

*This brochure is intended only as a general information guide. Laws and procedures are subject to change. For more specific information, contact your local justice of the peace court.*

### **What is a small claims division?**

Every justice of the peace court in Arizona has a small claims division, created by law, to provide an inexpensive and speedy method for resolving most civil disputes that do not exceed \$3,500.

Small claims cases are handled in a less formal manner than other cases. Procedures are intended to be simple enough for a person to file a complaint or to answer a claim without a lawyer.

All cases are heard by either a judge or a hearing officer who makes a final and binding decision. There is no right to an appeal or to a jury trial in a small claims case.

The small claims process is governed by [Title 22, Chapter 5](#) of the Arizona Revised Statutes (A.R.S.) and the [Arizona Rules of Small Claims Procedure](#).

### **Who can use the small claims process?**

The small claims division can be used by any individual, corporation, partnership, association, marital community, or other organization for civil claims that do not exceed \$3,500, exclusive of interest and costs.

Because the small claims process is simplified, lawyers are generally not necessary and are not permitted to represent you in a small claims case unless all parties agree to it in writing. If all parties do not agree to it, attorneys are prohibited from representing any party in the case unless it is transferred out of the small claims division.

Either party may object to the proceedings being held in the small claims division and, as long as such objection is made in writing at least ten business days before the hearing, the case will be transferred out of the small claims division. Once the case is transferred, the [Justice Court Rules of Civil Procedure](#) apply, permitting attorney representation, jury trial, appeal, and claims in excess of \$3,500.

### **How do I start a small claims lawsuit?**

A small claims lawsuit starts when the person suing (plaintiff) files a small claims complaint. The complaint must be legible and must briefly state the plaintiff's reasons for the claim against the defendant (the person being sued). You must use your correct legal name and you must use the correct legal name of the defendant. You will not be able to amend (change) your complaint once it is filed. The complaint must be filed in the justice court precinct where the defendant (person being sued) resides or as permitted by [A.R.S. § 22-202](#).

At the time the complaint is filed, the clerk will issue a summons directing the defendant to answer your complaint. The summons, Arizona Supreme Court

complaint, and Notice to Plaintiff and Defendant must be served on the defendant by registered or certified mail, with a "return receipt requested." You can also have the constable, sheriff, or a process server serve the defendant.

Proof of service must be filed with the court within 45 days of the date you filed your complaint, otherwise, the court will dismiss your case.

If you change your mind about pursuing the lawsuit, you may dismiss your complaint by filing a Notice of Voluntary Dismissal, but only if the defendant has not filed an answer or counterclaim.

### **How do I answer a small claims complaint?**

A defendant must file a written answer within 20 days of service. The form is available at [www.azcourts.gov](http://www.azcourts.gov) or can be obtained from the courthouse. If an answer is not filed within 20 days of service, the court may rule in favor of the plaintiff.

### **How do I get my court date?**

The court will set a hearing date when the defendant files an answer and will hold the hearing within 60 days of the answer filing date. All parties must appear at the scheduled hearing.

### **What if I have a claim against the plaintiff?**

A counterclaim is a claim that the plaintiff owes something to the defendant. Within 20 days of being served, a defendant may file a counterclaim against the plaintiff that is based on the same event described in the plaintiff's complaint or based on a different event than the one described in the plaintiff's complaint. If the counterclaim exceeds \$3,500, the case will be transferred out of the small claims division.

### **What if the case was filed in the wrong justice court (venue)?**

Venue is the proper or possible place for a lawsuit to proceed, usually because the place has some connection to the events that give rise to the lawsuit, or to the plaintiff or defendant. If the lawsuit was not filed in the correct justice court, the defendant may file a motion to change the venue of the lawsuit. The plaintiff will have ten days to file a response. If the motion is granted, the court will transfer the case to the proper precinct. However, all parties must appear at any scheduled court dates until they receive notice that the court has granted the motion. The proper venue for your case can be determined by reviewing [A.R.S. § 22-202](#).

### **What if the defendant does not file an answer?**

If the defendant does not file an answer within 20 days of service, the plaintiff must initiate default proceedings in accordance with [Rule 140](#), Arizona Rules of Justice Court Procedure.

