

# SMALL CLAIMS COURT PROCESS



DEPARTMENT OF REGULATORY &  
ECONOMIC RESOURCES

OFFICE OF  
CONSUMER  
PROTECTION

[Consumer@miamidade.gov](mailto:Consumer@miamidade.gov)

[Miamidade.gov/consumerprotection](http://Miamidade.gov/consumerprotection)

# What is Small Claims Court?

- Simplified court process
- Disputes of \$8,000 or less
- Small Claims Rules

# Jurisdictional Amounts

- Small Claims Court
  - \$8,000.00 or less
- County Court
  - \$8,000.01 - \$30,000.00
- Circuit Court
  - \$30,000.01 and up

**In County and Circuit Courts, the rules of evidence and procedure are applied more stringently.**

# Costs to File

## ■ **Small Claims Court**

■ \$.01 to 99.99 and less	\$55.00
■ \$100.00 to \$500.00	\$80.00
■ \$500.01 to \$2,500.00	\$175.00
■ Over \$2,500	\$300.00

## ■ **County Civil Court**

■ \$15,000.01 - \$30,000.00	\$400.00
■ Evictions/removal of tenant actions	\$185.00

## ■ **Circuit Civil Court**

■ \$30,000.01 and up	\$401.00
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# When to sue in small claims?

- Always attempt a resolution first.

## *Demand Letter*

*Consider using FREE mediation services such as the Office of Consumer Protection Mediation Center or DOACS*

- Is there a valid legal claim?
  - *Breach of contract*
  - *Car Accident*
  - *Landlord/Tenant dispute*
  - *Unpaid wages*
  - *Contractor dispute*
- Is there sufficient evidence to prove the claim in court?
  - *What's your proof?*
  - *Contracts, emails, text messages, photos are all valuable evidence*
- Evaluate the claim:
  - *Can I get more than \$8,000?*
- Is it worth my time & money to file?  
*(CBA – Cost/Benefit Analysis)*

# Who may sue in small claims?

- Any person eighteen (18) years of age or older.
- A person under 18 years old may also sue in small claims, but only if his/her parent(s) or guardian files the suit for him/her.
- A business, whether or not owned by an individual, a partnership, or a corporation.

# Statute of Limitations

- Section 95.11, Florida Statutes
  - 5 years – written contract
  - 4 years – verbal contract
  - 4 years – negligence
  - 2 years – recovery of wages/overtime

# Where to file your case?

- Where did the incident happen?
  - You can sue here.
- Where does the defendant reside?
  - You can sue here.
- Where is the property located?
  - You **must** sue here.



# Filing Locations

Dade County Courthouse - Downtown 73 West Flagler Street, Rm. 137 Miami, FL 33130	South Dade Justice Center 10710 SW 211 Street, Rm. 1200 Miami, FL 33189
Coral Gables District Court 3100 Ponce de Leon Blvd. Coral Gables, FL 33134	Sweetwater Branch – <b>FILING ONLY</b> 500 SW 109 <sup>th</sup> Avenue Sweetwater, FL 33142
Miami Beach District Court 1130 Washington Avenue, Rm. 224 Miami Beach, FL 33139	Hialeah Branch 11 East 6 Street Hialeah, FL 33010
North Dade Justice Center 15555 Biscayne Blvd., Rm. 100 Miami, FL 33160	

# Miami-Dade County Clerk's Office

- File your case with the Clerk of Courts

- Monday – Friday (excluding holidays)  
9 a.m. – 4 p.m.

**Please check the Clerk of Court's website for updated hours/delivery methods during Covid-19.**

- Clerks may assist the public with filling out Statement of Claims form, but cannot assist you with your narrative, or provide legal advice.

- Acquire forms online

[http://www.miami-dadeclerk.com/property\\_small\\_claims.asp](http://www.miami-dadeclerk.com/property_small_claims.asp)

# Statement of Claim Form

Division

Plaintiff  
(you)

Reason for  
Suit

Amount

Defendant  
(them)

Phone

Explanation

IN THE COUNTY COURT IN AND FOR MIAMI-DADE COUNTY, FLORIDA.		
<b>DIVISION</b> <input type="checkbox"/> CIVIL <input type="checkbox"/> DISTRICTS <input type="checkbox"/> OTHER	<b>STATEMENT OF CLAIM</b> (File in Duplicate Plus One For Each Defendant)	<b>CASE NUMBER</b>  <b>SECTION NO.</b>
<b>PLAINTIFF</b>  	<b>VS. DEFENDANT(S)</b>  	<b>CLOCK IN</b>  
The Plaintiff sues the Defendant for money owed Plaintiff by Defendant; and which is past due and unpaid; for (As marked (x) below):		Address:
<input type="checkbox"/> Good, wares and merchandise sold by plaintiff, to defendant; <input type="checkbox"/> Work done and materials furnished by plaintiff, to defendant; <input type="checkbox"/> Money lent by plaintiff to the defendant which is due and payable; <input type="checkbox"/> Money due to plaintiff upon accounts stated and agreed to between them; <input type="checkbox"/> On a written instrument, copy of which is attached hereto; <input type="checkbox"/> Rent for certain premises in Miami-Dade County, Florida, Viz; <input type="checkbox"/> Other (Explain) <input type="checkbox"/> Any additional facts in connection with any of the above: (USE ADDITIONAL SHEET IF NECESSARY)		Phone Number:
Where Plaintiff demands judgment in the sum of \$ _____ together with court costs and any further costs which the Court may assess.		
The Plaintiff, _____ says the foregoing is a just and true statement of the amount owed by defendant to plaintiff, exclusive of all lawful setoffs, and that defendant has no lawful defenses which would preclude the collection of said amount.		
Affiant states that the defendant(s) is/are not in the military service of the United States.		
Attorney/Plaintiff	Signature	Attorney's Bar No.
Address of Attorney/Plaintiff		Telephone No.
The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by _____ who is personally known to me or who has produced _____ as identification and did <input type="checkbox"/> / did not <input type="checkbox"/> take an oath.		
SWORN TO AND SUBSCRIBED BEFORE ME this _____ day of _____, 20__.		
<b>HARVEY RUVIN</b> <b>CLERK OF COURTS</b>	Deputy Clerk	NOTARY PUBLIC, State of Florida _____ My Commission Expires:

IMPORTANT: SEE REVERSE

# Statement of Claim Form

The Plaintiff sues the Defendant for money owed Plaintiff by Defendant; and which is past due and unpaid; for (As marked (x) below):	Address: <div></div>	Phone Number: <div></div>
<div><input type="checkbox"/> Good, wares and merchandise sold by plaintiff, to defendant;</div> <div><input type="checkbox"/> Work done and materials furnished by plaintiff, to defendant;</div> <div><input type="checkbox"/> Money lent by plaintiff to the defendant which is due and payable;</div> <div><input type="checkbox"/> Money due to plaintiff upon accounts stated and agreed to between them;</div> <div><input type="checkbox"/> On a written instrument, copy of which is attached hereto;</div> <div><input type="checkbox"/> Rent for certain premises in Miami-Dade County, Florida, Viz;</div> <div><input type="checkbox"/> Other (Explain)</div> <div><input type="checkbox"/> Any additional facts in connection with any of the above:</div> <div><b>(USE ADDITIONAL SHEET IF NECESSARY)</b></div>		

# Locating the Defendant

- **County & Municipal Occupational License Offices**
  - Local Business Tax 305-270-4949
  - <https://miamidade.county-taxes.com/public>
- **Miami-Dade County Public Library**
  - 305-375-2665, <https://www.mdpls.org/>
- **Voter's Registration Search:**
  - <http://registration.elections.myflorida.com/CheckVoterStatus>
- **Marriage License Search**
  - <https://www2.miami-dadeclerk.com/mlsweb/LicenseSearch.aspx>
- **Miami-Dade County Property Appraiser** (305) 375-4712
  - Real property search: <http://www.miamidade.gov/propertysearch/#/>
- **Miami-Dade County Clerk of Courts**
  - Public records search: <https://www2.miami-dadeclerk.com/public-records/Search.aspx>
  - Court records search: [http://www.miami-dadeclerk.com/online\\_services.asp](http://www.miami-dadeclerk.com/online_services.asp)

# Locating the Defendant Cont'd

- **Florida Dept. of State Division of Corporations:**
  - Entity Search: <http://search.sunbiz.org/Inquiry/CorporationSearch/ByName>
  - Fictitious Name Search: <http://www.sunbiz.org/ficinam.html>
  - Judgment Lien Search: <http://www.sunbiz.org/jlilist.html>
- **Florida Dept. Agriculture & Consumer Services**
  - Business or Individual License/Complaint Lookup: <https://csapp.800helpfla.com/cspublicapp/businesssearch/businesssearch.aspx>
- **Florida Dept. of Business & Professional Regulation**
  - License Search: <https://www.myfloridalicense.com/wl11.asp?mode=0&SID=&brd=&typ=>
- **Florida Office of Financial Regulation License Search**
  - <http://www.flofr.com/StaticPages/VerifyALicense.htm>
- **Florida Dept. of Health - Provider License Search**
  - <https://appsmqa.doh.state.fl.us/IRM00PRAES/PRASLIST.ASP>

# Service of Process

- **By agreement**
- **Certified Return Receipt Mail (\$)**
- **Miami-Dade Police Dept.  
Governmental Services Bureau (\$44)**  
(305)375-5100
- **Private Process Server (\$\$\$)**

To obtain a list of process servers in Miami-Dade County, you should contact the Administrative Office of the Courts at 305-349-7369.

**Self Represented Litigant Resources – Service of Process information**

<https://www.jud11.flcourts.org/Self-Help-Center/Process-Servers/Self-Represented-Litigant-Resources>

# Service of Process

For more information on Fees and Procedures for Court Services, please visit:  
<https://www8.miamidade.gov/global/police/fees-and-procedures.page>

Or call:

Miami-Dade Police Dept. Governmental  
Services Bureau, Court Services Section  
305-375-5100



# Service of Process

## Certified Civil Process Servers

Certified Civil Process Servers

To find a specific process server, type your text in the filter box of the desired column and press 'Enter'.

Process Server ID	First Name	Last Name	Location	Phone Number
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
1355	Adam		Miami, FL 33157	7864438345
139	David		Hialeah, FL 33014	3055432828
233	Donna		Homestead, FL 33030	7863060903
2139	Javier		Miami, FL 33179	7863069007
1398	Chase		Miami, FL 33128	3053453970
1508	Richard		Orlando, FL 32877	7862953209
1874	Jorge		Miami, FL 33175	
1939	Bryan		Miami, FL 33147	
1652	Evaristo		Miami, FL 33126	7867150784
2217	John		Coral Gables, FL 33134	8137812006

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Page size: 10 ▼

419 items in 42 pages

Visit: <https://www.jud11.flcourts.org/Process-Servers> to locate a certified process server in Miami-Dade County.

# Notice to Appear Form

STATE OF FLORIDA

NOTICE TO PLAINTIFF(S) AND DEFENDANT(S)

YOU ARE HEREBY NOTIFIED that you are required to appear in person or by attorney at:

73 West Flagler St., Miami, Florida, Sixth Floor, Courtroom 6-4 on \_\_\_\_\_, 20\_\_\_\_.

at \_\_\_\_\_ . M., for pretrial conference before a Judge of this Court. Section # \_\_\_\_\_.

