billing for goods or services rendered under a pre-existing agreement between parties.

Party – Any person suing or being sued.

Personal Property – Movable items or things that have value and are owned.

Plaintiff – The person suing.

Post-Judgment Interest – Compensation for loss of the use of money from the date of judgment to the time the judgment is collected.

Pre-Judgment Interest – Compensation for loss of the use of money between the time the money was due and the day a judgment is entered.

Proceedings Supplemental – A written pleading filed with the Court that asks for additional steps to be taken to collect a judgment.

Real Property – Ownership, rights or interest to land and items such as buildings that are affixed to the land.

Release of Judgment – An entry on the Court's records showing the judgment has been paid in full.

Rule to Show Cause – A written request asking the Court to hold an adverse party in contempt for not following a Court order.

Statute of Limitations – A time limit for filing a case.

Subpoena – A Court order requiring the appearance of a witness at a hearing or trial.

Third Party – A person involved in the case other than the plaintiff or defendant.

Third-Party Notice of Claim – A written claim allowed when a third party has a financial claim or obligation that relates to the lawsuit between the plaintiff and defendant.

Vacate – Making a judgment or Court order ineffective.

Venue – The county in which the case must be filed.

Before You File Your Claim

Before you fill out the forms to file your claim, please answer these questions (each is explained in this booklet):

- (a) Does the Small Claims Court have the authority (jurisdiction) to hear your case?
Yes No
- (b) Is this county the proper location (venue) for the filing of your claim? (See Page 1)
Yes No
- (c) Who are the parties to the action? (See Page 2)
- (d) Is it too late under the Statute of Limitations to file your claim?
Yes No

Only if the answers to Questions (a) and (b) are both “yes” and the answer to (d) is “no” may you file a small claims action in this county.

What You Can and Cannot Sue for in Small Claims Court

There are many times when you may sue in Small Claims Court. The following list contains some examples:

- (a) Personal injury, Ten Thousand dollars (\$10,000.00) or less.
- (b) Damage to personal property or real estate, Ten Thousand dollars (\$10,000.00) or less.
- (c) Landlord and tenant disputes, if the rent due at the time of filing is Ten Thousand dollars (\$10,000.00) or less.
- (d) Money owed (bad checks, wages, services rendered, accounts receivable), Ten Thousand dollars (\$10,000.00) or less.
- (e) Return of wrongfully taken property and return of money paid for faulty work, Ten Thousand dollars (\$10,000.00) or less.

As you may have guessed from the above examples, by Indiana law, Small Claims are currently limited to cases where the amount sought to be recovered is Ten Thousand dollars (\$10,000.00) or less. From time to time, the Indiana Legislature changes this upper limit on Small Claims cases. This maximum value was raised from Eight Thousand dollars (\$8,000.00) to its current limit of Ten Thousand dollars (\$10,000.00) on July 1, 2021, so you should ask the Clerk if your claim may exceed this amount.

If you hire an attorney, you probably will not be able to get attorney’s fees as part of any judgment. Exceptions to this rule do exist, such as when a written agreement calls for the payment of attorney’s fees or in the case of a bad check. Also, there are limits on the rate of interest you can ask.

Location (Venue) for Filing Your Claim

Small Claims Rules state that the right place to file a small claims suit is the county:

- (a) in which the transaction or occurrence actually took place; or
- (b) in which the obligation or debt was incurred; or
- (c) in which the obligation is to be performed; or
- (d) in which the Defendant resides; or
- (e) in which the Defendant has his or her place of employment at the time the claim or suit is filed.

The county in which the suit is filed must meet one of the above requirements in order to be the proper county of venue. If several counties qualify under the requirements, then the Plaintiff can file suit in any one of the qualifying counties. If a claim is filed in the wrong county, the plaintiff runs the risk of having the claim dismissed. This means that the plaintiff will not be reimbursed for the court costs previously paid. The plaintiff does have the option to then file his or her case in the appropriate county, with court costs once again being assessed.

Parties to the Suit

The plaintiff is the person or business who files the suit asking the Court to help collect an obligation or to grant some other relief from another person or entity.

The Plaintiff must be the person or business to whom the money is due. For example, an apartment building manager cannot sue a tenant because the manager is merely an employee. It must be the landlord who brings the lawsuit.

The Defendant is the person or business which is being sued and who must defend against the charge of the Plaintiff. If more than one person is responsible, then all Defendants should be named in one suit.

Change of Address or Telephone Number

If you change your mailing address or telephone number after you have become a party to a small claims suit, you must promptly notify the Court in writing of the change. All notices concerning your suit, including any changes of the trial date, will be sent to your last known address. Your interests may be hurt if the Court is unable to contact you due to a change of address. Even though the parties are advised to notify the Court of this information, sometimes Defendants move without supplying a new address. To continue any action in the suit, it therefore becomes the responsibility of the Plaintiff to find the Defendant. Neither the Court nor the Clerk's staff will supply you with this information. Remember, written notification of a change of address or telephone number must be sent to the Court or Clerk's Office.

Deadlines for Filing Suit (Statute of Limitations)

Before filing your lawsuit, you must be sure that the suit is filed within the time period provided by the statute of limitations. You cannot bring suit if the time limit has expired. The time limit begins to run for a contract when the contract is breached (broken) and for personal injury or damages to property when the injury occurs. A list of some of the most common statutes of limitations is set out below. (This is not an exhaustive listing of the statutes in the Indiana Code.)

- 1) Two Years
 - A) Personal injury (that is, injury to a person as opposed to damage to property).
 - B) Damage to personal property.
- 2) Six Years
 - A) Accounts.
 - B) Contracts not in writing (other than a contract for sale of goods).
 - C) Rents and use of real estate (landlord/tenant disputes).
 - D) Damage to real estate.
 - E) Recovery of personal property.
 - F) Promissory notes and/or a contract for payment of money.

Filing a Small Claim

If you wish to file a lawsuit against another person, you must follow these rules.

- 1) You must fill out the required [*Notice of Claim*](#) form by briefly and clearly stating in writing the nature and amount of your claim against the Defendant. You will have an opportunity to explain more fully in Court. You will find the above-mentioned form, and all other forms that you may need throughout this proceeding, attached at the back of this manual. **These are your originals!** Please make copies as you need them and keep the attached forms as originals. The [*Notice of Claim*](#) form is copied on both sides and must be submitted as such upon filing. If you cannot make a two-sided copy, it is acceptable to submit the form as two (2) separate pages. No matter how you choose to present the form to us, it is mandatory that both sides are included. You must provide the Clerk's Office with a completed [*Notice of Claim*](#) and [*Affidavit of Debt*](#) form, along with supporting paperwork (proof of the amount that you are asking). You will also need to provide a copy of the above-mentioned Notice and paperwork for each defendant, plus another for yourself if you'd like a copy returned.
- 2) If your suit is based upon a written contract or account, that would be considered your supporting paperwork and will be your proof to attach to your [*Notice of Claim*](#).

- 3) You must give the Clerk the correct name, address and telephone number of the Defendant. Be sure the named Defendant is the real party in interest. For example, following an automobile accident, you should sue the driver of the other vehicle, not his or her insurance company.
- 4) Filing fees must be paid when you submit the claim. Please refer to the top page of the manual for current fees. There is a \$10.00 for each additional defendant. If the Sheriff serves any paperwork before a judgment entered against the defendant, a fee of \$28.00 must be paid. After you have received a judgment, you will be required to pay an additional \$28.00 for the Sheriff to serve any papers. If you win your case, the Defendant will most likely be ordered to repay this money to you. You will not be repaid if you lose.

If you have questions about filing your suit or any other matters relating to your case, ask the Clerk for help. If you need legal advice, you must talk to an attorney. Neither the Judge nor the Clerk can help you with legal advice.

An Eviction may also be requested in a Small Claim action for landlord/tenant disputes, but this is explained in greater detail on the following page. Not all landlord/tenant disputes involve an eviction, so it is not assumed that you wish the tenant(s) to remove him or herself from the premises. Please see [“What All Landlords and Tenants Should Know”](#) for further information.

You will receive a copy of the [Notice of Claim](#) that is filed with the Clerk, along with a receipt for filing fees. This copy has a Court appearance date and time listed. You should check with the Court staff to find out if you will be expected to have all witnesses and evidence with you on this date. In many Courts this first trial date is used merely as a date to find out if the Defendant is going to dispute your claim. If the Defendant does not show up for this first date after receiving proper notice from the Clerk or if the Defendant does appear and both parties can come to an acceptable agreement, then a trial will be unnecessary. On the other hand, if the Defendant disputes all or a portion of your claim, the Judge may set the trial for a later date.

Notice of the suit must be served upon the named Defendant prior to the hearing date. If the Clerk or the Sheriff is unable to find and notify the Defendant of the lawsuit before the date to appear, you may either dismiss the suit, which states that you will take no further action in this matter, or request a continuance of the trial date in order to have more time to notify the Defendant of the suit. If such a continuance is requested, you must again fill out the appropriate number of copies of the [Notice of Claim](#), (i.e.: the original [Notice of Claim](#) form that stays in the file, plus one for each party. If sheriff’s service is to be used, you must provide an additional copy for each defendant that you wish to be served). This [Notice of Claim](#) is now called an “*Alias Notice of Claim*” and you should once again attach any relevant exhibits. You may also be required to obtain a more current address for the Defendant.

You may withdraw or dismiss your claim any time prior to trial, but you will not be reimbursed for Court Costs previously paid. This fee must be collected from the Defendant unless you choose to forego said amount.

If the Defendant has information you need to pursue your claim, but will not give it to you, you may request the Court to order the Defendant to disclose this information to you. The Defendant may also make such a request to the Court in order to prepare a defense. This request will be granted only if you give good reason for disclosing the information and only after the other party has been notified of your claim and that the information is being sought. The Court may limit

the information sought to that which is necessary for this particular case. This process of seeking information for the party before trial is called “Discovery.”

Eviction Procedures

You may also request eviction proceedings through Small Claims in the occurrence of a landlord/tenant dispute, but you must specify on the initial [Notice of Claim](#) that this is your intent. You should indicate this in the summary portion of the [Notice of Claim](#) form and you **must also write “plus eviction” after the grand total at the bottom of said form.** Not all landlord/tenant disputes involve an eviction, so it will not be assumed that you wish the tenant(s) to remove him or herself from the premises. Should you have any further questions after reading the following paragraphs, please refer to [“What All Landlords and Tenants Should Know”](#), as your question may quite possibly be answered there.

If Landlord gives tenant(s) a Notice to Vacate Property, a copy of the written notice must be dated and attached to the [Notice of Claim](#) paperwork. If given to the tenant by the landlord, the tenant should sign and date the notice as proof of service. The Sheriff may also serve the notice. Make two (2) copies of the notice so the Sheriff has a copy to leave with the tenant and another to return to you (the landlord). Please check with the Sheriff to see what fee is charged for this service.

If the tenants have not moved out pursuant to appropriate time limitations, you may now file a formal eviction through Small Claims. You will also need to provide a copy of the lease and any security deposit information plus payment for Court Costs. A hearing date will be set within two (2) weeks of filing your claim. The claim for eviction, plus back rent and/or damages, cannot exceed the dollar limit at the time of filing. After the premises has been evacuated, you may request another hearing if damage has been made to your property. The total amount due still must be within the limit set by the State of Indiana.

If it becomes necessary for you to ask for a hearing to determine damages, and by doing so your new total now exceeds the allowable limit, you should then seek the advice of legal counsel. Your case may need to be transferred to the Civil Docket and you will be required to pay the difference between the Small Claim court costs and the Civil Court costs.

