



LEGAL BRIEF

SMALL CLAIMS COURT

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PREPARED BY

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SMALL CLAIMS COURT

This handout provides a basic overview of small claims procedures in the Las Vegas area. Small claims courts are designed to handle simple, informal, speedy, and inexpensive trials without extensive technical proceedings. Each party can act as their own attorney. If you have questions regarding the procedures, you should contact the court clerk's office. If you have questions about whether you should go to court or how to present your case, contact an attorney. For further information, you may reach the Legal Office by calling 652-2479.

If you file the small claim, you are called the plaintiff. The person or business the claim is against is called the defendant. If the defendant then files a claim against the plaintiff, this is called a counterclaim.

The following information was created by the Las Vegas Justice Court and is provided here as a courtesy. It can also be accessed online at http://www.lasvegasjusticecourt.us/divisions/small_claims/index.php/

SMALL CLAIM FILING - GENERAL INFORMATION

The Justice Court, Las Vegas Township accepts all civil court proceedings within the Las Vegas Township.

The Justice Court Clerk's Office is located at the Regional Justice Center, 200 Lewis Avenue, Las Vegas, Nevada. Business hours are 8:00 am to 4:00 pm, Monday thru Friday, excluding holidays. The information line for the Civil Division is (702) 671-3478.

The information provided here is only general. Please contact the court to discuss each individual customer's situation in more detail.

If you are considering filing a small claim case, you may be interested in taking advantage of a FREE time saving alternative called the NEIGHBORHOOD JUSTICE CENTER. The Center's personalized no cost mediation service may help you resolve your dispute more quickly than through the courts. For information on the Neighborhood Justice Center programs, call 702-455-3898.

SMALL CLAIM FILING GUIDELINES

A Small Claims may be filed in the Las Vegas Justice Court only if:

The claim is for money only and does not exceed \$10,000. If the claim is more than \$10,000, you may wish to contact an attorney. If your claim is for more than \$10,000, you cannot divide the claim by filing two or more separate actions. You may, however, decide not to pursue any amount over \$10,000 and limit your possible recovery to a maximum of \$10,000.

You are 18 years old or older.

Before filing a Small Claims Complaint, the plaintiff must do the following:

Send a demand letter (sample included at the end of this packet), with return receipt requested, to the Defendant. The demand letter must instruct the Defendant to pay the amount due within 10 days (15 days in Henderson) of the date that the letter is sent, or the Plaintiff will file a Small Claims case against the Defendant.

Wait at least 10 days (15 days in Henderson) from the date the demand letter is sent before filing a Small Claims case against the Defendant.

Include a copy of the demand letter along with the signed return receipt (as proof of mailing) with the Small Claims Complaint when the Small Claims case is filed against the Defendant.

SMALL CLAIMS FILING FEES

Filing fees are due at time of filing. Payment may be made by cash, VISA, MASTERCARD, ATM and Debit cards (will be processed as VISA or MASTERCARD credit cards), money order, or cashier's check. No filing will be accepted without the payment of the appropriate fee.

If the filing party cannot afford the filing fee, the filing party must also prepare a Fee Waiver Application (the formal title of the document is Application to Proceed In Forma Pauperis) prior to arriving at the Clerk's Office. The Clerk's Office will receive the documents that the filing party wants to file and if the Fee Waiver is granted by a Judge, the documents will be filed. If the Fee Waiver is denied, the Clerk's Office will call the filing party to advise that they have 2 business days to pay the fee or the case will be closed.

MANDATORY E-FILING OF ALL CIVIL CASES

All documents to be filed with the Justice Court's Civil Division (except Judge's Orders for signature) are required to be electronically filed (E-Filing). Users may file through Odyssey E-File & Serve at <http://wiznet.wiznet.com/clarknv/> for a charge of \$2.50 for each document. This fee is in addition to any applicable Court filing fees. You must have a credit or debit card. The credit card company charges 8 cents (3% as a service charge) to E-File each document outside of the Regional Justice Center.

Users may E-File documents for free (but will still have to pay any applicable Court filing fees) at the scanning stations located in the Justice Court Clerk's Office on the 2nd floor of the Regional Justice Center, 200 Lewis Avenue in Downtown Las Vegas. Cash, Checks or Money Orders will be accepted for court filing fees at the Justice Court Clerk's Office on the 2nd floor of the Regional Justice Center.