**“For those unable to pay for an attorney, information on how to seek free legal assistance can be found at [www.dadecountyprobono.org](http://www.dadecountyprobono.org).”**

**IMPORTANT-READ CAREFULLY**

**THE CASE WILL NOT BE TRIED AT THAT TIME.**

**DO NOT BRING WITNESSES — APPEAR IN PERSON OR BY ATTORNEY**

The defendant(s) must appear in court on the date specified in order to avoid a default judgment. The plaintiff(s) must appear to avoid having the case dismissed for lack of prosecution. A written MOTION or ANSWER to the court by the plaintiff(s) or the defendant(s) shall not excuse the personal appearance of a party or its attorney in the PRETRIAL CONFERENCE. The date and time of the pretrial conference CANNOT be rescheduled without good cause and prior court approval.

A corporation may be represented at any stage of the trial court proceedings by an officer of the corporation or any employee authorized in writing by an officer of the corporation. Written authorization must be brought to the Pretrial Conference.

# Notice to Appear Form

IN THE COUNTY COURT IN AND FOR MIAMI-DADE COUNTY, FLORIDA.		
<b>DIVISION</b> <input type="checkbox"/> DISTRICT COURTS <input type="checkbox"/> OTHER	<b>SUMMONS/NOTICE TO APPEAR FOR PRETRIAL CONFERENCE DISTRICT COURT</b> (File in Quadruplicate)	<b>CASE NUMBER</b> <div style="border: 1px solid black; height: 20px; width: 100%; margin-top: 5px;"></div>
<b>PLAINTIFF(S)</b> <div style="border: 1px solid black; height: 100px; width: 100%; margin-top: 5px;"></div>	<b>VS. DEFENDANT(S)</b> <div style="border: 1px solid black; height: 100px; width: 100%; margin-top: 5px;"></div>	<b>CLOCK IN</b>
<b>DEFENDANT(S) TO BE SERVED AT:</b> <div style="border: 1px solid black; height: 40px; width: 100%; margin-top: 5px;"></div> <div style="border: 1px solid black; height: 20px; width: 100%; margin-top: 5px;"></div> <div style="border: 1px solid black; height: 20px; width: 100%; margin-top: 5px;"></div>		
<p>STATE OF FLORIDA                  NOTICE TO PLAINTIFF(S) AND DEFENDANT(S)                  YOU ARE HEREBY NOTIFIED to appear in person or by attorney at the location indicated below:</p> <p><b>"For those unable to pay for an attorney, information on how to seek free legal assistance can be found at <a href="http://www.dadecountyprobono.org">www.dadecountyprobono.org</a>."</b></p> <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> HIALEAH DISTRICT COURT  <input type="checkbox"/> MARTIN LUTHER KING OFFICE                 </div> <div> <input type="checkbox"/> NORTH DADE JUSTICE CENTER  <input type="checkbox"/> MIAMI BEACH DISTRICT                 </div> <div> <input type="checkbox"/> CORAL GABLES DISTRICT COURT  <input type="checkbox"/> SOUTH DADE JUSTICE CENTER                 </div> </div> <p style="text-align: center;">(Addresses for court locations are printed on the back of this form)</p> <p>on _____, 20____, _____ M., in courtroom _____ before a Judge of                  this Court. Section # _____.</p> <p style="text-align: center;"><b>IMPORTANT – READ CAREFULLY</b></p> <p style="text-align: center;"><b>THE CASE WILL NOT BE TRIED AT THE PRETRIAL CONFERENCE, BUT MAY BE MEDIATED AT THAT TIME.</b></p> <p style="text-align: center;"><b>DO NOT BRING WITNESS(ES). YOU MUST APPEAR IN PERSON OR BY ATTORNEY.</b></p> <p style="text-align: center;"><b>WHOEVER APPEARS FOR A PARTY MUST HAVE FULL AUTHORITY TO SETTLE FOR ALL AMOUNTS FROM ZERO TO THE AMOUNT OF CLAIM WITHOUT FURTHER CONSULTATION. FAILURE TO COMPLY MAY RESULT IN THE IMPOSITION OF SANCTIONS, INCLUDING COSTS, ATTORNEY FEES, ENTRY OF JUDGMENT, DISMISSAL.</b></p>		

# Pre-Trial Conference

The purpose of the pretrial conference is to record your appearance, to determine if you admit all or part of the claim, to enable the court to determine the nature of the case, and to set the case for trial if the case cannot be resolved at the pretrial conference. You or your attorney should be prepared to confer with the court and to explain briefly the nature of your dispute, state what efforts have been made to settle the dispute, exhibit any documents necessary to prove the case, state the names and addresses of your witnesses, stipulate to the facts that will require no proof and will expedite the trial, and estimate how long it will take to try the case.

Mediation may take place at the pretrial conference. Whoever appears for a party must have full authority to settle. Failure to have full authority to settle at this pretrial conference may result in the imposition of costs and attorney fees incurred by the opposing party.

If you admit the claim, but desire additional time to pay, you must come and state the circumstances to the court. The court may or may not approve a payment plan and withhold judgment or execution or levy.

# Pre-Trial Conference

- Within 50 days of filing.
- The Statement of Claim and summons **must** have been served.
- Parties may appear personally or by counsel
  - Where all parties are represented by an attorney, counsel may agree to waive personal appearance at the initial pretrial conference
- Plaintiff does not show: **CASE DISMISSED**
- Defendant does not show: **DEFAULT JUDGMENT FOR PLAINTIFF** (maybe, extenuating circumstances may apply)
- Judge may dismiss case for failure to state a valid legal claim of action.
- If business is represented by employee, written authorization must be filed.
  
- Plaintiff and Defendant show:
  - Brief explanation of the case.
  - A Mediator will try to settle the case.
  - Stipulate to facts and documents, e.g. the accident occurred on this date, or this is the contract the parties executed, etc.