SEE EVICTION MANUAL FOR FURTHER FORMS AND INSTRUCTIONS

Representation at the Trial – Attorneys

[Small Claims Rule 8](#) allows a person to appear at trial and, if he or she chooses, represent himself or herself to avoid the cost of hiring an attorney. However, a person is allowed to hire an attorney to be present with him or her at the trial. A person who has power of attorney for another person may not represent that person in Court.

Corporate Entities, Limited Liability Companies (LLC’s) and Limited Liability Partnerships (LLP’s)

As a general rule, a corporation must appear by counsel. [Small Claims Rule 8](#) provides an exception for certain claims. A corporation, whether as a Plaintiff or a Defendant, may be represented by an employee who is not an attorney if the following conditions exist:

- 1) The claim (for or against the corporation) is not more than the prescribed limit set by [Small Claims Rule 8\(c\)](#) (\$6,000.00); and
- 2) The claim is not an assignment (such as a claim that has been assigned to a collection agency); and
- 3) A corporate resolution and employee affidavit filed with the Clerk authorizing a full-time employee to represent the corporation.

You will find a [Resolution](#) including Designation of Employee form within the Small Claim forms section of this manual. It is mandatory that the original is given to the Clerk's Office, where it will be kept on permanent file. **A Resolution must be attached to each claim that is filed.** Be certain to retain a copy so that you will have it to copy and attach to any future filings. **NOTE:** A form is needed for each assigned employee.

Sole Proprietors and Partnerships (Unincorporated Businesses)

As a general rule, an unincorporated business must be represented by the owner of the business or by an attorney. [Small Claims Rule 8](#) provides a limited exception for certain claims filed in Small Claims Court. A business, operated as a sole proprietorship or partnership, may (whether as a Plaintiff or Defendant) be represented by an employee who is not an attorney if the following conditions exist:

- 1) The claim (for or against the business) is not more than the prescribed limit set by [Small Claims Rule 8\(c\)](#) (\$6,000.00); and
- 2) The claim is not an assignment (such as a claim that has been assigned to a collection agency); and
- 3) The business files with the Clerk an Employee Affidavit and Certificate of Compliance designating a full-time employee to represent the business. This form is called a Resolution including Designation of Employee and you will find one attached in the forms section of this manual.

The following situations are not permissible:

- 1) If the claim involves a corporation and is less than the prescribed limit, an employee NOT authorized by the resolution attempts to represent the corporation.
- 2) If the claim involves a business operated as a sole proprietorship or partnership and is less than the prescribed limit, an employee NOT authorized by the Certificate of Compliance attempts to represent the business entity.
- 3) If the claim involves a corporation and is greater than the prescribed limit, a non-attorney attempts to represent the corporation.
- 4) If the claim involves a business operated as sole proprietorship or partnership and is greater than the prescribed limit, an employee who is not an owner attempts to represent the business. (In such cases, the owner or an attorney must represent the business.)
- 5) A person with only a power of attorney to act on behalf of any individual, business, or corporation attempts to represent the individual, business, or corporation in Court.

NOTE: Assigned claims (collection agencies) must have an attorney, regardless of the amount of the claim.

Counterclaims

If you are the Defendant and have received notice that you have been sued in Small Claims Court and you believe that you have any monetary claim against the Plaintiff, you may file a [Counterclaim](#) against the Plaintiff.

You must file your [Counterclaim](#) with the Court so there is sufficient time to mail a copy to the Plaintiff so he or she receives it at least seven (7) days before the trial. If the Plaintiff does not receive the [Counterclaim](#) within that time, the Plaintiff may request a continuance (postponement) of the trial to allow time to prepare a defense to your [Counterclaim](#).

The Court can only hear [Counterclaims](#) if they do not exceed the current dollar limit listed earlier in this manual. As the Defendant, you may agree to sacrifice the amount over this limit in order to be able to sue in Small Claims Court. However, if you do this, you are not permitted to file a new suit later for the rest of the claim. If you do not want to give up the excess amount, then you may request or petition the Court to transfer the case to another Court or division of the same Court. In response to such a request or petition, the Court may transfer your [Counterclaim](#), or the entire case, to another Court or division where Small Claims Rules no longer apply. If this occurs, you and the other party should then hire attorneys to represent you.

If the Defendant files a [Counterclaim](#), the Court will hear the Plaintiff's complaint and the Defendant's [Counterclaim](#) at the same hearing.

If you are the Defendant and you believe that another person, who is not a party to the suit, may be responsible to you for all or part of the Plaintiff's claim, you may file a *Third-Party Notice of Claim* against that person. This must be done before the trial. To do this, complete a [Notice of Claim](#) form naming the person whom you believe to be responsible as the "Third-Party Defendant" and explain on the form why you believe this person should be held responsible.

Payment Before Judgment

Within this packet you will find a [Voluntary Motion to Dismiss](#). If the Defendant pays the claim in full before a judgment is entered, you must dismiss any further action in this case. This form is to be signed and returned to the office of the Clerk within thirty (30) days of receiving full payment. Once filed, the Judge will sign this pleading and copies will be issued to parties of record. Any hearings will be cancelled if payment in full is received. Likewise, if a payment is made but there is still an outstanding balance, the Court hearing will proceed as scheduled unless you request a continuance or agree to forego the balance due.

Jury Trials

When the Plaintiff files a claim in Small Claims Court, the Plaintiff waives or gives up the right to a trial by jury. If the Defendant wants a jury trial, it must be requested no later than ten days after the Defendant is served with the [Notice of Claim](#). The Defendant demands a jury trial by filing an Affidavit and paying another fee. The Affidavit must state that there is a question of fact in the case which requires a jury trial, must explain this fact (or facts), and must state that the request for a jury trial is made in good faith. The transfer fee must be paid within ten (10) days after the jury trial request has been granted, otherwise the party requesting the jury trial has waived the request. If a jury trial request has been granted, it may not be withdrawn without the consent of the other party or parties.

If the Defendant properly requests a trial by jury, the case will lose its status as a Small Claim and will be transferred to the Court's Civil Docket. The Civil Docket requires a much more formalized procedure. At this point, all formal rules of evidence and procedure apply to the trial of the case and both parties should seriously consider consulting legal counsel for assistance.

Settlements

If the Plaintiff and the Defendant are able to reach a settlement of the dispute before the trial, the parties should write down the settlement and, after signing the agreement, file it with the Clerk. The Judge will approve the settlement and enter the agreement as a judgment.

The Court cannot and will not receive personal property in settlement or judgment except under circumstances with the Judge's approval. Do not request the Court to receive personal property for you in connection with a settlement or judgment.

Continuances

Continuances (postponements) are only granted if good cause is shown. Except in unusual circumstances, no party shall be allowed more than one (1) continuance in any case and each continuance must be specifically approved by the Judge. Notice of the new date and time of the trial will be provided to all parties. Parties should appear at all hearings or trials unless specifically told by the Judge's or Clerk's staff that the matter has been continued.

Change of Judge

You may request a change of Judge, but strict time limits apply. A party seeking a change of Judge must file that written request with the Court within thirty (30) days after suit is filed ([Trial Rule 76](#)) or earlier if the trial is set within thirty (30) days after filing suit.

Trial

Arrive on time for your trial. If both parties appear at the time and date scheduled, the trial will be held in an informal, yet orderly manner. The Plaintiff will present his or her case first. The Plaintiff may do this by testifying on his or her own behalf and also by having other witnesses, including the Defendant, testify. After testimony of each witness, the Judge may allow the Defendant to cross-examine the witness by asking questions. As the Plaintiff's case is presented, physical evidence such as receipts, written leases, or other items to support the Plaintiff's claim for damages may be shown to the Judge.

When the Plaintiff has finished, the Defendant may testify, present witnesses and physical evidence. After each of the Defendant's witnesses has testified, the Judge may allow cross-examination by the Plaintiff.

After the Plaintiff has finished with any contradicting testimony, each party may, at the Judge's discretion, make a final statement to the Judge to sum up his or her position.

Remember, although the trial is informal, all parties and witnesses are subject to penalties for contempt of Court and perjury.

During the trial, the Judge may stop at any point to ask questions of any party or witness. In addition, the Judge may, with or without a request by either party, inspect scenes and locations in the case.

Remember that the Judge can base a decision only on the facts presented at the trial and on the law as it applies to those facts. Therefore, know as much about your claim as possible and tell the Judge as much as you can. You should lay a solid foundation for your claim as to date, parties involved, actions taken or not taken, and damages occurring. Bear in mind that the Judge is totally without knowledge of the events surrounding your claim and can only rely on the information presented at trial as a basis for a decision.

Burden of Proof

If you are trying to recover damages, as the Plaintiff on a claim or as a Defendant on a [*Counterclaim*](#), you have the burden of proving your case by a preponderance of the evidence. In other words, to win, your evidence has to be more convincing than that of the opposing party. If each party's evidence is equal, you will not win. For example, if it is your word against the word of the person you are suing and both of you are equally to be believed, the Judge must decide the case in favor of the person you are suing.

The party trying to recover damages must prove two (2) things before the Court can award a judgment:

- 1) **Liability:** You must prove by your evidence that the other party has done something that makes him or her liable to you for damages. Examples of this would be that the other party has failed to pay rent owed; caused an accident resulting in damages to your property; or ordered and received goods without paying for them.

- 2) Damages: You must also then prove the actual amount of damages (money) which you believe you are entitled to recover.

This area is one of major concern for the Small Claims Court, and one of tremendous frustration to a person who files suit but is not well prepared to present his or her claim or [*Counterclaim*](#). The law provides that a party seeking judgment must prove both liability AND damages before a judgment may be entered in his or her favor. The Judge cannot speculate or guess what damages were caused or how much should be awarded for damages. If a party cannot produce evidence to show the amount, the Judge cannot award a judgment.

Often parties have been able to present enough evidence to show liability but then fail to show the dollar amount of the damages. In such cases, the Judge cannot guess at this figure and must decide in favor of the alleged wrongdoer.

What kind of evidence can be used to show damages? The general rule is that the proper amount of damages to be awarded is the difference between the value of the property before the accident or event and the value of the property after the accident or event, although a repair estimate may be sufficient to establish the amount of damages in a Small Claim action.

Example: The Plaintiff and the Defendant are involved in an automobile accident. The cause of the accident was due to the Defendant's negligence. To prove damages at trial, the Plaintiff may show either a written estimate of the cost to repair or the difference between the market value of the automobile before and after the accident. The "market value difference" may be proven either by oral testimony or written evidence from a qualified person. But the Plaintiff may not always plead for the greater damages. The injured party has a duty, where reasonable, to keep the damages as low as possible. Therefore, where the "market value difference" is much greater than the cost to repair, and repair of the car is reasonable, the Plaintiff must ask for damages in the amount of the cost to repair. However, where the repair costs are much higher than the "market value difference," the measure of proper damages may be the difference between the market value of the car before and after the accident.

If your damages include a claim for labor, remember that mere speculation as to future labor costs will not be considered by the Court in computing damages, although estimates by an expert would be proper evidence. An example of such an expert would be an auto mechanic. Evidence establishing sums actually spent for labor would also be proper evidence.

The area of burden of proof and proof of liability and damages is very important to the party seeking recovery for damages. If you are not sure what proof is needed at trial, you should seek legal advice. You could then decide to hire the lawyer to represent you at the trial or, after being advised of what the law requires, continue to represent yourself.

If at the time of trial you feel that more damages have occurred between the date you filed your [*Notice of Claim*](#) and the date set for trial, such as rent due, newly discovered damage to property, interest account, etc., before the trial, you may ask the Court to allow you to amend (change) your [*Notice of Claim*](#) to include new damages.