### **How do I prepare for my hearing?**

The court will consider testimony from parties and witnesses, will consider documents, and will decide any counterclaim. Both parties

should write down the facts and details of the case in the order in which the events occurred. Both parties should also bring with them all witnesses and necessary documentation, e.g., bills, receipts, price estimates, pictures of the damage, etc.

### **What happens if the parties come to an agreement before the hearing date?**

If the case settles before the hearing date, the plaintiff must notify the court by filing a Notice of Settlement.

### **What if both parties agree to dismiss the lawsuit?**

The parties may mutually agree to dismiss the complaint and any counterclaims by filing an agreement to dismiss that is signed by all parties who have appeared in the case.

### **What happens at the hearing?**

On the day of the hearing, both parties must appear on time before the judge or hearing officer and testify. The court will hear the defendant's counterclaim if one has been filed. After both parties have presented their witnesses, testimony, and evidence, the judge or hearing officer will make a decision, called a judgment. The judgment will be a final written order of the court that decides the claims in the lawsuit. The judgment is binding on all parties. In most cases, the judgment is announced at the hearing; however, the judge or hearing officer has ten days to consider the facts in the case, conduct necessary research, make a decision, and notify the parties by mail.

### **What happens if I do not appear at the hearing?**

If both parties fail to appear, the court will dismiss the complaint and any counterclaims. If the defendant fails to appear, the judge or hearing officer may hear testimony from the plaintiff and his or her witnesses, may examine evidence presented by the plaintiff, and may enter judgment against the defendant.

If the plaintiff fails to appear, the court may dismiss the lawsuit, or it may award judgment for the defendant.

### **Can the court's decision be appealed?**

No, the court's decision is final and binding on all parties. The decision cannot be appealed.

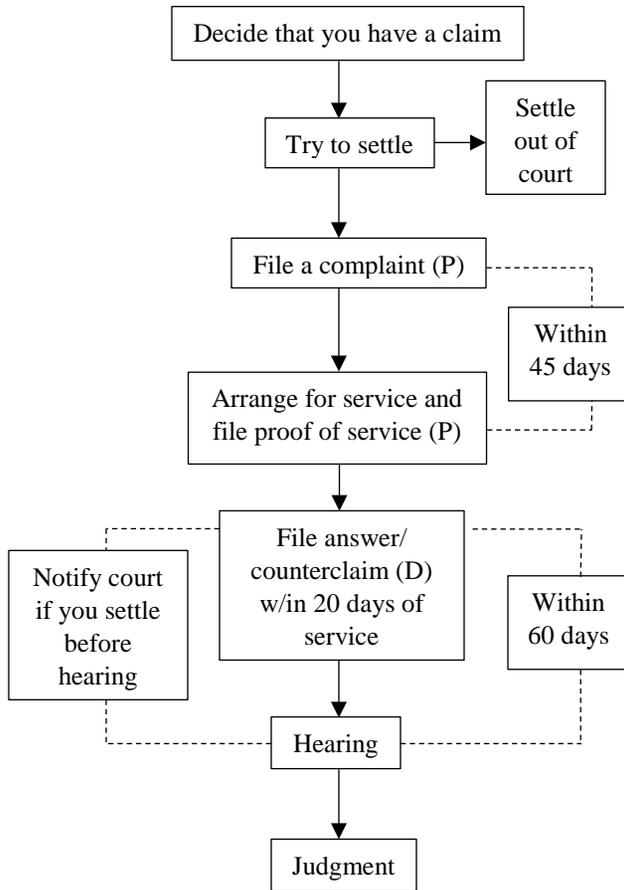
### **Can I have a jury trial?**

No, jury trials are not permitted in small claims cases.

### **How do I collect my money once the case is decided?**

A judgment may be enforced in accordance with Title 12, Chapter 9 of the Arizona Revised Statutes and A.R.S. § 22-243 through 22-246. Note that it is not the role or responsibility of the court to collect the judgment.

## Small Claims Process



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# Arizona's Small Claims Court



*A Guide to the Small  
Claims Divisions in Justice  
of the Peace Courts*