

**LOCAL GUIDE TO SMALL CLAIMS COURT  
SECOND JUDICIAL CIRCUIT  
CLERK OF COURTS**

**MINNEHAHA COUNTY**  
425 N. Dakota Avenue  
Sioux Falls, SD 57104-2470  
(605) 367-4924 or (605) 782-3026

**LINCOLN COUNTY**  
104 N. Main Street  
Canton, SD 57013  
(605) 987-5891

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This information is intended to provide basic public information, not legal advice. Court staff must remain neutral and impartial; we cannot coach or advise one side against another. If you have legal questions, please consult with an attorney or review the information published here.

Small Claims Court is an informal process which allows people to sue for money damages. The procedures are simple enough that individuals can file and handle their own claims in court. The maximum limit set by current law for South Dakota Small Claims actions is \$12,000 plus court costs. Claims for more than \$12,000 must be filed as formal civil actions, unless a party is willing to waive recovery of any amounts over \$12,000.

The parties to the action are called the **Plaintiff** (party filing the claim) and the **Defendant** (party against whom the claim is filed). Small Claims actions must be filed in the county where the defendant resides and/or in the county where the loss/action occurred. Filing a claim is not a guarantee of payment.

**Starting a Small Claims Action (Plaintiff):**

The Plaintiff or his/her attorney must provide the Clerk of Court with the following:

1. *Plaintiff's Statement of Claim*, signed by the Plaintiff, describing how the loss or damage occurred and must include the exact dollar amount claimed
2. Supporting documents for the amount you are seeking (see examples below)
3. Correct spelling of the Defendant's name and their current mailing address
4. *Filing fee(s) and court costs*, which will be added to the amount of the claim (refer to *Filing Fee Schedule*)
5. *Civil Case Filing Statement*
6. *Affidavit of Non-Military Status*

**Examples of Supporting Documents:**

- Car Accident: Police/Accident Reports and two (2) estimates for repairs or proof of value if vehicle is totaled
- Past Due Rent: Copy of the lease if available, the dates for which rent covers, the exact dollar amount, address of rental property, receipts for any damages you are seeking
- Security Deposit: A copy of the receipt(s) or proof of payment of security deposit(s)
- Past Due Account: Copy of bill(s) or statement(s)
- NSF, Account Closed or Stop Payment Checks: The original check

**\*\*\*Filing Fees are NON-REFUNDABLE\*\*\***

Once the clerk accepts required documents, the Plaintiff will receive an assigned default hearing date, as well as an answer date for the Defendant (set approximately six weeks out, to allow for service upon the Defendant). In order to receive a Default Judgment (see description below) or to notify the Clerk of any settlements, the Plaintiff must appear on the assigned default hearing date. If a settlement has been reached, the Plaintiff must appear in person to sign off on the claim.

**A note about calendaring small claims cases in Sioux Falls:** Because of our very high volume of small claims cases – about 10,000 per year – the court in Sioux Falls uses a special calendaring process that is not used at many other courts. The process might seem complicated or inconvenient to the public. Here’s the explanation. About 90% of all small claims cases never go to trial – they are settled or paid before trial, or the defendant never responds at all and a default judgment is issued. Therefore, the court in Sioux Falls automatically sets every case for default hearing first. At the default hearing a court clerk takes a roll call of all the cases. Settlements, payments, dismissals, and default judgments will all be determined at the default hearing. As a result, for 90% of all the parties, the case will be done very quickly, judgments will be issued, and the case will be finished and closed. For the very few parties who want a trial, the case will then be reset for trial at a later date. We understand that setting a case for two dates might seem less efficient and it may sometimes mean a party has to come to the courthouse twice on one case; however, the process we use now means that 90% of all small claims filers get their cases completed in a very quick and simple way.

**Personal Service of Small Claims Notices:**

In order to receive a judgment against the Defendant, it is the Plaintiff’s responsibility to make sure the Defendant is properly served and proof is provided to the Clerk of Court prior to the court date. If the defendant refuses the certified mailing, the Court still considers them served. If the certified mailing is returned “unclaimed”, the Plaintiff may contact a process server for personal service of Small Claims Notices.

Note: Please remember that while the following list of agencies and private process servers may be helpful in resolving service issues, they are not specifically endorsed and cannot provide legal advice.