Witnesses and Exhibits for Trial

A party should try to get all witnesses to attend the trial. If a witness does not want to appear and testify voluntarily, a party may request the Clerk to issue a [Subpoena](#) ordering the witness to appear. Requests for [Subpoenas](#) should be made at the earliest possible date.

It is often important to the case that the proper documents or other exhibits be brought to the trial and shown to the Judge. Exhibits are identified by the Court Reporter and become a part of the court record of the trial and can be returned after thirty (30) days if a Notice of Appeal has not been filed. Please be aware that it is not office policy to automatically return evidence to you. After the thirty (30) days have passed, you must notify the Clerk, either in person, in writing or by telephone, that you wish to retrieve your documents. They remain a part of the original record if no notice is received. If, for any reason, you must keep the original documents, bring photocopies. If the Judge is satisfied as to the genuineness of the copies and there is no objection by the other party, the photocopies may be identified and made part of the court record of the trial in place of the original documents.

Attendance of witnesses and the presence of exhibits at the trial are the sole responsibility of the parties.

Judge's Decision – Judgment

The Judge may make a decision at the end of the trial or take the matter under advisement to make a decision at a later date. Notice of the Small Claims judgment, including default judgment, will be sent either to the attorneys of record if the parties are represented or to the parties. The judgment will then be entered into the court record.

If a judgment is awarded in your favor, you are entitled to add interest onto the principle. However, you also have the right to decide not to collect interest. The choice is yours. The current interest amount allowed by statute is 8% and the law allows interest to accrue on a judgment from the date a judgment is rendered. For your convenience, this amount will be computed by the Clerk's office and added to the outstanding balance.

Once you have received full payment of your judgment, you will be required to release the judgment. This is done by filing a [Release of Judgment](#) with the Clerk. Said form should be signed and returned no more than thirty (30) days from the date of the final payment. It is your responsibility to see that this case is released when you have received the amount due to you.

Plaintiff Fails to Appear at Trial

If the Plaintiff fails to appear for trial, Small Claims Rules provide that the Court may dismiss the claim without prejudice. If the claim is dismissed without prejudice, the Plaintiff can once again file the claim by paying another filing fee. If the Plaintiff fails to appear a second time for trial, the Small Claims Rules provide that the Court may dismiss the claim with prejudice. A dismissal with prejudice will prevent the Plaintiff from attempting further action in the case. Be sure to check the local court rule or procedure on the consequences of failing to appear at trial.

If the Plaintiff fails to appear at trial and the Defendant appears and has filed a [Counterclaim](#), the Judge may enter a default judgment against the Plaintiff based on the Defendant's [Counterclaim](#). (For the requirements, see [Default Judgment](#) below.)

Default Judgment

If at the trial the Plaintiff shows up and the Defendant does not, the Plaintiff can ask for a default judgment against the Defendant for the amount stated in the original claim.

For the Judge to grant the default judgment, the Plaintiff must prove the following:

- 1) That the Defendant was timely served with notice of the claim.
- 2) That, so far as the Plaintiff knows, the Defendant has no legal, physical, or mental disability that would prevent him or her from attending the trial or from understanding the nature of the proceedings.
- 3) That the Plaintiff has a valid claim and should recover from the Defendant.

To do this, the Plaintiff may sign affidavits, or in some case the Court may require the Plaintiff to give testimony from the witness stand.

Vacating a Default Judgment

The party against whom a default judgment has been entered may file a written request with the Court to have the Default Judgment vacated, or set aside. Such a request must be filed within one (1) year of the date the judgment was entered. If the request is properly filed, the Judge will hold a hearing for the parties to appear. The party requesting the overturning of the default judgment must show “good cause” for vacating the judgment. If the Judge vacates the judgment, the case will be scheduled for a new trial on the original claims of the parties.

If the one (1) year period has passed, the party seeking to set aside a default judgment can file an action to reverse the original judgment only by following Trial Rule 60(B) of the Indiana Rules of Trial Procedure. This would best be accomplished with the help of a lawyer.

Appeal

If one or both parties are unsatisfied with the Court’s decision and judgment, an appeal of the decision may be taken to the Indiana Court of Appeals. To qualify for appeal, the appealing party must take certain action within thirty (30) days of the Small Claims Court judgment. Due to the complicated rules for taking an appeal, the party seeking the appeal should consult legal counsel as soon as possible after the judgment has been entered.

Collection of Small Claim After Judgment

If you are the winning party, the judgment entered by the Court is a legal determination that another person owes you a certain sum of money, and Court costs.

Your judgment will be recorded (i.e., entered and indexed) in the Judgment Docket of this county. At that time, it becomes a lien on any real property owned by the debtor in this county, now or in the future. For your judgment to be a lien on real property in another county in this state, it must be recorded in that county. This is done by obtaining a certified copy of the judgment from the Clerk’s Office and delivering it, along with any necessary fees, to the Clerk of the county in question for registering in that county’s judgment docket. The judgment then becomes a lien on the debtor’s real property in that county. Once the judgment is recorded, the judgment lien exists for a period of ten (10) years. At the end of the ten year period, the lien against will expire. However, the lien can be extended for another ten year period by bringing an action on a judgment

within the ten year statute of limitations found in Ind. Code 34-1-2-2(6) prior to the expiration of the lien.

Although the judgment lien expires after ten (10) years as a general rule, the judgment itself may be enforced for up to twenty (20) years after its entry. The expiration of the lien on real property will prevent the judgment creditor from collecting his or her judgment through execution on real property. After the expiration of twenty years, a judgment is deemed satisfied under Ind. Code 34-1-2-12. The presumption of satisfaction is not conclusive and can be rebutted by the judgment creditor.

Collecting a judgment is your responsibility. The time it takes to collect depends upon both your diligence and the debtor's ability to pay. When judgment is entered, payment may be ordered in full or by installments. In addition, the Court will order that the payments be made to the Clerk's office. Since all payments are to be made to the Clerk, please consult that office for instructions if you are offered a direct payment. This is necessary so that proper accounting records can be retained. When payments are made to the Clerk, neither that office nor the Court will monitor payments. It is not the responsibility of either office to know if the Defendant makes late payments or misses 1 altogether.

Office policy will not allow payments to be personally picked up from our office; all checks will be mailed to the receiving party. The Clerk writes checks from the office account on a weekly basis, but certain accounting procedures must be performed. Because of this, there will be a small amount of time before you receive your money. Typically, a check is issued to you no later than the week following its receipt. There are, of course, certain circumstances that could cause a payment to be delayed, but this happens rarely.

Because of the high volume of cases handled by this office, it is no longer possible for the staff to check for payments. This is your responsibility. There are 2 computers located in the main hall that are at your disposal. You have unlimited access to check on the status of your case(s). For these computers, there is always an instruction sheet on the computer stand for your convenience. In addition to checking for payments, your case history is also available. A case history, also called a CCS, allows you to view all actions that have occurred in your case. Therefore, if you have questions about the status of your case or what form should be filed next, you will most likely be able to answer your own question by reviewing your case on the computer or by consulting this manual. If payment has not been made, you then have several legal methods of collection.

Filing a *Motion for Proceedings Supplemental* and an *Order to Appear* (attached) is the first step. However, please allow the Defendant at least thirty (30) days to begin making payments. If no payments have been made within that time, you may proceed with this step. When a *Proceedings Supplemental* is filed, the debtor is ordered to appear in Court and answer questions under oath about his or her ability to pay based upon income, assets, liabilities, family size, etc. If you know that the debtor has a job and know the address of his or her employer, you may ask the Clerk to issue *Interrogatories* to the employer when you file the *Proceedings Supplemental*. The Court can determine from the answers to the *Interrogatories* whether the debtor has wages that can be garnished.

At the hearing, you will have an opportunity to ask the debtor, or inform the Court, about the debtor's ability to pay. At the end of the hearing, the Judge may order any of the following:

- that the Defendant pays the judgment in full or in installments (the installments may be modified at any time in the future);
- that the Defendant supplies the Court with current information regarding employment status and address;

- that the Defendant is to reappear sometime in the future to provide additional information;
- that the Defendant's wages are garnished;
- that an execution against the debtor's personal property be entered;

At any time in the future, if the debtor fails to follow a Court order or if you believe that there has been an improvement in the debtor's ability to pay, you may ask that the debtor be ordered back to Court. This can be done throughout the lifetime of the judgment.

If the debtor is served with notice of the hearing and does not attend, a [*Contempt of Court Citation*](#) (also called a [*Rule to Show Cause*](#)) can be entered. The Defendant is once again ordered to appear for a further hearing. If the Defendant receives sufficient notice of this hearing and does not attend, the Court, at the winning party's request, may issue a *Body Attachment* to have the debtor arrested. When the Sheriff has arrested the Defendant, he or she will have the opportunity to pay the claim in full. The amount still owing on your case, plus interest if granted, is the bail that needs to be posted for the Defendant to be released from incarceration. If the Defendant is unable to pay or refuses to do so, he or she will be held in jail until another date for a hearing can be scheduled.

If the debtor cannot be found to be served with the [*Order to Appear*](#), the winning party can request that the hearing be continued to allow more time to find the debtor and to serve him or her with notice of the hearing.

Garnishment – The law limits the amount of garnishments and regulates the kinds of income that can be garnished. Since only one garnishment can be applied at one time, it is important to “get in line.” [Garnishment](#) orders are honored in the order in which they are received by an employer. If the debtor changes jobs, you must ask for a new garnishment order.

Execution Against Personal Property – The personal property of the debtor can be attached and sold at execution. This means of collection is strictly controlled by statute and subject to many exemptions. For that reason, it is advisable that you consult with an attorney if you think execution against personal property might be worthwhile.

If the Debtor Dies – To collect the judgment if the debtor dies before the judgment is paid, you must file a claim against the deceased's estate.

If the Debtor Files Bankruptcy – If shown to the Court that a debtor has filed bankruptcy and your judgment is listed in the bankruptcy petition, the Court is required by Federal law to stop collection proceedings. In that case, your only remedy is in Bankruptcy Court.

Release of Judgment

When you have received payment in full of your judgment, you are required to file a [*Release of Judgment*](#). This form states that you are fully satisfied with payment you have received and you wish to close this case and take no further action against the defendant. This should be filed within thirty (30) days of payment in full.

Forms Used in Small Claim Actions

Throughout this manual, different forms needed during the course of your suit have been mentioned. Each form is easy to complete and its intended use has been explained previously in this manual. However, if there is a form attached that is unfamiliar, please ask.

It is your responsibility to know which form and how many to file. Below you will find some examples of how many of each form you must bring to the Clerk's office when filing.

For any pleading that must be signed by the Judge, you need the original plus 1 to stay in the file. You will also need 1 copy for each party. Therefore, if your case has 1 defendant and you wish service to be achieved by first class or certified mail, you would need to bring the original plus 3 copies. For each additional defendant you would need 1 more copy.

For cases where the plaintiff chooses, and the Court allows, service by Sheriff, you should provide the original plus 1 for each party, plus 1 additional copy for each defendant the Sheriff is to serve.

Example: Plaintiff vs. John Doe and Jane Doe

You, the plaintiff, are filing an Order to Appear that will be served by first class mail. You would submit the original plus 3 copies. If the Court allows you to choose service by sheriff, you would bring the original plus 6.

People generally do not choose to file legal actions; they are usually forced by circumstance. However, sometimes it's impossible to settle a dispute and this step becomes necessary. If that is where you now find yourself, we hope you find this to be a valuable resource. We further hope that this manual makes the process a bit more familiar to you and that it answers many of the questions that you may have along the way.