# Pre-Trial Discovery

**Discovery is not permitted, unless a party is represented by an attorney, or the court authorizes.**

## Types of Discovery

- **Interrogatories** (a written question by one party to another)
- **Request for Production of Documents**
- **Deposition** (process of giving sworn evidence)
- **Request for Admission** (allows one party to **request** that another party admit or deny the truth of a statement under oath)

## Other Pre-Trial Preparation

- **Subpoena witnesses**
- **Collect/subpoena documents**

# Counter, Cross & Third Party Claims

- **Counterclaim** - a claim made by the defendant in a civil lawsuit against the plaintiff.
  - The case may be transferred if the amount exceeds the jurisdictional amount.
  - The counterclaim must be filed five (5) days before the Pre-Trial Conference.
- **Crossclaim** - A cross-claim is a claim by a party against a party on the same side of a lawsuit, such as when one defendant sues a co-defendant.
  - Relates to any property that is the subject matter of the original action.
- **Third-Party Claim** - a claim made by a defendant against a non-party alleging this "third party" is responsible for all or part of the Plaintiff's claim.
  - The judge will permit or disallow based upon a motion at the Pretrial Conference.

# Trial

- Scheduled within **60 days** from the Pre-Trial Conference.
- A **corporation** may be represented at any stage of the trial by an officer of the corporation or any employee with written authorization (notarized power of attorney executed by an officer of the corporate entity).



# Jury Trial

- Jury trials may be had upon **written** demand of the plaintiff at the time of the commencement of the suit, or by the defendant within five (5) days after service of notice of suit or at the pre-trial conference.

**\* If you do not formally request a jury trial, it shall be deemed waived.**

# Trial

- You must present your own case!
- A judge cannot advocate on behalf of either party.
- Photos, documents and witnesses are your evidence, and without them you have a weak case.
- Burden of Proof – Preponderance of the evidence (>50%).

# Trial

- If witnesses won't appear voluntarily, you must subpoena them (example of subpoena, next page). The sheriff or process server will serve the subpoena and you must pay a travel fee.
- You need proof that your witness was subpoenaed in case they don't show up in court.
- Telephonic Testimony – Prior to the trial, file a motion to permit testimony by phone - if the witness is not available to appear at the trial.
- If you plan to appeal the case, hire a court reporter (\$100.00, plus fees per page).

**DIVISION**

- ☐ CIVIL  
☐ FAMILY  
☐ DISTRICTS  
☐ OTHER

**SUBPOENA FOR TRIAL**  
(a) For Issuance by Clerk.

**CASE NUMBER**

**PLAINTIFF(S)/PETITIONER**

**VS. DEFENDANT(S)/RESPONDENT**

**SERVICE**

**STATE OF FLORIDA:**

**TO:** \_\_\_\_\_

**YOU ARE COMMANDED** to appear before the

Honorable \_\_\_\_\_, Judge of the Court at the \_\_\_\_\_

County Courthouse in Miami-Dade County, Florida located at \_\_\_\_\_

\_\_\_\_\_ Room # \_\_\_\_\_, on \_\_\_\_\_.

20\_\_\_\_, at \_\_\_\_\_ .m., to testify in this action.

**IF YOU FAIL TO APPEAR, YOU MAY BE IN CONTEMPT OF COURT.**

You are subpoenaed to appear by the following attorneys: \_\_\_\_\_

and unless excused from this subpoena by this attorney or the Court , you shall respond to this subpoena as directed.

**CLOCK IN**

**HARVEY RUVIN  
AS CLERK OF THE COURT**

**BY:** \_\_\_\_\_  
AS DEPUTY CLERK

**DATE**

Attorney for: \_\_\_\_\_

Address: \_\_\_\_\_

Florida Bar No. \_\_\_\_\_

(Court Seal)

# Trial Procedures

1. Introduce yourself
2. Plaintiff (you) proceeds first
3. Give a brief opening statement
4. Defendant cross-examines Plaintiff's witnesses
5. Defendant may move for a ***Directed Verdict***  
(A ***directed verdict*** is a ruling entered by a trial judge after determining that there is no legally sufficient evidentiary basis for a claim)
6. Defendant then presents his case and witnesses
7. Plaintiff rebuts and cross-examines Defendant

# Courtroom Decorum

- Please be prepared and practice your opening statement beforehand, if necessary.
- Be concise and to the point
- Speak clearly
- Dress appropriately
- Do not play lawyer

# Objections

**Objection,  
your  
Honor**

- Hearsay - Information received from other people that one cannot adequately substantiate; a rumor.
- Opinion - If you are not an expert, you are simply giving an opinion.
- Irrelevant or immaterial - Information not pertinent to the matter at hand or where it has no probative value in proving or disproving any issue of fact involved.

# Judgment

- For the Plaintiff
  - Record Judgment w/ Clerk's Office @ **22 N.W. 1<sup>st</sup> Street, Miami, FL**
  - Interest rate per Annum (per year):

Effective Date	Rate Per Annum	Daily Rate as a Percentage	Daily Rate as a Decimal
October 1, 2020	5.37%	.0146721%	.000146721
July 1, 2020	6.03%	.0164754%	.000164754
April 1, 2020	6.66%	.0181967%	.000181967
January 1, 2020	6.83%	.0186612%	.000186612
October 1, 2019	6.89%	.0188767%	.000188767
July 1, 2019	6.77%	.0185479%	.000185479
April 1, 2019	6.57%	.0180000%	.000180000
January 1, 2019	6.33%	.0173425%	.000173425
October 1, 2018	6.09%	.0166849%	.000166849
July 1, 2018	5.97%	.0163562%	.000163562
April 1, 2018	5.72%	.0156712%	.000156712

- Indicate correct addresses of parties
- Check off Fact Information Sheet Request

**Good for 20 years, but it must be re-recorded every 10 years with the Recorder's Office and 5 years with the Department of State to stay in effect.**



# Final Judgment Form

IN THE COUNTY COURT IN AND FOR MIAMI-DADE COUNTY, FLORIDA  
CIVIL DIVISION

CASE NO:  
SECTION NO:

Plaintiff(s) vs. Defendant(s)  
**FINAL JUDGMENT**

It is adjudged that plaintiff(s), \_\_\_\_\_, whose  
address is \_\_\_\_\_

\_\_\_\_\_ recover from the  
defendant(s), \_\_\_\_\_, whose address is  
\_\_\_\_\_

\_\_\_\_\_ the sum of \$ \_\_\_\_\_ as principal,  
\$ \_\_\_\_\_ as pre-judgment interest, \$ \_\_\_\_\_ as attorney's fees, if applicable,  
and \$ \_\_\_\_\_ as costs, totaling \$ \_\_\_\_\_, for which let execution issue.  
Judgment shall bear interest at the legal rate until paid in full.

