

NOTICE TO PLAINTIFFS AND DEFENDANTS: THESE ARE INSTRUCTIONS REGARDING THE CLAIM FILED IN THE SMALL CLAIMS DOCKET OF VIGO SUPERIOR COURT. PLEASE READ CAREFULLY.

1. Both parties must appear for trial at the Courthouse, Terre Haute, Indiana, at the date and time specified in the notice of claim. If the **DEFENDANT** does not appear, a **JUDGMENT BY DEFAULT** may be entered, and if the **PLAINTIFF** does not appear, the case may be **DISMISSED**. (The plaintiff or defendant should communicate with the Court to which his/her case has been assigned.) Should **PLAINTIFF** or **DEFENDANT** be unable to appear at the time and place designated in the notice, he/she must contact the court in writing to request a continuance. Telephone requests for continuances may be made only in an emergency: **Division 4, 812-462-3263** or **Division 5, 812-462-3266**. If the claim is contested, and the Court cannot hear evidence on the initial trial date, another trial date will be set. The Judge may order you to meet with a mediator.

2. Although it is not required that you have an attorney to represent you, you may do so if you wish.

3. At the trial, there are no technical or formal rules to follow. The Judge may ask questions of both parties, and will direct the proceedings. Simply answer the questions and state your position in your own words. The Judge will insure that both parties will have ample opportunity to present their side of the case.

4. If the **DEFENDANT** has a claim for money against the **PLAINTIFF** arising out of the same transaction or occurrence, the **DEFENDANT** may file a counterclaim with the Court. Defendant should attach to the counterclaim copies of any contracts, leases, checks, promissory notes, or any other documents pertaining to the counterclaim. You must file your counterclaim with the Court so that the court will be able to mail a copy to the Plaintiff in time for the Plaintiff to receive 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 to defend against the counterclaim.

If the amount of the claim or counterclaim exceeds **\$6,000.00**, you give up your right to any excess over that amount by filing on the small claim docket. Both the plaintiff's claim and the counterclaim will be heard at the same trial. If you wish to file a counterclaim larger than **\$6,000.00**, you may ask that your claim be transferred to the court's plenary docket. However, upon transfer to the plenary docket all formal and technical rules will apply and, for this reason, it is advisable that you consult with an attorney before taking such action. Additional court costs of **\$70.00** are required to transfer a claim to the plenary docket.

5. When the **PLAINTIFF** files a claim in small claim court, the **PLAINTIFF** waives or gives up the right to a trial by jury. If the **DEFENDANT** wants a jury trial, **THE REQUEST MUST BE MADE NO LATER THEN TEN DAYS AFTER THE DEFENDANT IS SERVED WITH THE NOTICE OF CLAIM.** The **DEFENDANT** demands a jury trial by filing an affidavit and paying a **\$70.00** 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.

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 plenary docket.

Once a jury trial request has been granted, it may not be withdrawn without the consent of the other party or parties.

6. Both parties must advise the Court of any **CHANGE OF ADDRESS OR TELEPHONE NUMBER** which occurs after receipt of the notice.

7. Be prepared at the trial to defend your case with any evidence you may have including any witnesses and documents or papers pertaining to the case. **Bring two copies plus the original of all documents.** Subpoenas can be issued by the court for reluctant witnesses. You should request subpoenas at least 30 days before the trial to allow time for service by the sheriff. The Court will not ordinarily continue a trial because you have not obtained the presence of your witnesses or have not brought your documents. Accordingly, **the importance of being prepared for trial is emphasized.**

8. You will be notified of the Court's ruling in your case either immediately after trial or the Court may take the matter under advisement and send the parties a written decision in the mail at a later date.

9. If one or both parties are not satisfied with the Court's decision and judgment, an appeal of the decision may be taken to the Indiana Court of Appeals. **TO QUALIFY FOR AN APPEAL, THE APPEALING PARTY MUST TAKE CERTAIN ACTION WITHIN THIRTY 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 Small Claims Court judgment has been entered.

10. If you have questions about the procedure of filing a small claim, ask the Clerk for assistance. Once the case has been filed **IF YOU NEED LEGAL ADVICE YOU MUST CONSULT AN ATTORNEY.** Neither the JUDGE nor the CLERK are permitted by law to give advice to you with regard to the handling of your case.

Revised (11/10/05)

SMALL CLAIM AND NOTICE OF CLAIM
IN THE VIGO SUPERIOR COURT
TERRE HAUTE INDIANA

NAME

ADDRESS

CITY STATE ZIP

TELEPHONE

CAUSE NO: _____

DIVISION _____

VS

NAME

ADDRESS

CITY STATE ZIP

TELEPHONE

TO THE DEFENDANT:

This cause is set for trial on _____ day of _____, 20____ at _____ (AM) (PM), at which time the parties must appear in person or by attorney. If a defendant fails to appear, a default judgment may be entered. If a plaintiff fails to appear, the claim shall be dismissed.

Plaintiff(s) ask(s) for judgment against Defendant(s) for \$ _____ and costs of this proceeding because of:

- | | |
|---|--|
| <input type="checkbox"/> Account or Note (Attached) | <input type="checkbox"/> Rent and Damages |
| <input type="checkbox"/> Oral Contract | <input type="checkbox"/> Possession of Real Estate & <u>ADDRESS OF REAL ESTATE</u> |
| <input type="checkbox"/> Written Contract | |
| <input type="checkbox"/> Wages | <input type="checkbox"/> Other _____ |

A brief statement of the nature of the plaintiff's claim against you is as follows:

DATE _____

PLAINTIFF _____

CERTIFICATE OF MAILING

I hereby certify that on the _____ day of _____, 20____ I mailed a copy of this Small Claim and Notice of Claim to each of the defendant(s) by certified mail number _____ requesting a return receipt signed by the addressee only, addressed to each of said defendant(s), at the address furnished by the plaintiff.

Dated the _____ day of _____, 20____.

CLERK, VIGO SUPERIOR COURT

RETURN OF SERVICE OF NOTICE OF CLAIM BY MAIL

I hereby certify that Notice of claim with return receipt requested was mailed as shown by the Certificate of Mailing above, and that a copy of return receipt was received by me on the _____ day of _____, 20____.

CLERK, VIGO SUPERIOR COURT

CERTIFICATE OF CLERK OF NOTICE OF CLAIM NOT ACCEPTED BY MAIL

I hereby certify that Notice of Claim with return receipt requested was mailed as shown by the Certificate of Mailing above, and the same was returned without acceptance this _____ day of _____, 20____.

CLERK, VIGO SUPERIOR COURT

RETURN OF NOTICE OF CLAIM

This Notice of Claim came to hand on the _____ day of _____, 20____. I served the Notice of Claim:

1. By delivering a copy of the Notice of Claim personally to the Defendant, _____ at _____ (address).
2. By leaving a copy of the Notice of Claim at _____ (address), the dwelling or usual place of abode of the Defendant, _____ (name), and by mailing a copy to the Defendant at his/her last known address by first class mail on the _____ day of _____, 20____.
3. By serving his/her agent as provided by rule, statute or valid agreement, to wit: _____
4. The defendant cannot be found in my bailiwick and Notice of Claim was not served. I now return this writ this _____ day Of _____, 20____.

SHERIFF

ACKNOWLEDGMENT OF SERVICE

I _____, Defendant herein, acknowledge receipt of service of the attached Notice of Claim this _____ day of _____, 20____.

DEFENDANT