SMALL CLAIM FORMS

PREPARING FOR COURT CHECKLIST

[Self-Service Legal Center \(/courts/selfservice\)](/courts/selfservice)

[Representing Yourself in Court \(/courts/selfservice/unrepresented\)](/courts/selfservice/unrepresented)

In Indiana, the Courts are open to each and every person. Although there is no requirement that a person have a lawyer to go to Court, you are encouraged to talk with lawyer to make sure you know your rights and all your legal options. Courts have a lot of rules and procedures that have to be followed. If you do not follow the rules, you may not be able to give the judge all of the information you want to about your case. If you represent yourself, you must be prepared. When preparing for your Court hearing, keep in mind the following things.

BEFORE YOUR COURT DATE

1. Read over all of your court documents. Be familiar with all the documents that you and the other side have submitted to the Court.
2. All parties in a court action must be given proper notice of all pending matters and hearings. Make sure you deliver a copy of each document or piece of information that is filed or delivered to the court to the other party. It is your responsibility to do this in most instances, not the court's. Failure to provide notice of a hearing or to give the documents to the other party could delay your case.
3. Review and research the statutes, rules or procedure, and case law that apply to your type of case. You need to be prepared "legally" for court. The Court will require you to follow the same rules and procedures that an attorney must follow.
4. Often it is helpful to observe another case similar to yours in the same court at some point before your hearing date so that you can see how the court conducts its proceedings.
5. Gather all the papers you want the judge to see. Make several copies to take to Court. The court may not be able to consider all of your information if it is not properly presented to the court as required by court rules. For information on how to properly admit documents and testimony into evidence at trial, see the [Indiana Rules of Evidence \(http://www.in.gov/judiciary/rules/evidence/\)](http://www.in.gov/judiciary/rules/evidence/) and the [Indiana Rules of Trial Procedure \(http://www.in.gov/judiciary/rules/trial proc/\)](http://www.in.gov/judiciary/rules/trial%20proc/).
6. Decide who you want to testify in Court on your behalf. Remember, in Court, you cannot tell the judge what someone else said, so if you need that statement introduced in Court, the person who made the statement needs to testify.
7. Write out your questions in advance. Go over your questions with your witnesses ahead of time. This will prepare both you and them for the actual hearing.

8. Create an outline or a brief summary of your side of the case. It may be helpful to prepare a brief list of your main points so you will be sure you state all that is necessary.

ON THE DAY OF YOUR COURT DATE

1. Be on time. Better yet, arrive early for your court hearing. However, be prepared to wait in case earlier cases take longer than expected. Give yourself plenty of extra time to get to the Courthouse. Most courts have metal detectors at their entrances, so it may take extra time to enter the Courtroom. Any bags or packages that are brought to court are subject to inspection. Weapons are not permitted. When you come to court, bring copies of any papers you want the Judge to see. The court will keep any item or papers offered in evidence.

2. Dress appropriately. It is important for you to dress in a manner that shows respect for the Court and for the legal proceeding that is taking place. Plan to dress as though you were going to an important job interview or attending a special occasion.

3. Be respectful to everyone. Call the Judge “Your Honor.” Always stand when the Judge or other judicial officer enters or leaves the bench. Address all comments to the Judge, except when you are questioning a witness.

4. Listen carefully and wait your turn to speak or respond. Do not interrupt others when they are talking. Everyone will get a chance to tell their side of the story. Be polite even if you do not agree. If you have an objection to testimony or documents presented to the court, your objections have to be made according to court rules and procedures.

5. An official record will be kept of the courtroom proceedings. All of your comments will be recorded. Be sure to speak clearly, slowly, and at a volume that can be heard and understood.

6. If other people are coming with you to court, only bring people who are needed for your case as a witness and maybe a few people to support you. Remember that the appearance and behavior of anyone who joins you in the courtroom will reflect directly on you and your case. Therefore, your friends and family members should dress and act appropriately to show respect for the Court and the important proceedings of which you are a part.

7. Do not bring children with you to court, unless you are specifically asked to do so by the Judge, an attorney or the Guardian ad Litem (GAL) or Court Appointed Special Advocate (CASA), or unless the child is a witness in the case or will provide information to the judge at the hearing.

8. Turn off cellular phones and pagers while in the courtroom, court offices or when attending conferences called by the court.

9. Be prepared to offer a brief summary of your side of the case. You need to tell the judge exactly what you want.

10. When asking your witnesses questions, it is helpful to start by asking them their name and address. If their job is important to your case, you may want to ask them what their occupation is, what their educational degrees are, and how long they have been doing their job. Then you can ask the specific questions that will bring out the information they have about your case.

11. You have the right to ask the other side and their witnesses questions during the hearing. You also have the right to object to testimony or documents/information presented to the court by the other side. However, you have to state the reason for any objection under the appropriate court rules or Rules of Evidence.

If you need any special arrangements with regard to disabilities or special needs, such as an interpreter, call ahead to the clerk's office or court office. By making arrangements ahead of time for any speech and hearing disabilities, vision problems, handicap accessibility, or language barriers, you can help to ensure that you will receive the best service possible from the Courts.

We truly want your experience with the Indiana Judicial System to be a pleasant one. The better informed and prepared you are, the more likely it is that you will have a positive experience and achieve the results you are hoping for in your case.

Getting help with your case

COURT STAFF CANNOT GIVE LEGAL ADVICE.

If you have questions about handling a legal matter, please contact a lawyer. See [Getting Legal Help](#) for some resources.

[Contact your local clerk's office](#) about where to file your forms, or [learn about how to e-file](#).

NOTICE OF CLAIM

Plaintiff
Address
City, State, Zip
Telephone

SMALL CLAIM
ADAMS SUPERIOR COURT
122 SOUTH 3RD STREET
DECATUR, IN 46733-1676
TELEPHONE: (260) 724-5347

AGAINST

Case number: _____

Defendant
Address
City, State and Zip
Telephone

TO THE DEFENDANT: You are notified that the Plaintiff has filed a small claim lawsuit against you in the Adams Superior Court naming you as Defendant. If you fail to appear for trial, a default judgment may be entered against you. Therefore, carefully read the information on the reverse side.

THE COURT HAS SET THE FIRST HEARING DATE FOR THIS LAWSUIT FOR THE _____ DAY OF _____, 20____, AT _____ .M. AT ADAMS SUPERIOR COURT, 122 SOUTH THIRD STREET, DECATUR, INDIANA 46733. A TRIAL DATE WILL BE SCHEDULED AT THE FIRST HEARING DATE IF THE PARTIES CANNOT RESOLVE THIS CLAIM.

The Plaintiff's claim is based on: _____ Written contract _____ Account or note _____ Other
(copy attached) (copy attached)

A brief statement of the matter of the Plaintiff's claim is as follows: _____

The Plaintiff demands judgment against the Defendant for \$_____ plus Court costs in the sum of \$_____ for a TOTAL of \$_____.

Plaintiff does ___ does not ___ demand interest at 8% on judgment.

Plaintiff

CAREFULLY READ THE INFORMATION ON THE REVERSE (OR FOLLOWING) PAGE

IMPORTANT INFORMATION ABOUT THIS CLAIM

1. **Payment and dismissal:** You may pay this claim and the Court costs before trial, and this case will be dismissed. Payment must be made at the Clerk's Office in the Courthouse at 112 South 2nd Street, Decatur, IN 46733, Monday through Friday from 8:00 a.m. to 4:00 p.m. **Do not pay the Plaintiff or the Plaintiff's attorney directly.**
2. **Method of payment:** If you do not wish to dispute the claim, you may appear on the first hearing date for the purpose of allowing the Court to establish the method by which the judgment should be paid.
3. **Disputing the Claim:** If you wish to dispute this claim, you must notify the Court at the first hearing date.
4. **Default Judgment:** If you fail to appear at the first hearing date or the trial date, a default judgment may be entered against you for the amount of the claim plus Court costs.
5. **Appearance:** You may appear in person, or if you wish, by an attorney. Attorneys are not required in small claims except for corporations.
6. **Counter-Claim:** If you have a claim against the Plaintiff, you may bring or mail a statement of such claim to this Court in sufficient time to allow the Court to mail a copy to the Plaintiff and be received by him at least seven days prior to the trial. If this is not done, the Plaintiff may request a continuance.
7. **Information at trial:** If the lawsuit shall require a trial before the Court, both parties should bring to the trial all documents in your possession or under your control and also your witnesses that are necessary to prove your side of the case. Any digital evidence must be placed on a DVD or flash drive for the Court to consider it.
8. **Jury trial:** You have a right to a jury trial, but this right is given up unless you request a jury trial within ten (10) days after you receive notice of this claim. If a jury trial request has been granted, it may not be withdrawn without the consent of the other party or parties. And within ten (10) days after the jury trial request has been granted, you pay the clerk the additional amount required by statute to transfer the claim to the plenary docket.
9. **Exchange of Trial Exhibits:** All documents, photographs, video evidence, and other exhibits you intend to introduce at trial must be provided to the opposing party **one week before trial** or they may not be considered by the Judge.
10. **Corporate Entities, Limited Liability Companies (LLC's), Limited Liability Partnerships (LLP's), Trusts:** Corporate Entities, Limited Liability Companies (LLC's), Limited Liability Partnerships (LLP's), Trusts must be represented by an attorney if the claim exceeds \$6,000.00.
11. **Full Time Employee or Trustee Designations:** Small Claims Rule 8(C) governs who may represent the parties. Before an employee who is designated pursuant to that rule to represent a corporate entity, sole proprietorship, partnership, LLC, LLP, or a trustee may act on behalf of a party in a small claims case, the designated employee or trustee must file **in each case** the certificate of compliance and affidavit required by S.C. 8(C).
12. **Sanctions:** A court may sanction a designated employee or trustee and the entity the employee or trustee represents for failure to comply with these rules or local rules of court. Sanctions may include assessment of costs or reasonable attorney's fees, the entry of a default judgment, the dismissal of a claim with or without prejudice, fines, and/or incarceration.
13. **Inability to appear:** If you are unable to appear at the time or place designated in this claim, you must contact the Court Reporter or Bailiff at Adams Superior Court, 122 South 3rd Street, Decatur, Indiana 46733, (260) 724-5347.
14. **Motions to Continue:** If you need to continue a hearing or trial, you must file a written Motion to Continue with the Clerk of the Court or the Court no later than five (5) days before that hearing and as timely as possible after discovering the need for a continuance. Your motion must set out in detail your reason for seeking a continuance. The Court may grant or deny your Motion to Continue. No continuance of hearing or trial will be granted upon an oral request.
15. **Additional information:** Additional information on small claims is available on the Clerk's website. <https://www.co.adams.in.us/289/Small-Claims>

AFFIDAVIT OF DEBT

Comes now affiant, and states:

I _____ am Plaintiff
(Name of Affiant) OR
 a designated full-time employee of _____ (Plaintiff).
(Name of Plaintiff)

I am of adult age and am fully authorized by Plaintiff to make the following representations. I am familiar with the record keeping practices of Plaintiff. The following representations are true according to documents kept in the normal course of Plaintiff's business and/or my personal knowledge:

Plaintiff:

- is the original owner of this debt.
- OR
- has obtained this debt from _____ and the original owner of this debt was _____.

_____, Defendant, has an unpaid balance of \$ _____ on account _____.
(Name of Defendant) (last 4 digits
of number or id only)

That amount is due and owing to Plaintiff. This account was opened on _____.
The last payment from Defendant was received on _____ in the amount of
\$ _____.