It is further ordered and adjudged that the judgment debtor(s) shall complete under oath Florida  
Rule of Civil Procedure Form 1.977 (Fact Information Sheet), including all required attachments, and  
serve it on the judgment creditor's attorney, or the judgment creditor if the judgment creditor is not  
represented by an attorney, within 45 days from the date of this final judgment, unless the final judgment  
is satisfied or post-judgment discovery is stayed.

Jurisdiction of this case is retained to enter further orders that are proper to compel the judgment  
debtor(s) to complete form 1.977, including all required attachments, and serve it on the judgment  
creditor's attorney, or the judgment creditor if the judgment creditor is not represented by an attorney.

Jurisdiction is retained to enforce this judgment and to enter post-judgment relief.

DONE AND ORDERED at Miami-Dade County, Florida this \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_.

Copies furnished to  
Parties / Counsel of Record

\_\_\_\_\_  
COUNTY COURT JUDGE

# Post Judgment Motions

- 10 days to file a Motion For Rehearing (and 30 days to appeal the court's decision on this motion)
- 1 year to file a Motion for Rehearing based on:
  - Fraud
  - Excusable Neglect
  - Newly Discovered Evidence
  - Clerical Mistake
  - Inadvertence (a result of inattention; oversight)

# Appeal

- In the unfortunate case that you lose your suit, you have **30 days** to file an appeal to the Appellate Division of the Circuit Court.
- There is a filing fee to the Appellate Division of the Circuit Court.
  - \$281.00 for the appeal.
  - \$100.00 deposit for preparing the record on appeal and \$1.00 for each additional page. Refundable if less and more money if more preparation is involved.

# Collecting on a Judgment

- Obtain a Certified Copy of the Judgment
  - \$1.00 for each page copied
  - \$2.00 for certifying the copy
- Record the Certified Copy (becomes a lien)  
@ 22 N.W. 1 Street, Miami, FL
  - \$10.00 for a one page document
  - \$8.50 for each additional page
- Judgment Lien Recording (Dept. of State)
  - \$20 & \$5 each additional page - gives you priority
  - [www.sunbiz.org](http://www.sunbiz.org)

# Effect of a Judgment Lien

- Defendant will be “stigmatized”
- A judgment may hurt defendant’s credit
- The judgment will follow defendant forever

## **A history of deception**

If plaintiffs had looked deeper into the defendant’s past before hiring him, they would have discovered a history of legal trouble.

The defendant, who court records show is 36, has had to pay or still owes hundreds of thousands of dollars in small claims, check fraud, theft and civil collection cases in several Delaware counties, according to court records.

In August 2015, the defendant was placed on probation for 7 1/2 years after pleading guilty to charges of theft and habitual offending.

He still owes nearly \$150,000 in home detention fees, court costs and restitution in that case, court records show.

# Do your research first; check prior liens and judgments

Judgments are filed and paid in chronological order, so do your research first to determine if the plaintiff owes judgments or liens and therefore will be able to pay if you win your case. Use the sites below to search.

- County Recorder's website (search public records, and judgments):

<https://www2.miami-dadeclerk.com/officialrecords/StandardSearch.aspx>

- Sunbiz judgment liens:

<http://dos.sunbiz.org/jlilist.html>

# How To Collect

- In most cases, the first thing a creditor (you) will do to collect a judgment is require the debtor to complete a personal information and financial statement, also known as a Fact Information Sheet.
- Defendant must answer questions within **45** days and bring all financial documents and papers to court at a hearing scheduled 45 or more days after judgment.
- If defendant does not answer, he may be held in contempt.

# Fact Information Sheet

## FACT INFORMATION SHEET — INDIVIDUAL

Full Legal Name: \_\_\_\_\_  
Nicknames or Aliases: \_\_\_\_\_  
Residence Address: \_\_\_\_\_  
Mailing Address (if different): \_\_\_\_\_  
Telephone Numbers: (Home) \_\_\_\_\_ (Business) \_\_\_\_\_  
Name of Employer: \_\_\_\_\_  
Address of Employer: \_\_\_\_\_  
Position or Job Description: \_\_\_\_\_  
Rate of Pay: \$ \_\_\_\_\_ per \_\_\_\_\_. Average Paycheck: \$ \_\_\_\_\_ per \_\_\_\_\_  
Average Commissions or Bonuses: \$ \_\_\_\_\_ per \_\_\_\_\_. Commissions or bonuses are based on \_\_\_\_\_  
Other Personal Income: \$ \_\_\_\_\_ from \_\_\_\_\_  
(Explain details on the back of this sheet or an additional sheet if necessary.)  
Social Security Number: \_\_\_\_\_ Birthdate: \_\_\_\_\_  
Driver's License Number: \_\_\_\_\_  
Marital Status: \_\_\_\_\_ Spouse's Name: \_\_\_\_\_  
Spouse's Address (if different): \_\_\_\_\_  
Spouse's Social Security Number: \_\_\_\_\_ Birthdate: \_\_\_\_\_  
Spouse's Employer: \_\_\_\_\_  
Spouse's Average Paycheck or Income: \$ \_\_\_\_\_ per \_\_\_\_\_  
Other Family Income: \$ \_\_\_\_\_ per \_\_\_\_\_ (Explain details on back of this sheet or an additional sheet if necessary.)  
Names and Ages of All Your Children (and addresses if not living with you): \_\_\_\_\_  
Child Support or Alimony Paid: \$ \_\_\_\_\_ per \_\_\_\_\_  
Names of Others You Live With: \_\_\_\_\_  
Who is Head of Your Household? \_\_\_\_\_ You \_\_\_\_\_ Spouse \_\_\_\_\_ Other Person \_\_\_\_\_  
Checking Account at: \_\_\_\_\_ Account # \_\_\_\_\_  
Savings Account at: \_\_\_\_\_ Account # \_\_\_\_\_



# Fact Information Sheet

Monthly Payment: \$\_\_\_\_\_ (List all other automobiles, as well as other vehicles, such as boats, motorcycles, bicycles, or aircraft, on the back of this sheet or an additional sheet if necessary.)