An e-mail address is required to receive a file stamped copy of your document. A free e-mail account may be set up at the Self-Help Center on the 1st floor of the Regional Justice Center, 200 Lewis Avenue in Downtown Las Vegas. You may also establish a free e-mail account through Microsoft at hotmail.com, Yahoo at mail.yahoo.com or Google at mail.google.com. The following website provides more information, http://www.lasvegasjusticecourt.us/divisions/civil/e-filing_and_serve.php.

SMALL CLAIMS FILING

Small Claims Complaint documents can be filed in person at the Justice Court Clerk's Office located on the 2nd floor of the Clark County Regional Justice Center, 200 Lewis Ave., Las Vegas, Nevada. Business hours are 8:00 AM to 4:00 PM, Monday thru Friday, excluding holidays.

Electronic filing (E-Filing) is mandatory for all civil case filings, except Orders needing a Judge's signature. Court users may E-File from any location with an internet connection for a fee, or may E-File at the Las Vegas Justice Court without an E-Filing fee. See E-Filing & Service for further information.

All documents should be typed or written clearly. All customers must prepare their own Small Claims Documents. Court staff are not permitted to assist you in preparing your complaint. There is a walk-in Self-Help Center located on the first floor of the Regional Justice Center that provides information and forms for people who are representing themselves in Court. Self-Help services are also available at their website, <http://www.civillawselfhelpcenter.org/self-help/small-claims>. The staff at the Self-Help Center cannot provide legal advice.

After-Hours Filing: (Effective July 16, 2011, After Hours Filing Will No Longer Be Allowed)

SERVICE OF SMALL CLAIMS COMPLAINT

You must serve your Small Claims Affidavit of Complaint on the defendant (and file the Affidavit of Service with the court) at least ten business days before the mediation or trial date you received when you filed your case. If you are unable to serve your defendant within that time, you can file a Motion to Continue (if in Las Vegas) or Application to Reset Expired Court Date (for all other jurisdictions besides Las Vegas) to get a new hearing date. If allowed, the new hearing date will be set far enough in the future to allow you, hopefully, to get your defendant served. You must file proof of service with the court at least ten business days before the new date. Plaintiffs should be aware that if the Defendant is not served, the Court will not hear the case. The Proof of Service **MUST** be fully completed and filed with the Court immediately after service.

Service must be performed by a licensed private process server, a disinterested third party, or the Las Vegas Township Constable. The Plaintiff himself may not serve the Small Claims Complaint on the Defendant.

For information regarding the SERVICE of a Small Claims Complaint contact the Las Vegas Township Constable's Office at (702) 455-4099.

Service by Mail:

If you have made several failed attempts to serve your defendant, you can ask the court for permission to serve the defendant by certified mail. To obtain the court's permission, you must file a Motion for Service of Small Claims Complaint by Certified Mail. Be prepared to provide proof of all the ways the process server attempted to serve the defendant personally.

SMALL CLAIMS ANSWER

As of January 1, 2017, the defendant is no longer required for the plaintiff to serve the defendant with the answer form, and defendant is no longer required to file an answer.

If you are the “defendant” (the person being sued) in a small claims case, you do not need to file anything with the court if you have been served with a Small Claims Affidavit of Complaint. You simply need to attend your small claims court date to defend yourself. The date and time of the mediation or hearing should be stated on the complaint you received. If your case is in North Las Vegas Justice Court, your first court date will be a mandatory mediation.

Even if you do not think you have a defense (a valid reason for not paying) you should attend the mediation or hearing. You should never ignore a summons! If you believe you have a defense, you should do research, prepare your case, organize your evidence, and practice presenting your case. If you are unsure whether you have a legal defense, you may want to consult with an attorney or do your own legal research. If you fail to attend the scheduled small claims mediation or hearing, the judge could enter a money judgment against you for whatever amount the plaintiff is requesting in the complaint. The plaintiff could then try to collect that judgment by, for example, garnishing your wages or taking the money from your bank account.

If you believe the plaintiff's claim is legally defective, you can also file a Motion to Dismiss and ask the judge to dismiss the case. Simply disagreeing with the plaintiff's claim will not be enough. In your motion, you will need to tell the judge what the legal problem is with the plaintiff's case.

SMALL CLAIMS MEDIATION *(If required)*

Mediation is a process in which opposing parties meet with a neutral third party (called a “mediator”) to try and reach a mutually agreeable solution.