The type of account is:

- Credit card account (i.e. Visa, Mastercard, Department Store, etc.)
List the name of the Company/Store issuing credit card: _____
- Account for utilities (i.e. telephone, electric, sewer, etc.)
- Medical bill account (i.e. doctor, dentist, hospital, etc.)
- Account for services (i.e. attorney fees, mechanic fees, etc.)
- Judgment issued by a court (a copy of the judgment is required to be attached)
- Other: (Please explain) _____

_____.

This account balance includes:

- Late fees in the amount of \$ _____ as of _____.
(Month, Day, Year)
- Other (Explain _____)
- Interest at a rate of _____% beginning on _____.
(Month, Day, Year)

Plaintiff:

- is seeking attorney's fees and additional evidence will be presented to the court prior to entry of judgment on attorney's fees.

OR

is not seeking attorney's fees.

Plaintiff believes that defendant is not a minor or an incompetent individual.

If the defendant is an individual, plaintiff states and declares that:

Defendant is not on active military service. Plaintiff's statement that Defendant is not on active military service is based upon the following facts:

_____.

OR

Plaintiff is unable to determine whether or not Defendant is not on active military service.

("Active military service" includes fulltime duty in the military (including the National Guard and reserves) and, for members of the National Guard, service under a call to active service authorized by the President or Secretary of Defense. For further information, see the definition of "military service" in the Servicemembers Civil Relief Act, as amended, 50 U.S.C.A. Appx. § 521.)

I swear or affirm under the penalties of perjury that the foregoing representations are true.

Date: _____ Signature of Affiant: _____

STATE OF INDIANA)
) SS:
COUNTY OF ADAMS)

IN THE ADAMS SUPERIOR COURT

122 SOUTH 3RD STREET
DECATUR, IN 46733
TELEPHONE: (260) 724-5347

Case Number: _____

Name of Corporation, Partnership, Sole Proprietorship, or LLC
("Business Organization") (Strike those that do not apply.)

RESOLUTION

WHEREAS, this Business Organization is duly organized and existing under the laws of the State of Indiana; the Business Organization anticipates or currently has matters subject to litigation in the Adams Superior Court Small Claims; and Indiana Trial Rule S.C. 8(C) permits this Business Organization to appear without legal counsel under certain conditions;

RESOLVED, in any unassigned claim not exceeding Six Thousand and 00/100 Dollars (\$6,000.00) filed in the Small Claims, Adams Superior Court, Adams County, Indiana, this Business Organization, through its Board of Directors, Partners, Members, or Business Owner, designates

_____, a FULL-TIME EMPLOYEE, to appear on its behalf in the presentation or defense of claims arising in the ordinary course of business;

IT IS FURTHER RESOLVED, this Business Organization shall be bound by any and all agreements relating to the small claim proceeding entered into by the designated employee and shall be liable for any and all costs, including those assessed for contempt which are levied by the Court against the designated employee.

Dated:

PARTNER / BUSINESS OWNER / AUTHORIZED MEMBER
(Circle One)

Partnership / Sole Proprietorship / LLC

Signature

Printed Name

PRESIDENT OF CORPORATION

Signature

Printed Name

SECRETARY OF CORPORATION

Signature

Printed Name

AFFIDAVIT OF DESIGNATED EMPLOYEE

The undersigned designated employee affirms under penalty of perjury that she/he has not been suspended or disbarred from the practice of law in the State of Indiana or any other jurisdiction and is a full-time employee of a sole proprietor or partnership for which he/she has been designated to appear in the Small Claim Division of Adams County Superior Court, in proceedings set forth hereinabove.

Dated: _____

Signature

Printed Name

CERTIFICATE OF COMPLIANCE UNDER INDIANA TRIAL RULE S.C. 8(C)

It is certified that the foregoing RESOLUTION and AFFIDAVIT OF DESIGNATED EMPLOYEE have been received for filing with the Adams Superior Court Small Claims on behalf of the within-named Business Organization.

Dated:

Clerk, Adams Superior Court

STATE OF INDIANA)
)SS
COUNTY OF ADAMS)

IN THE ADAMS SUPERIOR COURT
SMALL CLAIMS
CASE NUMBER: _____

Plaintiff

vs.

Defendant

APPEARANCE BY SELF-REPRESENTED PERSON

1. My name is: _____ and I am
Initiating (filing) _____;
Responding (answering or defending) _____; or
Intervening _____;
In this case and am representing myself.
2. Contact information for receiving legal service of documents an case information is required by Court Rules:

Address: _____

Email Address: _____

Phone: _____

Self-representing party

STATE OF INDIANA) IN THE _____ COURT
) SS:
COUNTY OF _____) Case Number: _____
(To be supplied by Clerk when case is filed.)

(Caption)

APPEARANCE BY ATTORNEY IN CIVIL CASE

This Appearance Form must be filed on behalf of every party in a civil case.

1. The party on whose behalf this form is being filed is:
Initiating _____ Responding _____ Intervening _____ ; and

the undersigned attorney and all attorneys listed on this form now appear in this case for the following parties:

Name of party _____

Address of party (see Question # 6 below if this case involves a protection from abuse order, a workplace violence restraining order, or a no-contact order)

Telephone # of party _____

(List on a continuation page additional parties this attorney represents in this case.)

2. Attorney information for service as required by Trial Rule 5(B)(2)

Name: _____ Atty Number: _____

Address: _____

Phone: _____

FAX: _____

Email Address: _____

(List on continuation page additional attorneys appearing for above party)

3. This is a _____ case type as defined in administrative Rule 8(B)(3).

4. I will accept service by FAX at the above noted number: Yes _____ No _____

Attorney-at-Law

(Attorney information shown above.)

STATE OF INDIANA)
) SS:
COUNTY OF ADAMS)

IN THE ADAMS SUPERIOR COURT
SMALL CLAIMS DIVISION

CASE NUMBER: _____

Plaintiff(s) / Petitioner(s)

vs.

Defendant(s) / Respondent(s)

RETURN OF SERVICE OF SUMMONS

ADMISSION OF SERVICE

I received a copy of the Summons and Complaint / Equivalent Pleading on this date _____ and at this location

(address)

Signature of Party
(Relationship – If not the named person)

SHERIFF'S RETURN OF SERVICE OF SUMMONS

I hereby certify that I have served this Summons on the ____ day of _____, 20____:

- By delivering a copy of the Summons and a copy of the Complaint / Equivalent Pleading to the Defendant / Respondent identified on the first page of the Summons.
- By leaving a copy of the Summons and a copy of the Complaint / Equivalent Pleading at

(address)

which is the dwelling place or usual place of abode of and by mailing a copy of the Summons to the Defendant / Respondent at the above address.

- Other Service or Remarks: _____

Sheriff's Costs

Sheriff

By Deputy

RETURN ON SERVICE OF SUMMONS BY MAIL

- I hereby certify that the attached receipt was received by me showing that the Summons and a copy of the Complaint / Equivalent Pleading mailed to the Defendant / Respondent identified on the first page of this Summons was accepted by the Defendant / Respondent;
- I hereby certify that the attached receipt was received by me showing that the Summons and a copy of the Complaint / Equivalent Pleading was not accepted;
- I hereby certify that the attached return receipt was received by me showing that the Summons and a copy of the Complaint / Equivalent Pleading mailed to the Defendant / Respondent identified on the first page of this Summons was accepted by _____ on behalf of the Defendant / Respondent;

on the ____ day of _____, 20____.

Signature

STATE OF INDIANA)
) SS
COUNTY OF ADAMS)

IN THE ADAMS SUPERIOR COURT

CASE NUMBER: _____

Plaintiff

vs.

Defendant

VOLUNTARY MOTION TO DISMISS

The Plaintiff in the above entitled case shows to the Court that the claim that is the basis for this case, together with Court costs, has been fully satisfied.

THEREFORE, the plaintiff moves the Court to dismiss this case with prejudice.

Dated this _____ day of _____, 20____.

Plaintiff

STATE OF INDIANA)
) SS:
COUNTY OF ADAMS)

IN THE ADAMS SUPERIOR COURT

CASE NUMBER: _____

Plaintiff(s)

vs.

Defendant(s)

AFFIDAVIT FOR JUDGMENT BY DEFAULT

Plaintiff now appears and states that to the best of (its / his / her) knowledge:

1. Service of the Notice of Suit occurred under such circumstances as to establish a reasonable probability that Defendant(s) received such notice.
2. The Defendant(s) is (are) not in the military service of the United States, is (are) neither incompetent, nor under a legal disability, and has (have) sufficient understanding to realize the nature and effect of the Notice of Suit.
3. The Defendant(s) has (have) not appeared or answered the Notice of Suit herein filed.

Plaintiff(s) is (are) therefore entitled to final judgment against the Defendant(s).

I affirm, under the penalty of perjury, that the foregoing representations are true.

Date

Plaintiff / Attorney for Plaintiff

Street Address of Plaintiff / Attorney for Plaintiff

City, State

Zip Code

Telephone Number

Supreme Court ID Number

Certificate of Service

I hereby certify that a copy of this document was sent to the parties or their counsel by _____
(US Mail, E-Service, Sheriff, other manner allowed by IN Trial Rules).

Date

Name

STATE OF INDIANA)
) SS:
COUNTY OF ADAMS)

IN THE ADAMS SUPERIOR COURT

CASE NUMBER: _____

Plaintiff(s)

VS.

Defendant(s)

AGREED JUDGMENT (CONFESSION OF JUDGMENT)

Defendant #1

Defendant #2

Date of Birth XXX-XX-
Social Security Number
(Last 4 Digits Only)

Date of Birth XXX-XX-
Social Security Number
(Last 4 Digits Only)

Address

Address

Telephone Number

Telephone Number

Employer

Employer

The parties to this action have settled the matters at issue and request the Court to enter judgment against the Defendant(s) as follows:

The Defendant(s) affirm(s), under the penalty of perjury, that confession of judgment is not made for the purpose of defrauding creditors.

Date

Plaintiff #1 Signature

Defendant #1 Signature

Plaintiff #2 Signature

Defendant #2 Signature

Certificate of Service

I hereby certify that a copy of this document was sent to the parties or their counsel by _____
(US Mail, E-Service, Sheriff, other manner allowed by IN Trial Rules).

Date

Name

STATE OF INDIANA)
) SS:
COUNTY OF ADAMS)

IN THE ADAMS SUPERIOR COURT

CASE NUMBER: _____

Plaintiff(s)

vs.

Defendant(s)

ORDER ON AGREED JUDGMENT (CONFESSION OF JUDGMENT)

Judgment is hereby ordered for _____

Name(s) of Prevailing Party(ies)

and against _____

Name(s) of Party(ies) being Rendered Against

jointly and severally, for the following:

Interest Bearing Amounts

A. Principal \$ _____

B. E-Filing Service Fee \$ _____

C. Attorney Fees \$ _____

D. Pre-Judgment Interest \$ _____

E. _____ \$ _____

Non-Interest Bearing Amounts

A. Costs Assessed \$ _____

B. Sheriff Service Fees \$ _____

C. Certified Mail Fees \$ _____

D. _____ \$ _____

Judgment \$ _____

Cost & Fees \$ _____

Total Amount Owing \$ _____

(Interest owing at the rate of ____ percent per annum from the date of this order will be applied to the Interest Bearing Amounts)

Dated: _____

Samuel K. Conrad
Judge, Adams Superior Court

Certificate of Service

I hereby certify that a copy of this document was sent to the parties or their counsel by _____
(US Mail, E-Service, Sheriff, other manner allowed by IN Trial Rules).

Date

Name

STATE OF INDIANA)
) SS:
COUNTY OF ADAMS)

IN THE ADAMS SUPERIOR COURT

CASE NUMBER:

Plaintiff(s)

VS.