Have you given, sold, loaned, or transferred any real or personal property worth more than \$100 to any person in the last year? If your answer is "yes," describe the property and sale price, and give the name and address of the person who received the property.

Does anyone owe you money? Amount Owed: \$\_\_\_\_\_

Name and Address of Person Owning Money: \_\_\_\_\_

Reason money is owed: \_\_\_\_\_

Please attach copies of the following:

- a. Your last pay stub.
- b. Your last 3 statements for each bank, savings, credit union, or other financial account.
- c. Your motor vehicle registrations and titles.
- d. Any deeds or titles to any real or personal property you own or are buying, or leases to property you are renting.

UNDER PENALTY OF PERJURY, I SWEAR OR AFFIRM THAT THE FOREGOING ANSWERS ARE TRUE AND COMPLETE.

\_\_\_\_\_  
Judgment Debtor

STATE OF FLORIDA  
COUNTY OF .....

The foregoing instrument was acknowledged before me on .....(date)....., by ....., who is personally known to me or has produced ..... as identification and who .....did/did not..... take an oath.

WITNESS my hand and official seal, on .....(date).....

\_\_\_\_\_  
Notary Public  
State of Florida

My Commission expires: .....

MAIL OR DELIVER THIS FORM TO THE CLERK OF THE COURT, AND MAIL OR DELIVER A COPY OF THE COMPLETED FORM TO THE JUDGMENT CREDITOR OR THE CREDITOR'S ATTORNEY

# How To Collect

- ***Interrogatories In Aid of Execution***

After the Final Judgment, the creditor (you), may pose questions to the debtor about their assets. These questions must be answered under oath.

- ***Deposition in Aid of Execution***

Instead of the above option, you can seek to depose the debtor or representative if it's a corporation. A subpoena must be served prior to this and you can require the debtor to bring financial statements, motor vehicle titles, leases, mortgages, etc.

- ***Hearing In Aid of Execution***

If you do not know the employer(s) or bank(s) of the defendant and/or the location of any real property, you can file a motion for this option. The debtor must be a natural person not represented by an attorney.

# How to Collect

## ■ *Writ of Execution*

When issuing a *Writ of Execution*, a court typically will order Court Services or other similar official to take possession of property owned by a judgment debtor.

## ■ **THERE IS A FEE FOR THIS! (check slide 16 for more information about fees)**

- Court Services will require you to deposit money to pay fees and costs.
- Court Services will seize debtor's property.
- Plaintiff must notify defendant of pending sale.
- Auction.

# How to Collect

## ■ ***Writ of Garnishment***

- If you find there is no real or personal property which the sheriff may seize through a writ of execution, but you know a third person who may owe the debtor money or a bank account in the debtor's name or anyone else who may have any of the defendant's personal property, you can use this option by initiating a motion with the Clerk.

- ***THERE IS A FEE FOR THIS!***

- \$188 = \$85 service fee; \$100 deposit for garnishee; & \$3 clerk fee are required for first writ. \$103 extra for each additional writ.

- ***Defendant may assert defenses.***

# Consumer Resources

- **Office of Consumer Protection Mediation Center** 786-469-2333  
<http://www.miamidade.gov/business/consumer-protection.asp>
- **American Bar Association Free Legal Answers**  
<https://florida.freelegalanswers.org/>
- **Miami-Dade Contractor Licensing & Enforcement** 786-315-2880  
<https://www.miamidade.gov/building/contractor-complaints.asp>
- **Florida Department of Financial Services Hotline** 877-693-5236
- **Florida Department of Agriculture and Consumer Services (DOACS)** 800-435-7352  
<http://www.freshfromflorida.com/Divisions-Offices/Consumer-Services/Consumer-Resources/Consumer-Protection/File-a-Complaint>
- **Florida Attorney General** 866-966-7226  
<http://myfloridalegal.com/pages.nsf/Main/030e31f06ef0184d85256cc600706904>
- **Florida Department of Business and Professional Regulation**  
850-487-1395 <http://www.myfloridalicense.com/dbpr/>
- **Dade County Bar Association Lawyer Referral Service**  
305-371-2646 <http://www.dadecountybar.org/page/lrs>
- **Florida Bar Consumer Information:**  
<https://www.floridabar.org/tfb/TFBConsum.nsf/48e76203493b82ad852567090070c9b9/7adaf9c3481ead7685256b2f006c53fa?OpenDocument>

# Additional Resources

■ [http://www.miami-dadeclerk.com/courts\\_civil.asp](http://www.miami-dadeclerk.com/courts_civil.asp)

## Civil Court Forms

- [Administrative Order 16-05](#)
- [Administrative Order 16-05-A1](#)
- [Administrative Order 06-41](#)
- [Application For Determination of Civil Indigent Status](#)
- [Attorney of Record Change of Address Form](#)
- [Bond](#)
- [Civil Action Summons \(B\) Form for Personal Service on a Natural Person](#)
- [Civil Court Appellate Section](#)
- [Civil Court Information](#)
- [Civil Cover Sheet](#)

- [Claim of Exemption and Request for Hearing](#)
- [Complaint for Replevin](#)
- [Execution](#)
- [Final Disposition](#)
- [Final Judgment in Replevin \(b\) Judgment in Favor of Plaintiff when Defendant has Possession](#)
- [Final Judgment in Replevin \(a\) Judgment in Favor of Plaintiff when Plaintiff Has Possession](#)
- [Florida Contraband Forfeiture Act Cash Bond Receipt](#)
- [Notice of Commencement of Action](#)
- [Order for Issuance of Writ of Replevin](#)