Mediation starts with all the parties meeting in one room. Each party has a chance to share their view of the dispute without interruption. Each party then has a private session with the mediator to talk about possible ways to solve the dispute. The mediator will then bring all the parties back together to talk about solutions that might work for everyone.

Mediators are not judges. They will not decide which party is right or wrong. They will also not decide whether one party is telling the truth or advise the parties on how to proceed. The mediator is only there to facilitate a respectful environment to help the parties look at their goals and options so they can find a solution that leaves everyone satisfied.

This free mediation service is offered by well-trained volunteers and staff of the Clark County Courts Neighborhood Justice Center. The Neighborhood Justice Center (NJC) was created through legislation approved by the Nevada State Legislature in 1991 to provide citizens, businesses, and organizations an alternative to the Court process for conflict resolution. If you would like more information about the Neighborhood Justice Center, you may wish to review their website: http://www.clarkcountycourts.us/lvjc/NJC/NJC_CMP.htm

If your small claims case is in Henderson, you will be required to attempt mediation through the NJC as part of the small claims case. A mandatory mediation will be held the same date as your small claims hearing. You just need to show up at the date, time, and place stated on the Small Claims Complaint. If the parties cannot resolve the case, the small claims hearing will go forward. All this takes place at the Henderson courthouse.

For all other jurisdictions including Las Vegas and North Las Vegas, you can contact the NJC at (702) 455-3898. Mediation with the NJC is free. The NJC will contact your opposing party to see if they are interested in trying to mediate your dispute. Unfortunately, unless mediation has been mandated by the court, you can only go to mediation if your opposing party agrees to it

If a settlement has been agreed on by all parties, the mediator will complete the Court Mediation Agreement form and have all parties sign the form. The original Agreement will become part of the case file. The Neighborhood Justice Center will give each party a copy and keep a copy.

Cases that were not successfully resolved by mediation will have a Small Claims hearing date set by the Court. In Henderson it the hearing will take place immediately after the mediation.

<http://www.civillawselfhelpcenter.org/self-help/small-claims/mediating-a-small-claims-dispute>

SMALL CLAIMS HEARING

Hearings in Small Claims cases are informal and are designed to promote fair and speedy justice. The PLAINTIFF and DEFENDANT may offer evidence, including witnesses, to support their arguments.

IMPORTANT NOTE: At the beginning of each Court session, in the mornings and afternoons, there may be a lengthy line of people waiting to enter the courthouse through security. Be certain to arrive early so that you do not miss your case being called.

The first order of business in small claims court is for the clerk to call roll and determine which parties are present. If the plaintiff is not present, the judge may dismiss the case. If the defendant is not present, the judge may ask for the plaintiff to prove up the amount of money he is demanding, and the plaintiff may be awarded a default judgment for the full amount sought in the complaint.

Usually, the judge will ask the plaintiff to present his case first, and then the defendant. Throughout the hearing, the judge will probably ask each party questions about the facts of the case or evidence. If the judge asks for your evidence, hand it to the marshal. Do not approach the judge unless instructed to do so. Always address the judge as “Your Honor” or “Judge” and never interrupt or talk over the judge.

Even if you believe your opponent is not telling the truth, you should remain calm and polite. Do not interrupt your opponent, talk to your opponent, or raise your hand to get the judge’s attention. Instead, write down your point and wait for the judge to address you about your opponent’s statement and provide evidence to the contrary.

You may also bring witnesses: either someone who has firsthand knowledge of the facts (example, he saw the accident) or is an expert on the subject (example, the mechanic who examined your car after it was towed). You can

also present documents or other evidence for the Judge to consider. If your witness requires the assistance of an interpreter, you should arrange to bring one with you. You can also contact the District Court Interpreter's office to make arrangement for an interpreter to be present.

At the end of the hearing, the judge will either issue a decision right away or take the case under advisement. When the judge takes a case under advisement, it means that the decision is pending while the judge considers the facts or researches questions of law. The court will mail you a copy of the decision. A Justice of the Peace's decision is called an "Order."

If you disagree with the decision reached by the judge after your small claims trial, you can file an appeal. The court's decision will not be binding or enforceable until the appeal period has expired. Both the plaintiff and the defendant have five business days from the date the decision was filed (plus three calendar days if the decision was mailed) to object or appeal the decision.