Defendant(s)

AND

Garnishee Defendant

Street Address

Street Address

City, State Zip Code

City, State Zip Code

**VERIFIED MOTION FOR PROCEEDINGS SUPPLEMENTAL
TO DEFENDANT AND GARNISHEE DEFENDANT**

Plaintiff / Plaintiff's counsel appears and states that to the best of its/his/her knowledge:

1. Plaintiff owns the judgment rendered in this case against the Defendant(s);
2. Plaintiff's judgment is unsatisfied, with a balance due upon judgment, interest and costs in the amount of \$ _____; and
3. Plaintiff has no cause to believe that levy of execution against the Defendant(s) will satisfy the judgment.
4. Garnishee Defendant has or will have in its possession the following personal property of Defendant(s) to wit: wages, salaries, commission, earnings, and income.

Plaintiff requests that the Court issue an order notifying Defendant(s) of these proceedings and requiring the Garnishee Defendant to answer interrogatories concerning Defendant's property in its/his/her possession. The Garnishee Defendant shall not withhold from the wages of the employee/defendant until the Garnishee Defendant receives a Garnishment Order from this Court directing Garnishee Defendant to withhold the wages. I affirm, under the penalty of perjury, that the foregoing representations are true.

Street Address of Plaintiff / Attorney

Signature of Plaintiff / Attorney

City, State Zip Code

Printed Name of Plaintiff / Attorney

Telephone Number Supreme Court ID Number

Certificate of Service

I hereby certify that a copy of this document was sent to the parties or their counsel by _____
(US Mail, E-Service, Sheriff, other manner allowed by IN Trial Rules).

Date

Name

STATE OF INDIANA)
) SS:
COUNTY OF ADAMS)

IN THE ADAMS SUPERIOR COURT

CASE NUMBER:

Plaintiff(s)

VS.

Defendant(s)

AND

Garnishee Defendant

Street Address

Street Address

City, State

Zip Code

City, State

Zip Code

ORDER TO DEFENDANT AND NOTICE AND SUMMONS TO GARNISHEE DEFENDANT

Plaintiff files verified motion for proceedings supplemental and interrogatories; motion granted.

To the Defendant: You are ordered appear in this Court on _____ at _____ A.M./P.M. in Adams Superior Court, 122 S. 3rd Street, Decatur, IN 46733 ,if you wish to contest the garnishment order. However, you do not wish to contest the garnishment order, you need not appear.

To the Garnishee Defendant: On or before _____, you are ordered to answer and return the following interrogatories to the Clerk.

You shall not withhold from the wages of the employee/defendant until you receive a Garnishment Order from this Court directing you to withhold the wages.

Date

Judge, Adams Superior Court

Certificate of Service

I hereby certify that a copy of this document was sent to the parties or their counsel by _____ (US Mail, E-Service, Sheriff, other manner allowed by IN Trial Rules).

Date

Name

DEDUCTION CALCULATIONS

Indiana Code 24-4.5-5-105

Limitation on garnishment and proceedings supplemental to execution; employer's fee

(1) For the purposes of IC 24-4.5-5-101 through IC 24-4.5-5-108:

- (a) "disposable earnings" means that part of the earnings of an individual, including wages, commissions, income, rents, or profits remaining after the deduction from those earnings of amounts required by law to be withheld;
- (b) "garnishment" means any legal or equitable proceedings through which the earnings of an individual are required to be withheld by a garnishee, by the individual debtor, or by any other person for the payment of a judgment; and
- (c) "support withholding" means that part of the earnings that are withheld from an individual for child support in accordance with the laws of this state.

(2) Except as provided in subsection (8), the maximum part of the aggregate disposable earnings of an individual for any workweek which is subjected to garnishment to enforce the payment of one (1) or more judgments against the individual may not exceed the lesser of the following amounts:

(a) An amount equal to twenty-five percent (25%) of the individual's disposable earnings for that week or, upon a showing of good cause by the individual why the amount should be reduced, an amount equal to:

- (i) less than twenty-five percent (25%); and
- (ii) at least ten percent (10%);

of the individual's disposable earnings for that week.

(b) The amount by which the individual's disposable earnings for that week exceed thirty (30) times the federal minimum hourly wage prescribed by 29 U.S.C. 206(a)(1) in effect at the time the earnings are payable.

In the case of earnings for a pay period other than a week, the earnings shall be computed upon a multiple of the federal minimum hourly wage equivalent to thirty (30) times the federal minimum hourly wage as prescribed in this section.

(3) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment or support withholding to enforce any order for the support of any person shall not exceed:

(a) where such individual is supporting the individual's spouse or dependent child (other than a spouse or child with respect to whose support such order is used), fifty percent (50%) of such individual's disposable earnings for that week; and

(b) where such individual is not supporting such a spouse or dependent child described in subdivision (a), sixty percent (60%) of such individual's disposable earnings for that week;

except that, with respect to the disposable earnings of any individual for any workweek, the fifty percent (50%) specified in subdivision (a) shall be deemed to be fifty-five percent (55%) and the sixty percent (60%) specified in subdivision (b) shall be deemed to be sixty-five percent (65%), if and to the extent that such earnings are subject to garnishment or support withholding to enforce a support order with respect to a period which is prior to the twelve (12) week period which ends with the beginning of such workweek.

(4) No court may make, execute, or enforce an order or process in violation of this section.

OPTIONAL EMPLOYER'S FEE

Indiana Code 24-4.5-5-105 further provides:

(5) An employer who is required to make deductions from an individual's disposable earnings pursuant to a garnishment order or series of orders arising out of the same judgment debt (excluding a judgment for payment of child support) may collect, as a fee to compensate the employer for making these deductions, an amount equal to the greater of twelve dollars (\$12) or three percent (3%) of the total amount required to be deducted by the garnishment order or series of orders arising out of the same judgment debt. If the employer chooses to impose a fee, the fee shall be allocated as follows:

(a) One-half (1/2) of the fee shall be borne by the debtor, and that amount may be deducted by the employer directly from the employee's disposable earnings.

(b) One-half (1/2) of the fee shall be borne by the creditor, and that amount may be retained by the employer from the amount otherwise due the creditor.

The deductions made under this subsection for a collection fee do not increase the amount of the judgment debt for which the fee is collected for the purpose of calculating or collecting judgment interest. This fee may be collected by an employer only once for each garnishment order or series of orders arising out of the same judgment debt. The employer may collect the entire fee from one (1) or more of the initial deductions from the employee's disposable earnings. Alternatively, the employer may collect the fee ratably over the number of pay periods during which deductions from the employee's disposable earnings are required.

(6) The deduction of the garnishment collection fee under subsection (5)(a) or subsection (7) is not an assignment of wages under IC 22-2-6.

(7) An employer who is required to make a deduction from an individual's disposable earnings in accordance with a judgment for payment of child support may collect a fee of two dollars (\$2) each time the employer is required to make the deduction. The fee may be deducted by the employer from the individual's disposable earnings each time the employer makes the deduction for support. If the employer elects to deduct such a fee, the amount to be deducted for the payment of support must be reduced accordingly if necessary to avoid exceeding the maximum amount permitted to be deducted under subsection (3).

(8) A support withholding order takes priority over a garnishment order irrespective of their dates of entry or activation. If a person is subject to a support withholding order and a garnishment order, the garnishment order shall be honored only to the extent that disposable earnings withheld under the support withholding order do not exceed the maximum amount subject to garnishment as computed under subsection (2).

STATE OF INDIANA)
) SS:
COUNTY OF ADAMS)

IN THE ADAMS SUPERIOR COURT

CASE NUMBER:

Plaintiff(s) vs.

**INTERROGATORIES
PROPOUNDED TO GARNISHEE DEFENDANT**

Defendant(s)

(PLEASE REFER TO THE INSTRUCTIONS LISTED ON THE
REVERSE SIDE / PAGE 2 OF THIS FORM.)

Street Address

City, State Zip Code

Social Security Number (last 4 digits only)
AND

Garnishee Defendant

Plaintiff submits the following interrogatories to be answered by the Garnishee Defendant. (ALL QUESTIONS MUST BE ANSWERED.)

QUESTION	ANSWER
1. Is the Defendant in your employ?	1.
2. If the Defendant is not in your employ, give the date of the separation.	2.
3. If the Defendant is no longer in your employ, do you retain any monies payable to him/her? If yes, how much?	3.
4. If the Defendant is no longer employed by you, what is the name of Defendant's current employer?	4.
5. If the Defendant is on an hourly pay rate, what is that rate?	5.
6. What is the Defendant's normal gross salary?	6.
7. Does the Defendant draw or receive any other wages, payments, salary, commissions, rebates, profits or income from you other than those above? If so, please list.	7.
8. At present, are there any garnishments or wage attachments on the Defendant's earnings? If so, please list the case numbers.	8.
9. What is the Defendant's Social Security Number?	9. XXX-XX-_____ (last 4 digits only)
10. What is the address of the Defendant's residence?	10.
11. What is your e-mail address? This e-mail address will be sent an electronic copy of any Garnishment Order that is issued.	11.

I affirm, under the penalty of perjury, that the foregoing representations are true.

Dated: _____

Signature

Please return these interrogatories to:
Clerk of Adams Circuit and Superior Courts
112 South 2nd Street, Room A
Decatur, IN 46733

Printed Name Work Phone Number

Position with Garnishee Defendant

Certificate of Service

I hereby certify that a copy of this document was sent to the parties or their counsel by _____
(US Mail, E-Service, Sheriff, other manner allowed by IN Trial Rules.)

Date

Name

DEDUCTION CALCULATIONS

I.C. 24-4.5-5-105 PROVIDES THAT:

LIMITATION ON GARNISHMENT AND PROCEEDINGS SUPPLEMENTAL TO EXECUTION - FEE TO COMPENSATE EMPLOYER FOR MAKING DEDUCTIONS.

(1) For the purposes of I.C. 24-4.5-5-101 through I.C. 24-4.5-5-108:

- (a) "Disposable earnings" means that part of the earnings of an individual, including wages, commissions, income, rents, or profits remaining after the deduction from those earnings of amounts required by law to be withheld;
- (b) "Garnishment" means any legal or equitable proceedings through which the earnings of an individual are required to be withheld by a garnishee, by the individual debtor, or by another person for the payment of a judgment; and
- (c) "Support Withholding" means that part of the earnings that are withheld from an individual for child support in accordance with the laws of this state.

(2) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subjected to garnishment to enforce the payment of one (1) or more judgments against him may not exceed:

- (a) Twenty-five percent (25%) of his disposable earnings for that week; OR
- (b) The amount by which his disposable earnings for that week exceed thirty (30) times the federal minimum hourly wage prescribed by 29 U.S.C. 206(a)(1) in effect at the time the earnings are payable;

whichever is less. In the case of earnings for a pay period other than a week, the earnings shall be computed upon a multiple of the federal minimum hourly wage equivalent to thirty (30) times the federal minimum hourly wage as prescribed in this section.

(3) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment or withholding to enforce any order for the support of any person shall not exceed:

- (a) Where such individual is supporting his spouse or dependent child (other than a spouse or child with respect to whose support such order is used), fifty percent (50%) of such individual's disposable earnings for that week; and
- (b) Where such individual is not supporting such a spouse or dependent child described in subdivision (a), sixty percent (60%) of such individual's disposable earnings for that week;

except that, with respect to the disposable earnings of any individual for any workweek, the fifty percent (50%) specified in subdivision (a) shall be deemed to be fifty-five percent (55%) and the sixty percent (60%) specified in subdivision (b) shall be deemed to be sixty-five percent (65%), if and to the extent that such earnings are subject to garnishment or support withholding to enforce a support order with respect to a period which is prior to the twelve (12) week period which ends with the beginning of such workweek.