- [Order for Issuance of Writ of Replevin on Show Cause Hearing](#)
- [Plaintiff Statement](#)
- [Request For Duplicate Order](#)
- [Residential Eviction Summons](#)
- [Small Claims Block Filing Cover Sheet](#)
- [Statement of Claim\(Co-Maker\)](#)
- [Statement of Claim\(Auto Negligence\)](#)
- [Statement of Claim\(Back Rent\)](#)
- [Statement of Claim\(Money Lent\)](#)
- [Statement of Claim\(Promissory Note\)](#)
- [Statement of Claim\(Return of Security Deposit\)](#)

- [Statement of Claim\(Return of Stolen Property\)](#)
- [Statement of Claim\(Towed and /or Stored Vehicles\)](#)
- [Statement of Claim\(Work Done and Materials Furnished\)](#)
- [Subpoena Duces Tecum for Deposition](#)
- [Subpoena Duces Tecum without Deposition-A](#)
- [Subpoena Duces Tecum without Deposition-B](#)
- [Subpoena for Deposition](#)
- [Subpoena For Trial \(a\) For Issuance by Clerk](#)
- [Summons 5 Days Corporate Service](#)
- [Summons 20 Day Corporate Service](#)
- [Waiver of Service of Process](#)

## Additional Resources

The Dade County Bar Association (DCBA) offers consultations with attorneys for up to 30 minutes after paying the non-refundable fee of \$50.00.

**\*You must qualify for this service.**

### DADE COUNTY BAR ASSOCIATION LAWYER REFERRAL SERVICE

Looking for an attorney? Call 305-371-2646

#### AVAILABLE BY PHONE

Why wait in line?  
Call **305-371-2646**  
between 9 AM and 5 PM.  
After hours, you can leave a  
message and we will call you back.



#### TELL US YOUR PROBLEM

We listen to the details of your  
situation to learn what kind  
of legal help you need.

#### LOW PRICE

For \$50 non-refundable fee, you  
receive up to half an hour with a lawyer  
to evaluate your issue. Hiring a lawyer  
will require additional fees and costs.  
We do not offer free legal assistance.



#### MATCH WITH A LAWYER

We will introduce you to a lawyer for  
your kind of legal issue. If you would  
like a second opinion, we will connect  
you with a second lawyer at no  
additional cost.

#### LICENSED & INSURED

We are a non-profit organization, and  
our mission is to serve the public by  
connecting you with lawyers that are  
licensed by the Florida Bar, have a clean  
disciplinary record, and carry insurance.



[WWW.DADECOUNTYBAR.ORG/  
PAGE/PUBREFERRALSERVICE](http://WWW.DADECOUNTYBAR.ORG/PAGE/PUBREFERRALSERVICE)

### DADE COUNTY BAR ASSOCIATION REFERIDO DE ABOGADOS

Necesita un abogado? Llame 305-371-2646

#### DISPONIBLE POR TELÉFONO

Para que esperar en línea? Llame  
al **305-371-2646** De 9am a 5pm  
Después del horario de oficina, usted  
puede dejar un mensaje y le  
devolveremos su llamada.



#### CUÉNTANOS SU PROBLEMA

Nosotros necesitamos los detalles  
de su situación, para saber qué tipo  
de ayuda legal usted necesita.

#### BAJO COSTO

Cobramos \$50, no reembolsables,  
hasta 30 minutos con un abogado, para  
evaluar su situación. Contratar un  
abogado requiere pagar costos  
adicionales. Nosotros no ofrecemos  
asistencia legal gratis.



#### CONECTAR CON UN ABOGADO

Lo referimos a un abogado que maneja  
su tipo de problema legal. Si  
usted quiere una segunda opinión, lo  
referimos a un segundo abogado, sin  
costo adicional.

#### LICENCIADO Y ASEGURADO

Somos una organización sin fines de  
lucro. Nuestros abogados tienen licencia  
con el Florida Bar Association, no tienen  
record disciplinario y mantienen un  
seguro de mala práctica legal.



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# LEGAL SERVICES

OF GREATER MIAMI, INC.

**New Intake Hours**  
**Effective April 2, 2018**

- Mortgage Foreclosure
- Landlord/Tenant Issues
- Mobile Homes
- Homeowners Tricked Out of Title
- Special Education for Children
- Reemployment Assistance
- Disaster Assistance Benefits
- IRS Tax Disputes
- Medicaid & Healthcare Access
- Disability Benefits
- Food Stamps/Cash Assistance
- Veterans Benefits/Discharge Upgrade
- Community Development
- Garnishment
- Student Loans



Apply for services online:  
**[www.legalservicesmiami.org](http://www.legalservicesmiami.org)**  
Anytime



Apply for services by phone:  
**305-576-0080**  
Monday - Thursday 1:30pm-4:30pm



Apply for services in person:  
**4343 West Flagler Street, Suite 100**  
Monday & Wednesday 9:00am - 12:00pm







## **TENANTS' EQUAL JUSTICE CLINIC**

Designed for volunteer attorneys to give free legal advice to low-income individuals whose landlord has not returned a security deposit or clients who are living in unsuitable, unsafe or unhealthy living conditions. Attorneys assist with initiating pro se Small Claims Court case or drafting letters to assist the client in curing legal issues that impede stable housing or habitability.

### **Types of cases:**

- **Security Deposit**
- **Prohibited Practices**

**Apply online anytime:**

**[www.legalservicesmiami.org](http://www.legalservicesmiami.org)**

**Apply by phone: 305-547-0080**

**Monday-Thursday**

**1:30pm – 4:30pm**

**Registration is required.**

# Collecting on Your Judgment

- Settling your case early could save a lot of time and money, even if you only receive a fraction of the damages.
- The defendant is more likely to pay if he/she agrees to the payment amount and terms.

