

SMALL CLAIMS INFORMATION FOR PRO SE LITIGANTS

Small claims are disputes involving money damages where the amount at issue does not exceed \$5,000.00 excluding costs, interest, and attorney's fees. Please refer to Section 34.01(1)(c), Florida Statutes, for a description of which causes of action are under the jurisdiction of Chapter 34, Florida Statutes, and to the Florida Small Claims Rules.

Other than specifically indicated in these procedures or provided for in Florida Small Claims Rule 7.050(c), the Clerk's Office cannot help you or provide you with assistance in preparation of any forms with the exception of providing ministerial assistance as provided for in Small Claims Rule 7.050(c). Any further advice or assistance must come from private counsel. The Clerk's Office CANNOT recommend an attorney for you. If you do not have private counsel, you may contact the Florida Bar's Lawyer Referral Service, which offers limited consultations for a minimal fee, at 1-800-342-8011. Additionally, you may be eligible for services from the Community Legal Services of Mid-Florida, Inc., and may contact them for more information at 1-866-469-7444.

To check the progress of a case throughout the small claims process, please use eFACTS on the Clerk of Court's website at www.brevardclerk.us > Public Records > Court Case Search > Logon > eFACTS.

GENERAL INFORMATION

1. The law gives the person filing a law suit the right to sue in any of several places (venue). If a law suit is filed in the wrong venue, the court may direct that the case be transferred to the correct venue or may direct that the case be dismissed. A proper location or venue may be one of the following:
 - A. Where the contract was entered into
 - B. If the suit is on an unsecured promissory note, where the note is signed and the maker resides. The original note must be filed when the case is initiated.
 - C. If the suit is to recover property or to foreclose a lien, where the property is located
 - D. Where the event giving rise to the suit occurred
 - E. Where any one or more of the defendant(s) reside(s)
 - F. Any location agreed to in a contract
 - G. In an action for money due, if there is no agreement as to where suit may be filed, proper venue lies in the county where payment is to be made
2. When filling out the small claims forms, please print or type so that the forms are legible. If the Statement of Claim includes an Affidavit as to the defendant's military status, the

plaintiff's signature on the Statement of Claim must be notarized and sealed by either a Notary Public or a deputy clerk. A blank Statement of Claim is available on the Clerk of Court's website at www.brevardclerk.us > Forms > Small Claims > Statement of Claim.

3. **When you file your case, please ensure that you provide the appropriate number of copies for each document as indicated within these instructions.** The deputy clerk will charge you a copy fee for each copy you require to complete your package if the copies are not submitted with your complaint. If you fail to advise the deputy clerk that you do not have the appropriate number of copies needed for mailing prior to the deputy clerk time-stamping and in effect filing your document, the fee will be \$1.00 per page. The fee is \$.15 per page for documents that have not yet been filed with the Clerk's Office and \$1.00 per page for documents that have been filed with the Clerk's Office.
4. You must bring two copies of any documents on which your claim is based, such as cancelled checks, invoices, contracts, letters, estimates, etc. If you are suing more than one person, you must add one extra copy per document for each additional person being sued.
5. When filing your complaint, please ensure that you provide the appropriate number of preaddressed, prestamped business size envelopes as indicated within these instructions. The envelope should reflect the plaintiff's return address. The plaintiff will be responsible for insufficient postage or re-execution of returned mail. The Clerk's Office will not provide or sell envelopes to you. The Clerk's Office also does not sell postage.
6. The Clerk's Office will not refuse to accept any filing presented to them and will not review pleadings to determine whether the document is sufficiently prepared according to law. These determinations are made by the court.
7. For filing fee amounts, refer to the Fees and Charges quick Link on our website at www.brevardclerk.us > Quick Links > Filing Fees. Fees payable to the Clerk's Office may be paid by cash, personal check, cashier's check, money order, or credit card. Checks, money orders, or cashier's checks should be made payable to the Clerk of the Court.
8. All filing and service fees are recoverable as costs.
9. If your case has been assigned to Judge David Silverman, please refer to the Clerk's website at www.brevardclerk.us/e-filing regarding important information about proposed orders. Judge Silverman requires ALL proposed orders to be submitted electronically through the statewide Portal at www.myflcourtaccess.com. Please review the FAQs on the Clerk's or the Portal's website for more information, or e-mail civilefilingassistant@brevardclerk.us.