OPTIONAL EMPLOYER'S FEE

I.C. 24-4.5-5-105 FURTHER PROVIDES THAT:

An employer who is required to make deductions from an individual's disposable earnings pursuant to a garnishment order or series of orders arising out of the same judgment debt (excluding a judgment for payment of child support) may collect, as a fee to compensate the employer for making these deductions, an amount equal to the greater of twelve dollars (\$12) or three percent (3%) of the total amount required to be deducted by the garnishment order or series of orders arising out of the same judgment debt. If the employer chooses to impose a fee, the fee shall be allocated as follows:

- (a) One-half (1/2) of the fee shall be borne by the debtor, and that amount may be deducted by the employer directly from the employee's disposable earnings.
- (b) One-half (1/2) of the fee shall be borne by the creditor, and that amount may be retained by the employer from the amount otherwise due the creditor.

The deductions made under this subsection for a collection fee do not increase the amount of the judgment debt for which the fee is collected for the purpose of calculating or collecting judgment interest. This fee may be collected by an employer only once for each garnishment order or series of orders arising out of the same judgment debt. The employer may collect the entire fee from one (1) or more of the initial deductions from the employee's disposable earnings. Alternatively, the employer may collect the fee ratably over the number of pay periods during which deductions from the employee's disposable earnings are required.

A [child] support withholding order takes priority over a garnishment order irrespective of their dates of entry or activation. If a person is subject to a [child] support withholding order and a garnishment order, the garnishment order shall be honored only to the extent that disposable earnings withheld under the [child] support withholding order do not exceed the maximum amount subject to garnishment as computed under subsection (2).

STATE OF INDIANA)
)SS
COUNTY OF ADAMS)

IN THE ADAMS SUPERIOR COURT
CASE NUMBER: _____

Plaintiff

vs.

Defendant

POST-JUDGMENT AGREEMENT

The Plaintiff is demanding payment of the judgment entered in this case against the defendant(s) _____, in the amount of \$ _____ plus Court costs of \$ _____, making the total amount owed \$ _____. The defendant(s) promises to pay the plaintiff the full amount indicated above in the following manner:

Dated this _____ day of _____, _____.

Signature of Plaintiff

Plaintiff's offer is hereby accepted this _____ day of _____, _____.

Signature of Defendant

This agreement was approved by me.
Dated: _____

Samuel K. Conrad
Judge, Adams Superior Court

STATE OF INDIANA)
)SS
COUNTY OF ADAMS)

IN THE ADAMS SUPERIOR COURT
CASE NUMBER 01D01-_____

_____ Plaintiff

vs.

_____ Defendant

WAGE ASSIGNMENT

The undersigned, _____, hereby assigns the sum of \$_____ per week to _____, the Plaintiff in this case and authorizes his/her employer, _____ the sum of \$_____ and to pay said sum to the Clerk of the Adams Superior Court for the payment of the judgment in this case.

Dated: _____

Defendant
SS#: XXX-XX-_____

STATE OF INDIANA)
) SS:
COUNTY OF ADAMS)

IN THE ADAMS SUPERIOR COURT
SMALL CLAIM
CASE NO: _____

Plaintiff

VS.

GARNISHMENT ORDER

Defendant
XXX-XX-

Garnishee Defendant

Plaintiff appears and makes proof of service of notice of hearing upon Defendant and Garnishee Defendant. The Court now finds and orders:

1. That Garnishee Defendant withhold from the earnings of the Defendant the lesser of the following sums:

- A. Twenty-five percent (25%) of said earnings after subtracting income taxes and social security withholdings per week; OR
- B. All of said earnings after subtracting income taxes, social security withholdings, and \$_____ [insert thirty (30) times the federal minimum hourly wage per week].

2. That withholding of said amounts shall be continued until the following sums are fully paid:

- A. Judgment \$ _____
- B. Costs \$ _____
- C. Interest \$ _____
- D. Payments \$ _____
- E. **Total Amount Owing** \$ _____

(Interest owing at the rate of _____ percent from the date of this order will be applied to Judgment Amount)

3. The Garnishee Defendant is ordered to pay to the Clerk of Courts the withheld amounts every thirty (30) days.

DATED: _____

Samuel K. Conrad
Judge, Adams Superior Court

CERTIFICATE OF SERVICE

I hereby certify a copy of this Garnishment Order was sent to the parties or their counsel by _____ (US Mail, E-Service, Sheriff, other manner allowed by IN Trial Rules).

Date _____

DEDUCTION CALCULATIONS

I.C. 24-4.5-5-105 PROVIDES THAT:

LIMITATIONS ON GARNISHMENT AND PROCEEDINGS SUPPLEMENTAL TO EXECUTION – FEE TO COMPENSATE EMPLOYER FOR MAKING DEDUCTIONS.

(1) For the purposes of I.C. 24-4.5-5-101 through I.C. 24-4.5-5-108:

- (a) “Disposable earnings” means that part of the earnings of an individual, including wages, commissions, income, rents, or profits remaining after the deduction from those earnings of amounts required by law to be withheld;
- (b) “Garnishment” means any legal or equitable proceedings through which the earnings of an individual are required to be withheld by a garnishee, by the individual debtor, or by another person for the payment of a judgment; and
- (c) “Withholding” means that part of the earnings that are withheld from an individual for child support in accordance with the laws of this state.

(2) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subjected to garnishment to enforce the payment of one (1) or more judgments against him may not exceed:

- (a) Twenty-five percent (25%) of his disposable earnings for that week; OR
- (b) The amount by which his disposable earnings for that week exceed thirty (30) times the federal minimum hourly wage prescribed by 29 U.S.C. 206(a)(1) in effect at the time the earnings are payable; whichever is less. In the case of earnings for a pay period other than a week, the earnings shall be computed upon a multiple of the federal minimum hourly wage as prescribed in this section.

(3) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment or withholding to enforce any order for the support of any person shall not exceed:

- (a) Where such individual is supporting his spouse or dependent child (other than a spouse or child with respect to whose support such order is used), fifty percent (50%) of such individual’s disposable earnings for that week; and
- (b) Where such individual is not supporting such a spouse or dependent child described in clause (a), sixty percent (60%) of such individual’s disposable earnings for that week;

except that, with respect to the disposable earnings of any individual for any workweek, the fifty percent (50%) specified in subdivision (a) shall be deemed to be fifty-five percent (55%) and the sixty percent (60%) specified in subdivision (b) shall be deemed to be sixty-five percent (65%), if and to the extent that such earnings are subject to garnishment or withholding to enforce a support order with respect to a period which is prior to the twelve (12) week period which ends with the beginning of such workweek.

OPTIONAL EMPLOYER’S FEE

I.C. 24-4.5-5-105 FURTHER PROVIDES THAT:

An employer is required to make deductions from an individual’s disposable earnings pursuant to a garnishment order or series of orders arising out of the same judgment debt (excluding a judgment for payment of child support) may collect, as a fee to compensate the employer for making these deductions, an amount equal to the greater of twelve dollars (\$12) or three percent (3%) of the total amount required to be deducted by the garnishment order or series of orders arising out of the same judgment debt. If the employer chooses to impose a fee, the fee shall be allocated as follows:

- (a) One-half (1/2) of the fee shall be borne by the debtor, and that amount may be deducted by the employer directly from employee’s disposable earnings.
- (b) One-half (1/2) of the fee shall be borne by the creditor, and that amount may be retained by the employer from the amount otherwise due the creditor.

The deductions made under this subsection for a collection fee do not increase the amount of the judgment debt for which the fee is collected for the purpose of calculating or collecting judgment interest. This fee may be collected by an employer only once for each garnishment order or series of orders arising out of the same judgment debt. The employer may collect the entire fee from one (1) or more of the initial deductions from the employee’s disposable earnings. Alternatively, the employer may collect the fee ratably over the number of pay periods during which deductions from the employee’s disposable earnings are required.

A [child] support withholding order takes priority over a garnishment order irrespective of their dates of entry or activation. If a person is subject to a [child] support withholding order and a garnishment order, the garnishment order shall be honored only to the extent that disposable earnings withheld under the [child] support withholding order do not exceed the maximum amount subject to garnishment as computed under subsection (2).

PAYMENT GUIDELINES FOR THE GARNISHEE DEFENDANT

In order for funds to be applied by the Clerk's Office, the following information must be included with every payment submitted:

- 1) **Individual's full name.**
- 2) **Court's full case number** (located at the upper right corner of the garnishment order).
- 3) When a group of names are submitted (rather than one check per person), the above two items should be listed for each person, in addition to the amount of money to be applied to each case.
- 4) Please remit your payment and the above information to:

**Clerk of Adams Superior Court
112 South 2nd Street
Decatur, IN 46733**

This information is vital to the timely and accurate processing of payments received. Your cooperation is greatly appreciated. If you have questions regarding the guidelines described above, you may contact the Clerk's Office at (260) 724-5309.

STATE OF INDIANA)
)SS
COUNTY OF ADAMS)

IN THE ADAMS SUPERIOR COURT

CASE NUMBER: _____

Plaintiff

vs.

Defendant

CONTEMPT OF COURT CITATION

You, _____, were previously ordered to appear in Court on _____ at _____. You failed to appear at that time as ordered.

Therefore, you are ordered to show cause why you should not be punished for contempt of Court for failure to abide by the orders of the Court.

You are ordered to be present at a hearing on this matter on _____ at _____.

IF YOU FAIL TO APPEAR AT THIS HEARING, A BODY ATTACHMENT WILL BE ISSUED FOR YOUR ARREST.

Dated: _____

Samuel K. Conrad
Judge, Adams Superior Court

STATE OF INDIANA)
) SS:
COUNTY OF ADAMS)

IN THE ADAMS SUPERIOR COURT

DECATUR, INDIANA

CASE NUMBER:

Plaintiff(s)

VS.

Defendant(s)

AND

Garnishee Defendant

Street Address

Street Address

City, State

Zip Code

City, State

Zip Code

**VERIFIED MOTION FOR PROCEEDINGS SUPPLEMENTAL TO DEFENDANT AND
TO GARNISHEE DEFENDANT FINANCIAL INSTITUTION**

Plaintiff / Plaintiff's counsel appears and states that to the best of its/his/her knowledge:

1. Plaintiff owns the judgment rendered in this case against the Defendant(s);
2. Plaintiff's judgment is unsatisfied, with a balance due upon judgment, interest and costs in
3. the amount of \$_____; and
4. Plaintiff has no cause to believe that levy of execution against the Defendant(s) will satisfy the judgment.
5. Garnishee Defendant has or will have in its possession one or more deposit accounts as defined by Ind. Code 28-9-2-1, et. seq. in which the Defendant(s) has (have) an interest.

Plaintiff requests that the Court issue an order notifying Defendant(s) of these proceedings and requiring the Garnishee Defendant to answer interrogatories concerning Defendant's property in its/his/her possession.

I affirm, under the penalty of perjury, that the foregoing representations are true.

Street Address of Plaintiff / Attorney

Signature of Plaintiff / Attorney

City, State

Zip Code

Printed Name of Plaintiff / Attorney

Telephone Number Supreme Court ID Number

Certificate of Service

I hereby certify that a copy of this document was sent to the parties or their counsel by _____
(US Mail, E-Service, Sheriff, other manner allowed by IN Trial Rules).

