

BARTHOLOMEW COUNTY SUPERIOR COURT 2
FREQUENTLY ASKED QUESTIONS:
SMALL CLAIMS

Court Address:

234 Washington Street
P.O. Box 924
Columbus IN 47201

Phone Numbers:

Bartholomew County Bar Association: (812) 375-9800
Bartholomew County Legal Aid: (812) 378-0358
Bartholomew County Community Corrections: (812) 379-1611
Bartholomew County Landlord Association: (812) 376-3500
Bartholomew County Probation Department: (812) 379-1640
Bartholomew County Sheriff's Department: (812) 379-1650
Bureau of Motor Vehicles Fax: (317) 233-3138 or (317) 233-3139
Bureau of Motor Vehicles: (317) 232-2840
Circuit Court: (812) 379-1605
Clerk's Office: (812) 379-1600
Columbus City Hall: (812) 376-2570
Indiana Department of Revenue: (812) 376-3049
Indiana Department of Revenue Fax: (812) 372-7368
Monroe County Legal Aid: (812) 339-7668
Prosecutor's Office: (812) 379-1670
Prosecutor's Office Child Support Division: (812) 379-1674
Protection Order Assistance: (812) 379-1629
Superior Court 1: (812) 379-1623
Superior Court 2: (812) 379-1610
Superior Court 2 Small Claims: (812) 379-1620
Turning Point Shelter: (812) 379-9844

Helpful Websites:

<http://www.bartholomewco.com>
<http://www.in.gov/judiciary/selfservice/info.html>
<http://www.in.gov/judiciary/childsupport>
<http://www.in.gov/judiciary/rules/parenting/index.html>

1. Where is the Small Claims office and what are the hours?

The Small Claims office is on the Third Floor of the Courthouse at 3rd and Washington Street, in room 306A. The office hours are from 8:00 a.m. to 5:00 p.m., but new small claims must be filed no later than 4:45 p.m.

2. What is the filing fee for Small Claims?

Filing fee for small claims is \$96.00 (as of July 1, 2015) for the first defendant on each case, plus \$10.00 for each additional defendant added to the case. The defendant will be served notice of the claim by certified mail. The clerk will only provide postage and the certified mailer for up to 2 defendants per case. The claimant will be responsible for the cost and the certified mailer for any additional defendants. If you would prefer the defendant be served notice by sheriff, there is an additional \$25.00 fee. A stamped envelope addressed to the defendant is also required if sheriff service is elected.

3. How long do I have to file my case?

The Statute of Limitations varies depending on what type of case you are filing. You should seek legal advice if you have questions about the statute of limitations in your case.

4. Is this the right place to file my claim?

A small claim case should be filed in the county where:

- a) the defendant resides; or*
- b) where the transactions/incident actually took place; or*
- c) where the obligation or debt was incurred; or*
- d) where the obligation is/was to be performed; or*
- e) where the defendant has his or her place of employment at the time the case is filed.*

5. How much can I sue for?

Small claims suits are limited to cases where the damages sought are \$6,000.00 or less.

6. How much can I sue for if I am a business and who can appear?

Sole Proprietorship, Partnerships, Corporate Entities, Limited Liability Companies and Limited Liability Partnerships may appear by a designated full-time employee of the business in the presentation or defense of claims arising out of the business if the claim does not

*exceed one thousand five hundred dollars (\$1,500.00). However, claims exceeding one thousand five hundred dollars (\$1,500.00) **must** be defended or presented by counsel.*

7. What does it mean to be a designated full-time employee?

A designated full time employee is someone who has been authorized to appear in court on behalf of a Sole Proprietor, Partnership, LLP, LLC, Corporation or other business entity.

If a corporate entity, sole proprietorship, partnership, LLC or LLP designates a full-time employee to appear on its behalf, the corporate entity, sole proprietorship, partnership, LLC or LLP will be bound by any and all agreements relating to the small claims case entered into by the designated employee and will be liable for any and all costs, including those assessed by reason of contempt, imposed by the court against the designated employee. No person who is disbarred or suspended from the practice of law in Indiana, or any other jurisdiction, may appear for a corporate entity or on behalf of a sole proprietor, partnership, LLC or LLP under this rule.

