

Legal Services Offices

Statewide Legal Services: (Entry point for the legal services network in Connecticut). **860-344-0380** Central CT area or **1-800-453-3320**.

Other Legal Services Programs:

Hartford, Hartford County:

Greater Hartford Legal Aid
999 Asylum Avenue
Hartford, CT 06105
(860) 541-5000 Fax : (860) 541-5050

Greater New Haven Area:

New Haven Legal Assistance Association, Inc.
426 State Street
New Haven, CT 06510
(203) 946-4811
TDD: (203) 946-4811
FAX: (203) 498-9271

Visit us on the internet:

www.slsc.org
www.ghla.org
www.nhlegal.org
www.connlegalservices.org
www.larcc.org

This pamphlet was produced by the Legal Assistance Resource Center of CT in cooperation with Connecticut Legal Services, Greater Hartford Legal Aid, New Haven Legal Assistance Assoc., and Statewide Legal Services.

The information in this pamphlet is based on the laws in CT as of September, 2009. We hope that the information is helpful. It is not intended as legal advice for an individual situation. If you need further help and have not done so already, please call Statewide Legal Services or contact an attorney.

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Throughout Connecticut:

Connecticut Legal Services:

Administrative Office: (860) 344-0447

Law Offices:

211 State Street
Bridgeport, CT 06604
(203) 336-3851

587 Main Street
New Britain, CT 06051
(860) 225-8678

153 Williams Street
New London, CT 06320
(860) 447-0323

20 Summer Street
Stamford, CT 06901
(203) 348-9216

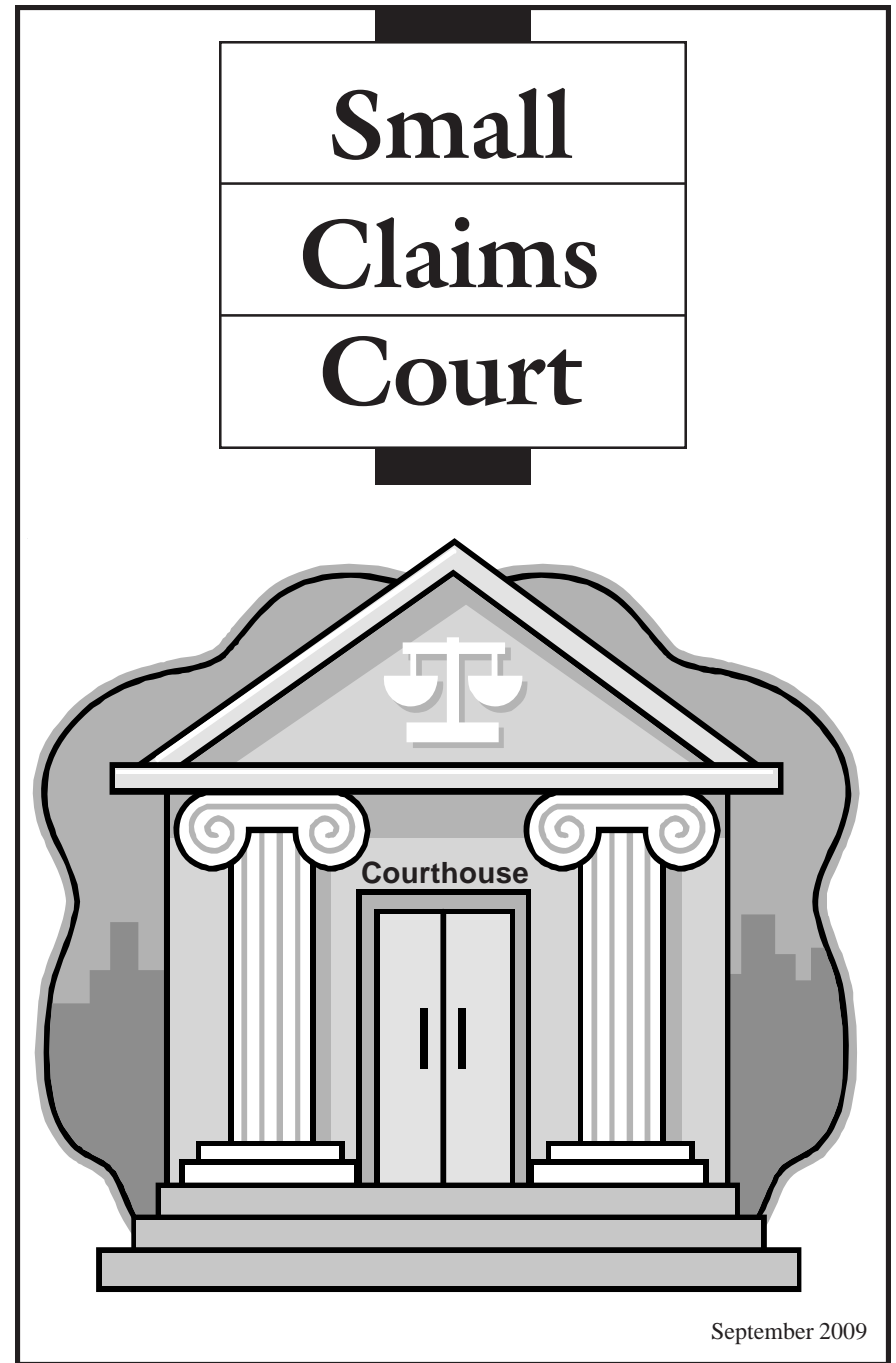
85 Central Avenue
Waterbury, CT 06702
(203) 756-8074