Date

Name

STATE OF INDIANA)
) SS:
COUNTY OF ADAMS)

IN THE ADAMS SUPERIOR COURT
DECATUR, INDIANA

CASE NUMBER:

Plaintiff(s)

VS.

Defendant(s)

AND

Garnishee Defendant

Street Address

Street Address

City, State Zip Code

City, State Zip Code

**ORDER GRANTING VERIFIED MOTION FOR PROCEEDINGS SUPPLEMENTAL TO
DEFENDANT AND TO GARNISHEE DEFENDANT FINANCIAL INSTITUTION**

Plaintiff files verified motion for proceedings supplemental and interrogatories. Motion granted.

To the Defendant:

You are ordered to contact Plaintiff's counsel office by telephone at _____ on
_____ at _____ A.M./P.M. if you wish to contest the garnishment order.

See the attached page entitled "*Notice of Certain Exemptions and Your Right to a Prompt Hearing*" for important information.

If you, the Defendant, believe that you are entitled to an exemption because the funds in the account at issue include stimulus funds, you may file a written request for an immediate hearing to determine if funds are attributable to a stimulus payment by using the attached form.

To the Garnishee Defendant:

You are ordered to answer and return the attached interrogatories to the Court on or before _____ and to restrict the deposit account(s) of Defendant(s) pursuant to Ind. Code 28-9-4-2 and 3. If you are not served with a valid court order directing otherwise, this restriction shall expire ninety (90) days after it is placed on the account.

Date

Samuel K. Conrad
Judge, Adams Superior Court

Certificate of Service

I hereby certify that a copy of this document was sent to the parties or their counsel by _____
(US Mail, E-Service, Sheriff, other manner allowed by IN Trial Rules).

Date

Name

STATE OF INDIANA)
) SS:
COUNTY OF ADAMS)

IN THE ADAMS SUPERIOR COURT

DECATUR, INDIANA

CASE NUMBER:

Plaintiff(s)

vs.

Defendant(s)

EXEMPTION CLAIM AND REQUEST FOR HEARING

I believe that all or part of the money in the account(s) that may have been frozen cannot be frozen since the account(s) contain(s) exempt funds. I would like a hearing at the earliest time.

CHECK ONE:

___ I am the judgment debtor.

___ I maintain a joint account with the judgment defendant.

___ I am the legal representative for _____
Name and Type of Party (Ex. "John Doe – Judgment Debtor")

I believe the money in the account(s) is / are exempt because _____

Street Address of Defendant

Signature of Defendant

City, State

Zip Code

Printed Name of Defendant

Telephone Number Supreme Court ID Number

Certificate of Service

I hereby certify that a copy of this document was sent to the parties or their counsel by _____
(US Mail, E-Service, Sheriff, other manner allowed by IN Trial Rules).

Date

Name

NOTICE OF CERTAIN EXEMPTIONS AND YOUR RIGHT TO A PROMPT HEARING

It may be that the Plaintiff has or will give notice to your bank or other persons holding property or assets for you of the intent to put a hold on certain accounts held by you, either individually or jointly with another person, including but not limited to bank, share, and credit union accounts. Under Indiana law, this notice may already have resulted in the placing of a hold on those accounts.

UNDER FEDERAL AND STATE LAW, CERTAIN FUNDS ARE EXEMPT FROM GARNISHMENT. THIS MEANS THAT THESE FUNDS MAY NOT BE TAKEN BY CREDITORS EVEN IF THEY HAVE BEEN DEPOSITED INTO YOUR ACCOUNTS. SOCIAL SECURITY, SUPPLEMENTAL SECURITY INCOME, VETERANS BENEFITS, CERTAIN DISABILITY PENSION BENEFITS, AND BENEFITS UNDER ANY PENSION PAID FROM A TRUST QUALIFIED UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 CANNOT BE TAKEN. THERE MAY BE OTHER EXEMPTIONS UNDER STATE OR FEDERAL LAW. IF YOU OR ANOTHER PERSON WHO MAINTAINS A JOINT ACCOUNT WITH YOU BELIEVE THAT ALL OR SOME OF THE FUNDS IN THESE ACCOUNTS ARE EXEMPT, YOU OR YOUR JOINT DEPOSITOR ARE ENTITLED TO A PROMPT HEARING IN THIS COURT TO PRESENT EVIDENCE TO ESTABLISH EXEMPTIONS AND TO SEEK REMOVAL OF THE HOLD.

To obtain such a hearing, fill in the form entitled "Exemption Claim and Request for Hearing" and make two (2) copies of it (keep the original for your own records). One copy of this form should be filed with the Court. The other copy of this form should be sent to Plaintiff's attorney or to the Plaintiff, if the Plaintiff is not represented by an attorney, at the address set forth on the documents related to the Proceeding Supplemental in this matter. A prompt hearing will be scheduled by the Court as soon as possible, but generally no later than five (5) days (excluding Saturdays, Sundays, and legal holidays) after the completed form is received by the Court. If you call the Court to determine your hearing date, please use the case number located at the top right-hand side on the front of the "Order and Notice to Defendant."

After hearing, the Court will decide whether all or part of the funds in each account on which a hold has been placed or other accounts in which you have an interest may be taken by the Plaintiff. If a joint depositor or you do not request an early hearing, there will be hearing at the time when you are ordered to appear. At that hearing, you and a joint depositor are entitled to assert any exemptions. However, if a joint depositor or you do not request an early hearing, each account on which a hold has been placed may not be released until the time you are ordered to appear.

STATE OF INDIANA)
) SS:
COUNTY OF ADAMS)

IN THE ADAMS SUPERIOR COURT
DECATUR, INDIANA

CASE NUMBER:

Plaintiff

VS.

Defendant

XXX-XX-_____
Social Security Number (Last 4 Digits Only)

AND

Garnishee Defendant

Street Address

City, State Zip Code

Plaintiff appears and makes proof of service of notice of hearing upon Defendant, _____
and upon Garnishee Defendant _____.

The Court now finds and orders:

1. That the answers to the interrogatories show that the Defendant owns or has an interest in account(s) of deposit maintained by Garnishee Defendant.
2. That Defendant is liable to the Plaintiff on a judgment in an amount as follows:

- A. Judgment Amount \$ _____
- B. Costs Assessed \$ _____
- C. Sheriff Service Fees \$ _____
- D. Private Process Fees \$ _____
- E. Post-Judgment Interest \$ _____
- Total Amount Owing** \$ _____

(Interest owing at the rate of _____ percent per annum from the date of this order will be applied to the Judgment Amount.)

3. Neither Defendant nor any other depositor claiming an interest in the aforesaid account(s) has claimed that any portion of the funds in said account(s) is exempt from garnishment pursuant to I.C. 28-9-3-4 and 5.
4. The Garnishee Defendant is ordered to pay over to the Clerk of this Court an amount not to exceed the total amount owing in this cause from the Defendant's account of deposit as maintained by Garnishee Defendant.
5. Upon payment, the restriction on withdrawals imposed by order of this Court, pursuant to I.C. 28-9-4-2 and 3, is removed.

Date: _____

Samuel K. Conrad
Judge, Adams Superior Court

Plaintiff/Attorney Preparing Garnishment Order

Street Address

Attorney E-mail Address

City, State Zip Code

Telephone Number Supreme Court ID Number

Certificate of Service

I hereby certify that a copy of this document was sent to the parties or their counsel by _____
(US Mail, E-Service, Sheriff, other manner allowed by IN Trial Rules).

Date

Name

PAYMENT GUIDELINES FOR THE GARNISHEE DEFENDANT

In order for funds to be applied by the Clerk's Office, the following information must be included with every payment submitted:

- 1) **Individual's full name.**
- 2) **Court's full case number** (located at the upper right corner of the garnishment order).
- 3) When a group of names are submitted (rather than one check per person), the above two items should be listed for each person along with the amount of money to be applied to each case.
- 4) Please remit your payment and the above information to:

**Clerk of Adams Superior Court
112 South 2nd Street
Decatur, IN 46733**

This information is vital to the timely and accurate processing of payments received. Your cooperation is greatly appreciated. If you have questions regarding the guidelines described above, you may contact the Clerk's Office at (260) 734-5309.

**ADAMS SUPERIOR COURT
ENTRY SHEET**

Date: _____

VS

CAUSE NO. _____

This Court will please enter the following minutes:

Plaintiff Appears By Counsel. Defendant fails to appear/appears in person.

___ Defendant agrees to Judgment in the amount of \$ _____ plus court costs

___ On motion of the Plaintiff, cause continued to _____ at _____.

___ By agreement of all parties, cause continued to _____ at _____.

___ Plaintiff takes no action. Additional paperwork to be filed at a later date.

___ Payment arrangements have been set in the amount of _____

_____.

___ Default judgment entered in the amount of \$ _____ plus costs.

___ Garnishment Order issued per decree to _____.

___ Other _____

By: _____

_____ Defendant Signature

_____ Defendant Signature

_____ Address

_____ Address

_____ City/State/Zip

_____ City/State/Zip

SUPERIOR COURT SUBPOENA

STATE OF INDIANA

IN THE ADAMS SUPERIOR COURT

COUNTY OF ADAMS,

CAUSE NO: _____

VS

The State of Indiana, To The Sheriff of Adams County:

You are hereby commanded to summon: _____

to personally be and appear before the Judge of the Adams Superior Court of Adams County, on

the _____ DAY OF _____, 200____, AT _____ .M. in

the Courtroom of the Adams Superior Court, in the City of Decatur, to testify in an action

wherein _____ is plaintiff and _____ is defendant,

on behalf of the _____ and of this subpoena make due return.

WITNESS, James J. Voglewede, Jr.,
Clerk of said Court, and the seal thereof,
this ____ day of _____, 20 ____.

_____, Clerk

Came to writ this _____ day of _____, 20 ____.

I have served as commanded this _____ day of _____, 20 ____.

Officer

STATE OF INDIANA)
)
COUNTY OF ADAMS)

SS:

IN THE ADAMS SUPERIOR COURT

CAUSE NO: _____

Plaintiff

vs.

Defendant

RELEASE OF JUDGMENT

Plaintiff releases the judgment entered in this cause of action against Defendant. The judgment has been satisfied. Cost paid.

Dated this _____ day of _____, _____.

Respectfully submitted,

Plaintiff/Attorney for Plaintiff

I certify that on _____, _____, a true and complete copy of the foregoing release was mailed to the following by first class United States mail, postage prepaid:

Plaintiff/Attorney for Plaintiff

STATE OF INDIANA)
) SS:
COUNTY OF ADAMS)

IN THE ADAMS SUPERIOR COURT

CAUSE NO: _____

Plaintiff

VS

Defendant

and

Garnishee Defendant

RELEASE OF GARNISHMENT ORDER

COMES NOW the Court, and being duly advised in the premises, hereby releases the
Garnishment Order in the above-captioned cause of action.

Dated: _____

Samuel K. Conrad
Judge, Adams Superior Court

STATE OF INDIANA)
) SS:
COUNTY OF ADAMS)

IN THE ADAMS SUPERIOR COURT
CASE NO. _____

Plaintiff,

v.

Defendant,

VERIFIED MOTION FOR CONTINUANCE

Comes now _____, and states the following:

1. I am requesting a continuance of the trial/hearing scheduled for _____.
2. I have/have not (circle one) received a prior continuance of the trial.
3. I need a continuance of the trial/hearing because:

I affirm under the penalties of perjury that the foregoing representations are true.

Date: _____

Signature

Street

City, State & Zip Code

Phone Number

E-Mail Address

CERTIFICATE OF SERVICE

I certify that on _____ I sent a copy of this Motion for Continuance
(date)
by first class mail to the other party or their attorney at the following address _____
_____.

Signature