Before a designated employee is allowed to appear in a small claims proceeding, the corporate entity, sole proprietorship, partnership, LLC or LLP must file with the court a certificate of compliance that follows the provisions of Small Claims Rule 8(c). The corporate entity, partnership, LLC or LLP must adopt a resolution allowing the authorized representative to appear on its behalf. A Sole Proprietor or Partnership must submit a form indicating that it agrees to be bound by any action its authorized representative takes on its behalf during a Small Claims case. Additionally, the designated employee must file with the court an affidavit stating that he/she is not disbarred or suspended from the practice of law in Indiana or any other jurisdiction.

8. Who should I file against?

The Court staff cannot advise you whom to name in your lawsuit. You may name more than one person on your lawsuit, if more than one person is responsible.

9. Do I have a good case? Will I win my case?

The Court staff cannot tell you whether or not to file your case, or whether or not you will win your case. The Judge must decide the cases based on the evidence and testimony presented by the parties at the time of the hearing.

10. What if I can't find the defendant or don't know their address?

The Court cannot locate the defendant for you. It is up to you to locate an address for the defendant so notice of all hearings can be given to the Defendant. The Court cannot hold a hearing unless it has proof that the Defendant was given proper notice of that hearing.

11. How do I prove my case?

It is up to you to present evidence and testimony to prove your case. You must prove two things to the court before a judgment can be awarded:

- a) You must prove that the other party has done something that makes that person liable to you for damages; and*
- b) You must prove the exact amount of damages that you are entitled to recover.*

12. What do I need to bring with me?

*It is important that proper documents or other exhibits be brought to the trial and shown to the Judge in an orderly manner. This may include photos, receipts, invoices or other exhibits that help you prove your case. **Please note all exhibits are kept for at least 30 days after a trial is held. If you have pictures on a camera, camera phone, laptop, etc. that you want the Court to see at trial, you will need to have those pictures printed before the trial; otherwise, the Court will have to keep your camera, camera phone, laptop, etc. for the 30 day time period. Also, any exhibits not picked up after 4 months will be destroyed.***

13. How do I get a subpoena for a witness?

You may request that the clerk issue a subpoena ordering a witness to appear at the trial. Requests for subpoenas should be made in the Clerk's office as soon as possible after you file your claim. It is your responsibility to make sure the subpoena is served. If you have any questions about service, you will need to contact the sheriff's department. You will need to file a copy of any subpoena with Court.

14. If my witness can't appear, can I bring a statement from them?

You should try to get your witness to appear in person for your trial. If this is impossible, you may submit a written statement from this witness, and the Court will consider it along with other evidence presented.

15. What if the defendant wants to pay the claim before it goes to court?

You can dismiss your case at any time before the trial is actually held, if you reach an agreement with the defendant; however, the filing fee is non-refundable.

16. If I dismiss my case, do I get my court costs back?

No, the Clerk's office cannot refund court costs once they have been paid.

17. How long does it take to get a court date?

A trial date will be set by the court staff when you file your claim. Most claims are set at least 30 days from the day you file your suit. This time frame may be altered depending on the court's calendar and your schedule. Eviction hearings are normally set out about 2 weeks from the day the claim is filed. The first hearing is to determine a vacate date, and a then a second hearing will be scheduled in approximately 60 days after the vacate date to determine any back rent or damages that may be due.

16. How does the defendant get notified of my lawsuit?

*Notice of your claim is typically sent to the Defendant by certified mail unless you specify differently. The filing fee covers the initial claim being mailed up to 2 defendants by certified mail. The claimant will be responsible for the cost and the certified mailer for any additional defendants. If you need to request any additional hearings, you will be responsible for the cost and preparation of the certified mailer. You may also request service by the Sheriff's Department Civil Process division, which is an additional fee of \$25.00. **IF YOU ARE REQUESTING SERVICE BY SHERIFF, YOU WILL NEED TO PROVIDE A STAMPED ENVELOPE ADDRESSED TO THE DEFENDANT FOR THE SHERIFF TO ALSO MAIL A COPY.** It is your responsibility to be sure that the other party has notice of all hearings in your case. If you want the Defendant served out of the*

state, then you must contact that county's sheriff's department to determine their service fee so that we can mail them the money with the copies of service. A third way for service is to do it personally, but you must fill out an Affidavit of Personal Service form showing that you personally served the paperwork on the Defendant or left it on their residence and mailed a copy. The court does not have this form. You may get the form by contacting the Landlord Association at (812) 376-3500. This form then must be filed preferably before the court date, but absolutely by the court date with the Small Claims Office. If service is not perfected in one of the above ways, then a hearing cannot be held.