872 Main St., P.O. Box 258
Willimantic, CT 06226
(860) 456-1761

AIDS Legal Network for CT

999 Asylum Avenue
Hartford, CT 06105
(860) 541-5027 or 1-888-380-3646

Small Claims Court



September 2009

What is the Small Claims Court?

The Small Claims Court is the part of the courthouse where anyone over the age of 18 can sue for money.

If you are being sued in Small Claims Court, see page 8.

Do I need a lawyer to sue in Small Claims Court?

No. You do not need a lawyer in Small Claims Court. The process is very easy. You can take care of the entire case yourself.

What can I sue for?

You can sue for money only with a **limit of \$5,000**. These are some of the things for which you can get money:

- Your security deposit from your old landlord. (Be sure to read Legal Aid's pamphlet, "*Tenant's Rights: Security Deposits*" before you sue in Small Claims Court).
- If someone did damage to something you own or you are responsible for, you can sue for the cost of repairing the damage.
- If you purchased and paid for merchandise which was not delivered, and the store refuses to return your money, you may sue the store for the purchase price.
- If a friend borrowed an object from you and then doesn't return it to you after you ask for it, you can sue for the value of the object.

NOTE: You may be entitled to DOUBLE your security deposit!

If you have given your landlord your forwarding address in writing, and after 30 days still have not received any response from your landlord, you can ask the court to give you double your deposit. Make sure to ask for this in your complaint.

What can't I sue for?

You **cannot** sue in Small Claims Court for the following:

- anything other than getting money;
- anything worth more than \$5,000;
- for slander or libel.

Where do I file my small claims action?

You should file with the clerk of the court where the person you are suing (the "defendant") lives, or where the transaction you are suing about occurred. If you are suing a landlord about something to do with your being a tenant, you should file with the clerk of the nearest Housing Session (if there is a Housing Session in that judicial district).

OK, so how do I start a small claims suit?

You must file a *Complaint* with the Small Claims Court.

How do I file a Complaint?

You must fill out the *Complaint* form. (See Sample Form A). Blank forms are available at the court clerk's office where you are going to file the lawsuit and on the State of Connecticut Judicial website www.jud.ct.gov.

Complete the Complaint form and take it to the clerk's office. Give it to the clerk with a \$75 filing fee or ask for forms to have the fee waived if you cannot afford it. (See our pamphlet, A Guide to Fee Waivers).



What do I do if I am suing a business?

If you are suing a business, you must use the legal name. To find out if a business is a corporation that is registered to do business in the Connecticut, call or write the Secretary of State. That way you can get the proper corporate name and also the name and address of the person who gets the legal papers for the corporation (“agent”).

Phone: 860-509-6002

Address: Secretary of the State
Commercial Recording Division
P.O. Box 150470
Hartford, CT 06115-0470

Web: www.concord-sots.ct.gov (Commercial Record. Division)
www.sots.ct.gov (Secretary of the State)

OK, so I filed the Complaint with the court clerk, what happens next?

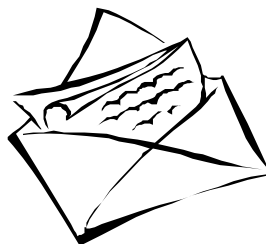
The Complaint will be “served” on the person you are suing (the “defendant”).