SERVICE INFORMATION

1. If you are suing an individual:
 - A. Obtain the proper name and street address of the individual. If the spouse will be included in the suit, obtain the proper name and street address of the spouse. First names must be used and any alias names, if known.

2. If you are suing a corporation:
 - A. You must know the correct name of the corporation and the state in which it is incorporated.
 - B. Obtain the name and address of an officer of the corporation: the president, vice-president, etc. or in the absence of any of these, the name and address of the business agent residing in the state, or the name of the resident agent transacting business for the corporation in this state. To find this information, which will be necessary to perfect service on the corporation, you may write or call:

Secretary of State of Florida
ATTN: Corporation Division
Tallahassee, FL 32304
(850) 488-9000
<http://www.sunbiz.org>

3. If you are suing a partnership:
 - A. Obtain the names and addresses of all partners.
 - B. A fictitious name cannot be sued because it is not an entity. It is the plaintiff's responsibility to investigate to determine by calling the Secretary of State, Division of Corporations; the Occupational License Section of the Tax Collector's Office; or the licensing department of the city where the principal place of business is located. This information may also be obtained from the Florida Department of State's Division of Corporations. The website for this Division is www.sunbiz.org. The path to obtain the information is Document Searches > Fictitious Names. If the name is not registered, the law will not allow the opposing party to defend the action until the name is registered. Conversely, if you are doing business under a fictitious name, you must be registered under the fictitious name statute before you can maintain a suit in any court in this state.
4. Fees payable to the Clerk's Office may be paid by cash, personal check, cashier's check, money order, or credit card. Checks, money orders, or cashier's checks should be made payable to the Clerk of the Court. Fees payable to the Sheriff must be paid by cashier's check, money order, or business check. Money orders or cashier's checks should be made payable to the Sheriff of the county where the defendant is to be served.
 - A. Certified mail fees are \$6.49 (Certified Mail \$3.30, Return Receipt \$2.70, Postage \$0.49 per ounce) per person payable to the Clerk's Office. Service by certified mail is optional and may only be used for service on persons within the state of Florida. If the defendant is located out of the state or if the plaintiff wants personal service, the plaintiff must have summons issued and served by the Sheriff or a Certified Process

Server. If service will occur outside of Brevard County, the plaintiff must obtain information regarding the fees required for service and the address to which the summonses should be mailed. If the plaintiff wants the deputy clerk to mail the issued summonses to an out-of-county sheriff, the plaintiff must provide preaddressed, pre-stamped business size envelopes as indicated within these instructions. The Clerk's Office will not provide or sell envelopes to you. The Clerk's Office also does not sell postage.

- i. Persons are not obligated to sign for Certified Mail, and many times such mail is returned "Unclaimed". You must monitor the case for return of service on the certified mail. If the certified mail is not signed for by the defendant, the deputy clerk will cancel your Pre-Trial Conference date and you must have summonses issued. The case would be set for a later pretrial conference date.
- B. There is a \$10.00 summons issuance fee for each summons issued. If the Statement of Claim lists multiple defendants, a summons issuance fee will be required for each defendant.
- C. Service may be perfected by either the Sheriff's Office or by a Certified Process Server.
 - i. There is a \$40.00 Sheriff's Service fee per summons to be served. If the Statement of Claim lists multiple defendants, a service fee will be required for each defendant. The Sheriff's fee must be remitted in cashier's check, money order, or business check payable to the Brevard County Sheriff. The Clerk's Office CANNOT accept cash for the Sheriff. If you wish to pay cash, you will be responsible for hand-delivering the summons to the Sheriff's Office – Civil Processing Unit. **The Sheriff will not accept personal checks.**
 - ii. If service is to be performed outside of Brevard County, the plaintiff must contact the Sheriff of that county to obtain service and fee information.
 - iii. If the plaintiff opts to have a Certified Process Server serve the summons, the plaintiff must contact the Certified Process Server to arrange service and obtain fee information. A listing of Certified Process Servers may be obtained from the Clerk of Court's website at www.brevardclerk.us > Courts > Process Servers. Listings are available for both Brevard and Seminole Counties. Any reference to the Sheriff as it relates to service of a summons within this procedure should be replaced with the Certified Process Server information if a Certified Process Server is selected by the landlord to provide service of process.