17. Can I change my court date?

A continuance (postponement) will only be granted if a good reason is shown. Any request for a continuance should be made in writing and it should be submitted to the Court at least 7 (seven) days prior to your hearing. You must include your name, address and case number on any correspondence you send to the court.

18. What happens if someone doesn't appear?

If the Defendant fails to appear for the trial, the Claimant will still have to prove their case to get a judgment. If the Defendant fails to appear for subsequent hearings, they may be found in contempt of court and they may face penalties for contempt. If the Claimant fails to appear for the trial, the court may dismiss the case without prejudice, which means that the Claimant may re-file the case.

19. How do I collect my judgment?

If a judgment is entered, and the Defendant fails to pay the judgment, there are supplemental proceedings you can file to attempt to collect your money. If you know where the Defendant is employed, you may be able to pursue a garnishment on their paycheck, provided the Defendant qualifies for a garnishment order. It may be necessary for you to file more than one request for proceedings supplemental. If you need to request additional hearings, you will be responsible for the cost and preparation of the certified mailer or the stamped envelope addressed to the defendant in cases where service by sheriff is requested.

20. What happens if the Defendant files bankruptcy?

*If the Defendant files bankruptcy and lists you as a creditor, even if a Judgment has already been entered, the Court **MUST** stay or stop any further attempts at collection on your case. If the bankruptcy court discharges the debt, you will not be able to make any further attempts to collect your judgment through this court. If the bankruptcy court dismisses the Defendant's petition for bankruptcy, you may be allowed to file further proceedings to attempt to collect your judgment.*

21. Where is the judgment paid?

Payments should be made in the Clerk's office in person or by mail at P.O. Box 924, Columbus, IN 47202-0924. For small claims judgments, the clerk will accept cash, money order or personal check. (If you pay by personal check, please note that your check may be held for up to 20 days per the Clerk.) You must include your case number on any payment you send in, or you should have it with you if you make a payment in person.

22. I missed my court date, what do I do?

*You may write a letter to the Judge explaining why you did not come to court and what it is you are requesting from the court. Your name, address and case number **MUST** be on any correspondence you have with the Court.*

23. Can you keep my name out of the paper?

Cases filed through small claims court are public record. We cannot withhold information from the media.

24. If I file an eviction, how long do the defendants have to move?

It depends on the facts of your case. The Court's standard policy is that tenants without children have 7 (seven) days from the date of the hearing to move out. In cases where children are involved, the tenants usually are ordered to move out within 14 (fourteen) days of the hearing. These are guidelines and not absolute rulings.

25. What happens if the Defendants don't move when they are supposed to?

You should notify the Court. In most cases, the Court will issue an order directing the tenants to move along with notice of a hearing at which time the Judge would determine whether the tenant is in contempt of court for failing to comply with the Court's initial order.

26. What do I do with the stuff they leave behind when they move out? Can I set it on the sidewalk or in the alley?

The Court cannot give you legal advice regarding property left behind. There are specific statutes about property a tenant leaves behind. You should seek legal counsel for this advice.

27. How do I get a hardship/probationary/restricted driver's license?

The Court staff cannot give you legal advice on how to obtain a driver's license. You should seek legal counsel for this advice.

28. How do I obtain a clear title for a vehicle?

The Court has forms for you to fill out for Application for Title. When you file your claim, you will need to show proof that your driver's license is valid and you will need to know the year, make, model, color, mileage, VIN number of the vehicle as well as the approximate date of purchase and how the vehicle was purchased. Court staff will give you a court date in approximately thirty (30) days. Before the court date, you will need to obtain a VIN check from a law enforcement officer and bring that form with you to Court on the day of your hearing if not before.

(Law Enforcement may charge a fee for this service.)

Also, you will need to let the Judge know the odometer reading of the vehicle. At the hearing if the Judge finds in your favor, an Order will be given to you that you can take to the BMV to get a clear title.

29. I have dates of birth and social security numbers on the documents I am submitting to the Court, is that all right?

Pursuant to Administrative Rule 9, any documents submitted with dates of birth or social security numbers must be submitted on green paper that will go in the "Not for Public Access File" and a white copy with that information should be redacted so it can be placed in the Court's file upon submitting those documents to the Court.