How is the Complaint “served”?

The clerk will send your Complaint to the people you are suing (the “defendant”) by mail. A copy of the Complaint will be sent to you. On the notice you get there will be an “Answer Date.”

What if the defendant answers the complaint?

If the defendant files an *Answer* with the clerk by the Answer Date, the clerk will mail you a copy of the defendant’s answer and/or counterclaim.



What is a counterclaim?

A counterclaim means that the defendant claims as part of his answer that *you* owe *him* money.

If the defendant files a counterclaim, fill out the counterclaim answer and mail it back to the court.

Soon after that the clerk will set a date when you have to come to court for trial. **You should not come to court on the Answer Date-- wait until you get a notice from the clerk saying when your trial will be.**

What if the defendant doesn’t answer the Complaint after I served the Complaint?

Then you may win by “default.” You may still have to go to court. The court clerk will tell you if you have a court date. If you do have a court date, then you will have to “prove” your case.

Warning: The person you are suing may transfer your case from Small Claims Court to Superior Court. The rules for Superior Court are much harder to understand. You should call Statewide Legal Services who can refer your case to a lawyer (if you qualify for legal aid) to take over your case. If you win, the defendant will have to pay your lawyer’s fees and your court costs.

What if the defendant or his attorney offers to settle with money?

You are free to settle for the amount the defendant offers. If you think you are right and that the judge will find in your favor, you can refuse anything that is less than the full amount owed to you. **If you accept less than the money owed to you, you cannot go back to court and ask for more.**

You should not think a case is settled until you have received the money. Once you do receive money in settlement, you should *write* to the clerk’s office *before* the date set for trial. If the defendant offers money, but never actually delivers it, get ready for trial.

How do I get ready for trial?

First: Go to court on time.

Second: Bring all of your evidence to court with you. (Evidence could include all letters, receipts, or other papers that prove your case.)

Third: If you have any witnesses, bring them to trial. If you are relying on what someone else said, that person must be at the trial. *For example:* if when you explain what happened you have to say “*my wife said...*” or “*he told my husband that...*” that should tell you to bring that person to court with you. **Be sure to tell your witness the trial date as soon as you know it.**

What if my witness doesn't want to come to the trial?

You can force the person to come by having a *subpoena* issued for the person. Ask the clerk to get a subpoena issued from the court. The clerk can also tell you how to get it *served*. The subpoena must be served at least 18 hours before your hearing.

What happens in court?

You will be given a chance to present your side of the story to the Judge, Magistrate or Commissioner who has been assigned to hear your case. Make sure that you:

- tell the judge exactly why the defendant owes you money, and
- show the judge all of your evidence.

The defendant, or his attorney, will be allowed to ask questions of you and your witnesses and then will tell his side of the story.

Then you will have a chance to ask questions of the defendant or his witnesses, and to tell the judge if you think anything that the defendant says is not true.

When will I know the court's decision?

Sometimes the judge will decide right away. At other times the judge will want to think about it. If the judge needs to think, the clerk will mail you a notice about the judge's decision a few days after the trial.

What if I don't like the decision? Can I appeal?

NO! You cannot appeal a Small Claims Court decision. You will have to live with the decision.

What happens if I win the case?

The court will order how much money you are owed and when you should be paid. This is the “*judgment.*” You will get a *Notice of Judgment*. Usually the court will order weekly payments. It is a good idea for you to send a letter to the defendant saying what the judgment is and asking for payment.

What if the defendant refuses to pay?

If the defendant does not pay, you can get an *Execution*. The court will not collect for you, but you can collect for yourself.

What is an Execution?

An *Execution* is a court order allowing you to collect from the defendant either by taking money out of the defendant's wages (a *wage execution*), or by putting a lien on the defendant's real property, or by collecting money out of the defendant's bank account (a *bank execution*). The fee for an execution is \$75.

Could you run that by me again?

1. A *wage execution* is issued against a defendant who has a job. You collect money out of the defendant's wages. Once you get the wage execution, the defendant's employer will pay you directly. You can only get a wage execution if the court ordered periodic (for example, weekly) payments.
2. If you want to put a *lien on a person's real property* (land or house), you must prepare a *judgment lien certificate*. You may need a lawyer to help you do this. Then file it with the town clerk's office where the property is located. You get to collect when the defendant sells the property.