IMPORTANT PLAINTIFF INFORMATION

This is your claim. You are the Plaintiff. The Court will make a decision in the case from the information you provide. The Court does not investigate Defendant addresses, employment, bank accounts, or other information. The Court does not collect money for you. If the Court awards you a Judgment on the claim, you are responsible for locating all information needed to collect on that Judgment and taking any other legal action necessary to collect. Court employees cannot offer you advice on how to collect your judgment.

IMPORTANT INFORMATION FOR PARTIES IN SMALL CLAIMS CASES

Court employees may only explain Court procedures. They are prohibited by Nevada law from offering legal advice. Assistance is provided by the Self-Help Center located on the 1st floor of the Regional Justice Center, 200 Lewis Ave., in Downtown Las Vegas and is open from 8:00 a.m. to 4:00 p.m. Monday through Friday except holidays. They provide instructions and on common Court forms. Their web site is: <http://www.clarkcountycourts.us/CivilSHC/index.html>. If you have specific questions on Small Claims matters, consult an attorney or contact the Clark County Law Library. The Law Library's address is: 309 S. Third St. #400, Las Vegas, Nevada, 89155-7340. The phone number is: (702) 455-4696. Library staff cannot provide legal advice, but they may refer you to sources you may research.

To help individuals understand the Small Claims process, a FREE SMALL CLAIMS COURT INFORMATIONAL CLASS is offered by the UNLV Boyd School of Law, Clark County Legal Services, and Nevada Legal Services. The classes are provided in both English and Spanish. For class information or to register, call 702-386-1070, Ext. 155.

Finally, it is the parties' responsibility to understand the purpose and role of the Small Claims process. The Court does not accept liability for the actions or decisions made by the parties in Small Claims proceedings.

COURT FORMS PAGE & HELPFUL LINKS

<http://www.civillawselfhelpcenter.org/self-help/small-claims>
http://www.lasvegasjusticecourt.us/divisions/small_claims/index.php
<http://www.clarkcountynv.gov/justicecourt/henderson/Pages/default.aspx>
<http://www.clarkcountynv.gov/justicecourt/nlv/Pages/default.aspx>

THE INFORMATION CONTAINED IN THIS PAMPHLET IS OF A GENERAL NATURE AND IS PROVIDED FOR YOUR ASSISTANCE AND CONVENIENCE. IT IS NOT INTENDED AS LEGAL ADVICE AND IS NOT A SUBSTITUTE FOR LEGAL COUNSEL. IF YOU HAVE ANY QUESTIONS AS TO HOW THE LAW IN THIS AREA AFFECTS YOU OR YOUR LEGAL RIGHTS, CONTACT A CIVILIAN ATTORNEY OR THE NELLIS AIR FORCE BASE LEGAL OFFICE FOR AN APPOINTMENT WITH A LICENSED ATTORNEY.

JUSTICE COURTS

Las Vegas Township
Clark County Courthouse
200 South Third Street, Second Floor
Las Vegas, Nevada
Phone: 702-671-3116

Clerk's Office Hours
Mon - Fri 0800-1600

North Las Vegas Township
2428 Martin Luther King Blvd, Bldg A
North Las Vegas, Nevada
Phone: 702-455-7801

Clerk's Office Hours
Mon - Fri 0715-1745

Henderson Township
243 Water Street
Henderson, Nevada
Phone: 702-455-7951

Clerk's Office Hours
Mon - Thurs 0730-1730

BUSINESS LICENSE DEPARTMENTS

Clark County:
Clark County Gov't Center
500 S Grand Central Parkway
Las Vegas, Nevada
Phone: 702-455-4252

Las Vegas City:
City Hall
400 East Stewart Ave
Las Vegas, Nevada
Phone: 702-229-6281

North Las Vegas City:
City Hall
2250 Las Vegas Blvd North
North Las Vegas, Nevada
Phone: 702-633-1520

Henderson City:
City Hall
240 Water Street
Henderson, Nevada
Phone: 702-267-1730

OTHER RESOURCES

Neighborhood Justice Center, 702-455-3898, negotiates/mediates small claims disputes
Nevada Legal Services, 702-386-0404, legal advice for low income citizens
Senior Citizens Law Project, 702-229-6596, legal assistance to Nevada residents over 60
Office of Attorney General Consumer Protection Office, 702-486-3420, helps in consumer credit and fraud cases