Minnehaha County Sheriff (605)367-4331	Express Attorney Service - Sherwin Bolks (605)335-8693
Lincoln County Sheriff (605)764-5651	JW Services - Jo Brinkman (605)330-8993
Action Process Serving (605)360-2881	Allegiance Investigators (605)338-3078
Private Process Servers (See “Process Servers” in the Yellow Pages)	

**Defendant’s Options:**

If the Defendant, after receiving notice of a lawsuit, wishes to settle the dispute without going to trial, he/she is encouraged to contact the Plaintiff and try to arrange a settlement. In the event an out-of-court settlement is reached, it is the Plaintiff’s responsibility to contact the Clerk of Court and cancel the lawsuit. The Defendant is advised to contact the Clerk of Court to verify the cancellation.

If the Defendant wishes to deny/answer or counterclaim the Plaintiff’s claim, he/she must file a *Defendant’s Denial/Answer/Counterclaim* with the Clerk of Court, specifically stating what is being disputed or counterclaimed and the reason behind it. Your denial statement and counterclaim statements must be separate. Documentation must be filed with the Clerk of Court on or before the assigned date. All supporting documents for your counterclaim must be filed with your statement at the time that your denial is submitted. It is the Defendant’s responsibility to make sure the Plaintiff is served with a counterclaim via certified mail (contact the clerk for fees). At trial, the original claim and counterclaim will be heard at the same time. Plaintiff and Defendant should verify date, time and location of the trial and arrive on time.

**Removal to Circuit Court:** The Defendant may request to have the action transferred to circuit court to be handled as a formal civil case. The procedure for this can be found in the South Dakota Codified Laws. Formal civil procedures are significantly more complicated and technical than small claims so a bond is also required to help ensure that the removal to circuit court is not being requested just to make a case more difficult to pursue.

### **Subpoena Process for Witnesses (Plaintiff or Defendant):**

The Plaintiff or Defendant may request to have witnesses subpoenaed to testify on their behalf. Subpoenas are obtained through the Clerk of Court (contact the clerk for fees). There are certain guidelines in state statutes that must be followed on service and witness fees. For more information, please read the second page of the subpoena forms.

**\*\*\*In South Dakota, Small Claims Judgments are FINAL and cannot be appealed\*\*\***

Default Judgment: If the Defendant fails to properly comply with the notice or fails to appear for the assigned hearing, a Judgment can be entered in favor of the Plaintiff. A Notice of Entry of Judgment will be mailed to the Plaintiff and Defendant. The Plaintiff may attempt to collect if the Defendant does not pay within 10 days.

Contested Cases: The Clerk swears in Plaintiffs, Defendants and all subpoenaed Witnesses. The Judge will ask questions of both parties about their claim. Upon receiving and reviewing all available testimony, the Judge generally announces a decision at that time. However, the Judge may delay his/her decision and put the Judgment in writing at a later date. If a money judgment is rendered in a contested case, parties must adhere to the time permitted (30 days) for payment before additional steps are taken to collect.

**The award of a Judgment does not guarantee payment of the claim. The court makes the decision and records the Judgment, but it does not enforce collection. While the entry of Judgment can be used to record a lien against the debtor, it does not guarantee payment of the debt.**

**The Court does not report judgments to credit bureaus or private collection agencies. Judgments and small claims cases are public record however, and credit bureaus and collection agencies often gather information at the courthouse for their own use. If you have a dispute with a credit bureau about the accuracy of judgment information, we can make copies of the court file, but credit report disputes should be directed to the credit reporting agencies themselves or the appropriate consumer protection agencies.**

### **Collection of Debt:**

Executions: If you are not paid within the respective time period, you may return to the Clerk of Court and obtain an Execution, which is an order requiring the Sheriff to attempt to collect or satisfy your judgment. The Execution needs to be paid, in advance, to the Clerk of Court (contact the clerk for fees). Please contact the Sheriff's Department regarding collection fees.

Garnishment of Wages: To pursue garnishment of wages, you must know where the debtor is employed. You may obtain garnishment forms at some office supply stores or on the Internet, or consult an attorney. The court in South Dakota does not publish garnishment forms itself. Garnishments can be legally complex and although court staff will be as helpful as possible, we cannot give legal advice or "coach" one party against another.

Driver's License, License Plates and Vehicle Registration: The driver's license, license plates and vehicle registration of a debtor may be suspended if the claim arises from a motor vehicle accident. When the judgment is entered, the Plaintiff is encouraged to contact the Driver Licensing Program in Pierre (1-800-952-3696) for further instructions regarding suspensions.

**The Plaintiff should file a Satisfaction of Judgment with the Court when and if the judgment has been paid in full. If a Plaintiff refuses to file a satisfaction even though the judgment has been paid, a Defendant can provide proof of the payment to the Court and ask a judge to direct that a Satisfaction be entered.**