3. A *bank execution* means you can collect money out of the defendant's bank accounts. The bank pays the state marshal out of the defendant's accounts, and the state marshal then pays you.

How can I find out what kind of execution to use?

If you don't know where the defendant works or the name of the defendant's bank, the clerk of the court can help you find out. The clerk will then send out papers called *interrogatories* that require the defendant to list all of his or her bank accounts, the property he or she owns, and the name and address of his or her employer.

How do I get an execution?

First: Go to the clerk's office and file an *Application for an Execution*.

Second: Bring your *Notice of Judgment* form and an accurate record of any payments the defendant made up to the time you file your Application for Execution at the clerk's office.

Third: Once the Execution is granted, you must get a state marshal to serve the Execution. You must give the state marshal all the information needed to collect the money. This information may include the defendant's current address, bank, or employer.

How long do I have to collect a judgment?

You have 10 years from the date of judgment to collect the money through an Execution.

What if I am sued in Small Claims Court?

If you are being sued in Small Claims Court, you will get a small claims "*Notice of Suit*." THIS IS THE ONLY NOTICE YOU WILL RECEIVE. You should follow all the instructions on the form; otherwise, a judgment will be entered against you.

What do I look for on the Notice of Suit?

Read the whole form. Find the "Answer Due Date" on the front of the Notice of Suit. This date is very important.

You need to fill out the *Answer* form and return it to the clerk on or before the answer due date. The Answer form is in your small claims notice. (See Sample Form B at the back of this pamphlet). You do not need to go to Court on the answer due date.

What if I don't file an answer by the answer due date?

The court will assume that (1) you agree with the reasons why you owe money, and (2) you agree with the amount of money that the person who is suing you (the "plaintiff") says you owe. *Therefore*, the judge can enter a judgment **against you**.

Under what circumstances should I file an answer?

You should file an answer if you fit into any of the following categories:

- You disagree that you owe the person who is suing you (the "plaintiff") money.
- You disagree with the reasons the person who is suing you gives to why you owe the money.
- You think the plaintiff owes you money.
- You agree that you owe money, but you are unsure or disagree about the *amount* of money. **-OR-**
- You agree you owe the money, but you need more time to pay off the money.

What should I put down on the *Answer* form?

You should put down all the reasons, in detail:

- Why you don't owe the money
- Why the plaintiff is wrong about the facts
- Why you think the amount of money the plaintiff is asking for is wrong
- Why you need more time to pay *and/or*
- Why the plaintiff owes you money.

What happens after I file my answer?

You will get a notice from the court telling you the date, time, and place of the trial.

What if I don't go to court on the date of the trial?

Even if you filed an answer or request for time to pay, the court can rule against you if you do not come to court. The judge can enter a judgment saying you owe the money.

How do I get ready for trial?

You should prepare your case the same way the plaintiff would prepare his or her case. (See page 4 for details.)

NOTE: If you lose, the plaintiff can make you pay the cost of bringing the lawsuit, getting state marshals to serve subpoenas, and witness fees.

What do I do on the day of trial?

1. Be in court a few minutes early.
2. When they call your name, say that you are ready to go to trial.
3. You will be sent to a judge, magistrate or commissioner. (See pages 5 and 6 for details.)
4. The plaintiff will get to say his or her side of the story first. **Do not interrupt the plaintiff.** You will have a chance to ask questions of the plaintiff.
5. After the plaintiff has told his or her side of the story and has given all of his or her evidence and witnesses, you get to tell your side. Be sure that you show all of your evidence, and that your witnesses say all they know.



What happens if I lose?

You will get a "Notice of Judgment." It will tell you how much you owe, and when you have to pay it.

Can I appeal the judgment?

NO! Once a decision is made, you cannot appeal it. That is why it is so important for you to show up on the date of trial.

Can I reopen the judgment?

Yes. You can reopen the judgment, but only under certain conditions. There must be a very good reason for you not to show up at trial (like not getting any notice or not filing an answer) and you must have a good defense. You must either file a written *Motion to Open Judgment*, or you must go to the clerk's office and tell the clerk that you want to open the judgment. The fee is \$75. If you cannot afford the fee, you can ask for forms to have the fee waived.

Is there a time period to file a motion to open?

Yes. You must file a motion to open within 4 months of the date of judgment. In the case of a judgment by default, you may also file a motion to open within 4 months from the date a wage execution is levied against you.