## **Rule 7.130 (b)**

Settlements in full or by installment payments made by the parties out of the presence of the court are encouraged. The plaintiff shall notify the clerk of settlement, and the case may be dismissed or continued pending payments.

Upon failure of a party to perform the terms of any stipulation or agreement for settlement of the claim before judgment, the court may enter appropriate judgment without notice upon the creditor's filing of an affidavit of the amount due.

# Frequently Asked Questions

## [Will I get paid if I win a judgment?](#)

Even if the court decides in your favor, it won't handle collection for you. We provide information on "How to Collect a Judgment in Florida" for you to better understand your options are when it comes to collecting.

Please remember to ask yourself, "Can I collect if I win?" If not, filing a claim may not be your best option.

## Can I bring a lawyer to small claims court?

“In small claims actions, an attorney may appear on behalf of a party at mediation if the attorney has full authority to settle without further consultation. Unless otherwise ordered by the court, a nonlawyer representative may appear on behalf of a party to a small claims mediation if the representative has the party’s signed written authority to appear and has full authority to settle without further consultation. In either event, the party need not appear in person. Mediation may take place at the pretrial conference. Whoever appears for a party must have full authority to settle. Failure to comply with this subdivision may result in the imposition [of] costs and attorney fees incurred by the opposing party”

**Please see Rule 7.090 Appearance; Defensive Pleadings; Trial Date**

## What about my filing fees? Do I get those back if I win?

The costs for filing a Small Claims action include the filing fee, based on the amount of your claim, as well as a service fee for summoning each party to court. If a Final Judgment is entered in your favor as a result of your lawsuit, these costs may be added to the total amount of your judgment.

## If I lose my case in small claims court, can I appeal?

“COURT REPORTER AND APPEALS — your nonjury trial will not be recorded. If you wish a record of the proceedings, a court reporter is necessary. To obtain a court reporter to record your final hearing, you must immediately contact the official court reporter. The cost to secure the presence of a court reporter is a minimum of \$\_\_\_\_ for the first one-half hour or any portion thereof and \$\_\_\_\_ per each additional half hour or portion thereof. To have the record of the proceeding transcribed, the cost is \$\_\_\_\_ per page for the original and per page for each copy. Payment for the court reporter’s appearance must be made in advance to the official court reporter. Appeals to a higher court because you are not satisfied with the outcome of the trial are governed by special rules. One of these rules requires that the appellate court have a complete record of the trial to review for errors. If you do not have a court reporter at your trial, your chances for success on appeal will be severely limited.”

**Rule 7.300, Form 7.323 subsection 7 for more information on Court Reporters and Appeals**

## Where should I file my small claims lawsuit?

Assuming the other party lives or does business in your state, rules typically require that you sue in the small claims court district closest to that person's residence or headquarters. In some instances, you also might be able to sue in the location (court district) where a contract was signed, or a personal injury occurred (such as an auto accident).

If a defendant has no contact with your state, you'll generally have to sue in the state where the defendant lives or does business. Because of the distance involved, out-of-state small claims lawsuits tend to be expensive and unwieldy.

**Rule 7.060: Process and Venue, subsection (a) for more information on where to file**

If I'm sued in small claims court, but the other party is really at fault, can I sue them?

In Florida, you must file a counterclaim if you have a claim against the other party.

If the amount you sue for is under the small claims limit, your case will probably remain in that court. If you want to sue for more, check with your small claims clerk for applicable rules. Often, you'll need to have the case transferred to a different court that has the power to handle cases in which more money is at stake.

**Rule 7.100: Counterclaims, Setoffs, Third-Party Complaints, Transfer When Jurisdiction Exceeded**



## What's the best way to present my small claims case to a judge?

First, understand that the judge is busy and has heard dozens of stories like yours. To keep the judge's attention, get to the point fast by describing the event that gave rise to your claim.

Immediately follow up by stating how much money you are requesting after you have clearly stated the key event. Double back and tell the judge the exact events that led up to your loss.

Whether you are a plaintiff (the person suing) or the defendant (the person sued), you need to back up your story with evidence. One of the best ways to prove your case is with letters or in-person testimony from eyewitnesses or expert witnesses.

Depending on the facts of your case, you can also use photographs, advertisements falsely promoting a product or service, and written contracts to convince the judge you are right.

**Rule 7.300: Form 7.323 (Pretrial Conference Order and Notice of Trial) Subsection 6 (Trial Preparation) for more information.**

## Do I have to file my small claims case within a specific timeframe?

Yes. On slide seven (7) of this presentation, we provide you with the “statute of limitations” for certain types of cases within the State of Florida.

## How much can I sue for in small claims court?

Jurisdictional amounts are on slide three (3) of this presentation. For claims of \$8,000 or more, you may want to inquire about filing your suit in either County Court, or Circuit Court.

## What can I do to resolve my problem without going to small claims court?

We always suggest drafting a demand letter explaining why you're owed the money and asking that it be paid in a specific timeframe, such as 15, or 30 days.

There is also community or court-based mediation, such as the Miami-Dade Office of Consumer Protection, or the Florida's Department of Agriculture and Consumer Services, designed to help parties arrive at a settlement with the help of a neutral third party. Mediation works best where the parties have an interest in staying on good terms, as is generally the case with neighbors, family members, or small businesses who have done business together for many years.

## Can any type of case be resolved in small claims court?

No. Small claims courts primarily resolve small monetary disputes, and in a few states, evictions and restitution of property. No state allows you to use small claims court to file a divorce, guardianship, name change, or bankruptcy, or to ask for emergency relief (such as an injunction to stop someone from doing an illegal act). A few states also prohibit small claims suits based on libel, slander, false arrest, and a few other legal theories.

## How many jurors are on a small claims court jury?

As per Miami-Dade County Civil Court, 18 jurors sit on a jury when requested.

**For a copy of the Florida Small Claims Court rules, visit:**

<https://www-media.floridabar.org/uploads/2017/04/small-claims.pdf>

**END.**