

Maryland Small Claims Court

By Captain Christopher Cusmano, Fort Meade Legal Assistance Attorney

Clients of the Fort Meade Legal Assistance office are sometimes surprised to learn that while Legal Assistance attorneys can provide legal advice, they do not provide in-court representation. For clients wishing to file a lawsuit, there is always the option of hiring a private attorney. Depending on the amount of damages one seeks, however, it may not make financial sense to pay attorney's fees. For smaller claims, Maryland (like many other states) has a less formal system that makes it possible for individuals to represent themselves in court.

In Maryland there is not a specific "Small Claims Court." Instead, all cases are filed in Maryland District Court, but if you seek \$5,000 or less in damages, there is a simplified process set up. Although parties are always free to hire an attorney, if they seek less than \$5,000, the rules are such that it is possible, and in fact quite common, for people to represent themselves.

Should I File a Small Claims Action?

Since the legal process is less formal and there is generally no need to hire an attorney, filing a Small Claims action is an attractive option. Even if you have damages slightly over \$5,000, you may want to limit your case to \$5,000. For example, if you sought a full refund of \$5,500 against a contractor who failed to fix your roof, you would be in a regular court proceeding, which would probably require an attorney and take longer to be resolved—it might not be worth the extra \$500.

It is important to remember that a Small Claims action is still a legal proceeding, and as such, it should generally be the option of last resort. Before beginning any case, it is recommended that you first speak with the other party and try to resolve the case out of court. If talking does not work, you should send a letter by certified mail stating that if the case does not settle you will be forced to file a lawsuit.

If the case cannot be settled, there are still other issues you should consider before filing your case. Legal rules will still apply. For example, the Statute of Limitations, which sets a time limit on when you can file a lawsuit, cannot have already expired. In Maryland, most cases must be filed within three years. In addition, you must have some legal ground on which to file your lawsuit; just because something is unfair does not automatically mean a legal claim exists. In addition, your case must have evidentiary support—you must be able to prove that you were wronged, that the other party is to blame, and that you have suffered some type of harm. If your case is entirely speculation this will create a "he said v. she said" situation and it is less likely that the court will rule on your behalf.

In order to be successful, it will likely take time and effort to prepare the legal documents, gather evidence, refine your arguments, practice speaking, traveling to court and attending trial. Only you can determine whether your case will be worth it.

How to Start a Small Claims Action

Maryland has set up the following webpage to help individuals navigate the Small Claims process: <http://mdcourts.gov/district/forms/civil/dccv001br.html>. A Small Claims action begins by filing the complaint, which identifies the parties in the case and explains your side of the

story. You can visit the Maryland District Court near your house, or prepare the form ahead of time by downloading it from the website. The Small Claims action is usually filed in the county where the other party resides; if you are filing a personal injury claim, however, it may be filed where the injury actually took place. When you file your complaint, you must also pay a fee to begin the case (currently \$28).

After you file, the court will prepare a summons and you must serve the summons and complaint on the other party. You may have the Sheriff or any non-party older than 18 years of age hand deliver the papers, or you may send them by certified mail. Once the other party receives the summons and complaint, they must tell the court whether or not they will defend the case. It should also be noted that the other party may choose to file a counterclaim against you at this time, and you will have to defend against this counterclaim at trial.

If the other party wishes to defend the case, the court will set a date and time for trial. Unlike a regular trial, there are no motions beforehand, and the court will only consider the evidence that each side presents in court that day. Thus, it is vitally important that you have prepared your arguments, practiced speaking so that you present a strong case, gathered all relevant evidence, such as documents, contracts, e-mails, warranties, and photographs, and established written estimates of your damages (it is recommended that you use the "Property Damage Affidavit" from the court or website). You should also identify any witnesses who can benefit your case. If these witnesses can attend trial, that will be most helpful. If they are unavailable, gather statements from the witnesses and bring them to court. If you identify helpful witnesses but are worried that they will not appear on your behalf, such as an employee of the other party, you may obtain a subpoena to compel them to appear. To become familiar with the process, you may also attend court in advance to see how the process actually works.

What Happens After Trial?

After each side presents their evidence, the judge will determine which side prevails. If the court rules against you, you may file an appeal to the Maryland Circuit Court within 30 days. As the appeals process is more formal, legal representation is probably necessary for an appeal. If the court rules for you, the judge will order the other party to pay damages.

If the other party fails to voluntarily pay you, other measures to collect the judgment will be necessary. You may petition the court to review the other party's bank accounts or force the other party to sell property to satisfy the judgment. You may also ask the court to garnish the other party's wages. These measures are rare, however, and will not work if the defendant truly lacks the funds to pay the judgment, such as if you are suing a corporation that has gone out of business. Unfortunately, although a Small Claims action is a relatively straightforward and simple way to resolve legal disputes, the process of collecting a judgment is sometimes the hardest part.

Located within the Office of the Staff Judge Advocate building at 4217 Roberts Avenue, the Fort Meade Legal Assistance office has attorneys available by appointment that can help explain how a Small Claims action is filed and what you can expect. Although the Legal Assistance attorneys cannot represent you in court, they can walk you through the process and answer questions you may have. Please call the Legal Assistance Division at (301) 677-9504/9536 to make an appointment to speak with an attorney.