WARNING: Most judges do not want to reopen a case. You may have to pay costs if the court decides that your motion is frivolous. **You should always answer the complaint and show up in court.**

What happens if I don't pay the judgment?

If you don't pay the judgment, the plaintiff can get something called an "execution" and collect the money from you.

What happens if the plaintiff gets an execution?

First: The plaintiff can get a *wage execution*. That means the money will come out of your wages before you even see it. You are allowed to take home at least 40 times the minimum wage.

*For 2009, the minimum wage is \$8.00 an hour (40 x \$8 = \$320).
On January 1, 2010, it will be \$8.25 an hour (40 x \$8.25 = \$330).*

To find out your rights, see our pamphlet, *A Guide to Wage Attachments*.

Second: The plaintiff can put an *execution on your bank accounts*. That means that the bank will pay over the money to the plaintiff out of your bank accounts without your permission. The bank must give you notice so that you can protect your exempt money, such as welfare money, work incentive wages, social security, unemployment compensation, worker's compensation, etc.

Third: The plaintiff can put a *lien on your property*. That means that whenever you sell the property, the plaintiff can collect the judgment. It also means that the plaintiff might try to foreclose on your property.

If I am being sued in Small Claims Court, can I transfer the case to another court?

Yes! You can transfer the case to the regular docket of the Superior Court under one of the following conditions:

- You file an affidavit saying that a good defense exists to the claim and write down your defense in detail; **or**
- You have a counterclaim for an amount greater than \$5,000; **or**
- You have properly claimed the case for trial by jury.

Then, you must

- File the Motion to Transfer on or before the Answer Date;
- AND**
- Pay the entry fee for the transfer. (Currently \$125 for the transfer and \$425 for a jury fee.)

Two Notes of Caution:

1. The legal rules for Superior Court are complicated. You will need the help of an attorney.
2. If you transfer the case and you lose, you may have to pay the plaintiff's attorney's fees.



The information in this pamphlet is subject to change from time to time. Check with the Small Claims Court to be sure you have the latest information. The State Judicial Department also publishes a booklet on the Small Claims Process. On the web: www.jud.ct.gov

Form A

SMALL CLAIMS WRIT AND NOTICE OF SUIT

CONNECTICUT SUPERIOR COURT SMALL CLAIMS SESSION

JD-CV-40 Rev. 12-07
C.G.S. §§ 51-15, 51-345(g)
Pr. Bk. § 24-1 et seq.

Type or print legibly. Complete original and provide a copy for each defendant. If downloading the form from the Internet, include "Instructions to Defendant" for each defendant. File the original and copy(ies) for defendant(s) with the court, along with the appropriate entry fee. Retain a copy for your records. See "Instructions to Plaintiff" on back/page 2 for assistance.

FOR COURT USE ONLY
DO NOT WRITE IN THIS SPACE
BARCODE LABEL ONLY

(1.) INFORMATION THAT WILL DETERMINE HEARING LOCATION ANSWER DATE

PL T F	(2.) NAME ADDRESS AND ZIP CODE OF PLAINTIFF #1 <i>Your name and address</i>	PL T F	NAME ADDRESS AND ZIP CODE OF PLAINTIFF #2
	# 1 TELEPHONE NO. (w/area code) (*X* ONE) <input type="checkbox"/> LLC <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> CORPORATION		# 2 TELEPHONE NO. (w/area code) (*X* ONE) <input type="checkbox"/> LLC <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> CORPORATION

(3.) NAME, ADDRESS AND ZIP CODE OF ATTORNEY FOR PLAINTIFF(S) JURIS NO. TELEPHONE NO. (w/area code)

D E F	(4.) NAME ADDRESS AND ZIP CODE OF DEFENDANT #1 <i>Person you are suing.</i>	D E F	NAME ADDRESS AND ZIP CODE OF DEFENDANT #2
	# 1 TELEPHONE NO. (w/area code) (*X* ONE) <input type="checkbox"/> LLC <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> CORPORATION		# 2 TELEPHONE NO. (w/area code) (*X* ONE) <input type="checkbox"/> LLC <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> CORPORATION

(5.) NAME OF TOWN WHERE TRANSACTION/INJURY OCCURRED OR, IN HOUSING MATTERS, WHERE THE PREMISES ARE LOCATED: AGENT FOR SERVICE (For Corporate Defendant)

(6.) IS THIS CLAIM BETWEEN A LANDLORD AND A TENANT? *X* box if yes:

YOU ARE BEING SUED. THE PLAINTIFF(S) CLAIMS YOU OWE

(7.) AMOUNT CLAIMED PLUS COURT COSTS, \$ *amount you are suing for*

(8.) FOR THE FOLLOWING REASONS:

Write a short explanation of what happened and why you are suing.