PRETRIAL CONFERENCE, SETTLEMENT AND JUDGMENT

1. If the plaintiff and defendant reach a settlement outside of court, the plaintiff must contact the Judge's Assistant to **cancel the hearing if one has been scheduled, mail notice of the cancellation to the defendant(s), and file an original Voluntary Dismissal**. A blank form is provided on our website at www.brevardclerk.us > Forms > Small Claims > Court Disposition. Additionally, the plaintiff must mail or deliver a copy of the Voluntary Dismissal to the defendant.
2. **DO NOT BRING WITNESSES** to the scheduled Pre-Trial Conference. The purpose of Pre-Trial Conference is to encourage the parties to resolve their conflict and avoid a trial.
3. If the plaintiff does not appear for the Pre-Trial Conference, the case may be dismissed.
4. If the defendant does not appear for the Pre-Trial Conference, a Default Judgment may be entered by the Court.
5. **If the plaintiff does not provide a proposed Final Judgment the assigned judge may not enter a Final Judgment, which will delay the progress of the case.** The plaintiff must bring the proposed Final Judgment with a sufficient number of copies of the proposed Final Judgment and preaddressed, pre-stamped business size envelopes for mailing to the plaintiff and each defendant. The envelope should reflect the plaintiff's return address. The plaintiff will be responsible for insufficient postage or re-execution of returned mail.
6. If the court enters a judgment, you may obtain an information sheet describing how to collect a judgment from the Clerk of Court's website at www.brevardclerk.us > Forms > Small Claims > How Judgments are Collected. If this document does not effectively address any questions you have regarding collecting a judgment, you must contact an attorney for guidance.

TRIAL

1. If the parties cannot reach an agreement, a specific time will be scheduled for the trial and you will be notified of that date.
 - A. Bring with you any witnesses who have personal knowledge of the facts of your case to the courtroom on the date of the trial. Also bring all documents, papers, etc., relating to your claim.
 - B. If you are not sure that your witness(es) will attend, witness subpoenas may be necessary to require their attendance.
 - C. The witness cost associated with formally subpoenaing a witness must be paid by you. Pursuant to Section 92.142(1), F. S., the witness fee is \$5.00 plus \$.06 (six cents) per mile for each mile the witness must travel to and from court (money order

or cashier's check made payable to the witness). These charges are recoverable as costs.

- D. If you are suing for damages as a result of an automobile accident, you must obtain an estimate for repair of the damages AND you must subpoena the person who quotes the estimate to appear in court to testify as to the amount of damage.
 - E. If the plaintiff does not provide a proposed Final Judgment, the assigned judge may not enter a Final Judgment, which will delay the progress of the case. The plaintiff must bring the proposed Final Judgment with a sufficient number of copies and preaddressed, pre-stamped business size envelopes for mailing the Final Judgment to the plaintiff and each defendant. The envelope should reflect the plaintiff's return address. The plaintiff will be responsible for insufficient postage or re-execution of returned mail.
- 2. If the court enters a judgment, you may obtain an information sheet describing how to collect a judgment from the Clerk of Court's website at www.brevardclerk.us > Forms > Small Claims > How Judgments are Collected. If this document does not effectively address any questions you have regarding collecting a judgment, you must contact an attorney for guidance.
 - 3. If either party is unsatisfied with the court's decision, the party may refer to Small Claims Rule 7.230 and the Florida Rules of Appellate Procedure.
 - 4. Any further assistance or legal advice must come from private counsel. The Clerk's Office cannot recommend an attorney for you. If you require assistance in obtaining an attorney, you should contact the Lawyer's Referral Service at 1-800-342-8011 or 1-800-733-6337.

MAILING ADDRESS

**BREVARD CLERK OF COURTS
P.O. BOX 219
TITUSVILLE, FL 32781-0219
(321)637-5413**