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FARR LAW FIRM *Newsletter*

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SMALL CLAIMS COURT: YES, IT IS A REAL COURT.

By: Will W. Sunter
December 2011



Many people involved in conflicts over small amounts of money have considered taking their claim to small claims court. I have often been asked to describe the procedure in small claims court, and a large percentage of the public has the belief that it is similar to Judge Judy or some other televised pseudo-judicial show. The purpose of this newsletter is to help you understand that small claims court is a real court with all the protections of due process and requirements for admissibility of evidence.

Small claims court is governed by the Florida Small Claims Rules promulgated by the Supreme Court of Florida. All claims in small claims court must be less than \$5,000, exclusive of costs, interest, and attorney fees. Small claims court is an extremely abbreviated version of normal civil proceedings. The party bringing the suit, the plaintiff, will fill out a document known as a statement of claim and file this statement with the clerk of court. Once the statement has been filed, the Plaintiff must pay a filing fee based on the amount he or she seeks to recover from the other party (the defendant).

After the statement of claim has been filed, the clerk of court will provide a date for a pre-trial conference for the parties. It is the plaintiff's duty to make sure that the defendant is served by a process server or sheriff in accordance with the Florida Rules of Civil Procedure. Mailing the statement of claim by certified mail, return receipt requested, with evidence of delivery to the defendant is also permissible. See Small Claims Rule 7.070.

The pre-trial conference will be set for not more than fifty days from the date of the filing of the action. At the pre-trial conference, the plaintiff and defendant will attend mediation to discuss the merits of the claim and the possibility of settlement. If the parties are unable to reach a settlement, the case will be set for a trial date not more than sixty days from the date of the pre-trial conference.



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A continuance of the trial may only be granted upon the showing of good cause. The court will not act as an advocate for any party at trial, so it is the duty of the parties to assert and prove their claims or defenses. The Florida Evidence Code applies to the trial, but is generally liberally construed by judges. At the discretion of the judge, witnesses may appear by telephone.

Although small claims court rules provide for an expedited and simplified version of a civil case, any judgment rendered by the court bears the same status as any other civil judgment. The court may award attorney's fees to the prevailing party if allowed by contract or statute. If contemplating bringing or defending a small claims action, you may wish to consult with an attorney regarding the merits and procedures of small claims court.

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