The undersigned, being duly sworn, deposes and says that the signer has read the claim and, to the best of the signer's knowledge, information and belief, there is good ground to support it.

(9.) SIGNED *x sign in front of notary, clerk, lawyer* TYPE IN NAME AND TITLE OF PERSON SIGNING AT LEFT

(10.) SUBSCRIBED AND SWORN TO BEFORE ME ON (Date) *(leave blank)* SIGNED (Clerk, Notary, Comm. of Sup. Ct.) *x (leave blank)*

(11.) The undersigned deposes and says: **MILITARY SERVICE AFFIDAVIT**

that the defendant is in the military or naval service of the United States.
 that the undersigned is unable to determine whether or not the defendant(s) in this action are in the military or naval service of the United States.
 that no defendant in this action is in the military or naval service of the United States, and that to the personal knowledge of the undersigned (state facts showing defendant is not in such service) *write why you know - for example where the person is working*

SIGNATURE AND TITLE *x sign in front of notary, clerk, lawyer.*
 SUBSCRIBED AND SWORN TO BEFORE ME ON (Date) *(leave blank)* SIGNED (Clerk, Notary, Comm. of Sup. Ct.) *x (leave blank)*

DISTRIBUTION: ORIGINAL - Court COPY1- Defendant COPY2 - Defendant COPY3 - Plaintiff www.jud.ct.gov

Form B

State of Connecticut - Superior Court

Court Name
 Court Address
 Court City, State and Zip

Defendant Address

Docket No. *will be filled in* Case Caption *will be filled in*

IF YOU DENY THE CLAIM OR DESIRE TIME TO PAY YOU MUST ANSWER THIS CLAIM BY THIS DATE:
 Answer Date

AFTER YOU HAVE READ THE INSTRUCTIONS ON THE BACK OF THE WRIT AND NOTICE OF SUIT, IF YOU HAVE ANY QUESTIONS PLEASE CALL THIS NUMBER.
 Court Telephone No.

YOUR ANSWER TO THIS CLAIM MUST GO TO THE ADDRESS ABOVE.
 (You must give or mail your answer to the small claims clerk but it must be in writing and received by the foregoing answer date.)

IN RESPONSE TO THE CLAIM ENCLOSED CLAIMING I OWE THIS AMOUNT: Amount of Claim

THIS IS MY ANSWER: I disagree with the claim of the Plaintiff(s) because:
 (In the space below, state why you disagree with the claim. Be brief but specific. Read the the instructions on the back of your copy of the Notice of Suit. At the time of trial you will be able to explain your defense fully.)

THIS IS MY ANSWER: I admit I owe the claim but desire more time to pay for the following reasons:
 (You may also suggest a method of payment or a timetable for and amount of deferred payments.)

check appropriate box
 Write here why you disagree or why you need more time to pay

DATE SIGNED *fill in date* (Signed) *Sign your name* TELEPHONE NO. *your phone* TITLE OF PERSON SIGNING ABOVE *write "Defendant" here*

- If you are mailing this answer, address it to the Small Claims Clerk as shown above. Be sure to mail it far enough in advance so that it will be received by the clerk ON or BEFORE the above answer date. Also be sure to put a stamp on the envelope because the court cannot accept "postage due" mail.
- YOU DO NOT HAVE TO COME TO COURT ON THE ABOVE DATE EXCEPT TO SUBMIT A WRITTEN ANSWER IF YOU HAVE NOT DONE SO BY THAT DATE. It is not the date of the trial. If you have filed an answer contesting the claim the clerk will schedule a date for the trial and will send you a
- If the plaintiff(s) win this case and you fail to pay the judgment, the plaintiff(s) may try to collect the money owed by getting permission from the court to have the money taken out of your wages, salary, bank account or other property.

IMPORTANT
 Even if you think you may owe the Plaintiff(s) something, but disagree with the amount of the claim, you should file an answer stating why you disagree with the amount claimed.

Answer