



## SMALL CLAIMS INFORMATION AND INSTRUCTIONS FOR DEFENDANT

You are being sued in a small claims case. The person or business suing you is the **plaintiff**. The **Small Claims Complaint** explains what they are suing for and why.

You have 30 days to respond to the complaint. Use the *Small Claims Answer* (form 100-00126) to respond. It should have been served with the complaint. File the completed form with the court and send a copy to the plaintiff.

- If you do not file an answer within 30 days of it being mailed to you, the plaintiff may have a sheriff or constable serve the papers. The cost of having a sheriff or constable serve may be added to any judgment issued against you.
- If you do not file an answer by the deadline after being served by a sheriff or constable, the other party can ask for a default judgment.

Find information about the small claims process and forms on the Vermont Judiciary's website. Go to [www.vermontjudiciary.org](http://www.vermontjudiciary.org) and search **small claims**.

## ANSWER INSTRUCTIONS

Read the complaint and decide your position on the other party's claims.

### Paragraph 1. Answer

If you **disagree** with one or more of the claims in the complaint, mark the "I disagree" box and briefly explain why you disagree. The court will schedule a small claims trial.

If you **agree** you owe the other party the full amount, the court may enter judgment against you. You have several options if you agree with the other party's claims:

- You can **pay the other party the full amount** they asked for and ask them to dismiss the case.
- You can **settle with the other party** to pay an amount other than what they asked for. Pay them the agreed amount and ask them to dismiss the case.
- You can **agree you owe the full amount**. Read about exempt income and property below before deciding to choose this option.
  - You can agree to **pay the entire amount owed within 30 days**. If you choose this option and don't pay by that date, the other party can start collection efforts. Interest accrues at 12% per year.
  - You can propose to **pay the amount owed in installments**. The court may schedule a hearing to determine whether installment payments are appropriate. If you miss an

installment payment, the creditor can start collection efforts. Interest accrues at 12% per year.

- You can propose some other option.

If you aren't sure what might be best for your situation, talk to an attorney. The Finding Legal Help web page has information about ways to get the help of an attorney. Go to [www.vermontjudiciary.org](http://www.vermontjudiciary.org) and search: **finding legal help**.

### **Paragraph 2. Exempt Income and Property** (optional)

A party who is owed money is called the **creditor**. A party who owes the money is called the **debtor**.

Vermont law protects some income and property from being taken by creditors. These are called **exemptions**. Whether you agree or disagree you owe the creditor money or if the judge decides you owe the creditor money, the creditor can't take exempt income or property, force you to give them exempt income or property, or force the sale of exempt income or property to pay a judgment.

Read the *List of Exemptions* (form 100-00511) to learn about common kinds of income and property that are protected from creditors. See 12 V.S.A. § 2740 for a full list of exemptions. If you determine your income or property may be exempt from collection, mark the box. Fill out and file the *Disclosure of Exempt Income* (form 100-00128) and, if applicable, a *Financial Disclosure* (form 100-00127).

Saying your income may be exempt isn't a defense to the claims and doesn't mean the judge can't or won't enter a judgment against you. It does let the other party know they may not be able to collect from you even in if the court rules in their favor. The plaintiff can ask you to provide more information to support your claim of exempt income. You don't have to provide this information now, but it could help you negotiate with the plaintiff.

A small claims judgment is good for eight years. The successful party can file a new small claims case with the court before the eight years is up asking to renew the judgment in order to continue trying to collect.

### **Paragraph 3. Counterclaim** (optional)

A counterclaim is a legal claim by the defendant against the plaintiff in an existing case. It means you are suing the plaintiff. If you think the plaintiff owes you money, mark the box and explain your claim.

You can ask for up to \$10,000 in a counterclaim. If you think the plaintiff owes you more than \$10,000 and you choose to counterclaim in the small claims case, you give up your right to any amounts over \$10,000.

There is a fee to file a counterclaim:

- If you are asking for \$500 or less, the fee is \$25.00.
- If you are asking for more than \$500, the fee is \$35.00.

If you can't afford the filing fee, you can ask the court to consider waiving it by filing an *Application to Waive Filing Fees and Service Costs* (form 600-00228). See the Application to Waive Filing Fees and Service Costs web page for more information and forms. Go to [www.vermontjudiciary.org](http://www.vermontjudiciary.org) and search **fee waiver**.

## **File the Answer and Serve the Other Party**

- Email, mail, or hand deliver the completed *Small Claims Answer* and other forms (if applicable) to the court so that it is received within 30 days of the date you were served.
- On the same day you file forms with the court, you must email, mail, or hand deliver a copy to the other party or to their attorney, if they have one. You must also file a *Certificate of Service - Small Claims* (form 100-00260), saying you did so.
- Attend any scheduled hearings or trials. If you want to ask to reschedule a hearing, file a written *Stipulation/Motion to Continue* (form 600-00418). “Continue” means to postpone or reschedule.

## **Current Contact Information**

If your contact information changes after you file your answer, you must let the court know in writing. If you change your contact information without telling the court, you may miss notices about things happening in your case.

## **ADA Accommodations and Interpreters**

If you would like to ask for an ADA accommodation or an interpreter, contact the court right away.

- See the Americans with Disabilities Act web page for the form to request an **ADA accommodation**. Go to [www.vermontjudiciary.org/ada-info](http://www.vermontjudiciary.org/ada-info).
- See the Language Access web page for the form to request an **interpreter**. Go to [www.vermontjudiciary.org](http://www.vermontjudiciary.org). and search: **interpreter**.

## **Talk to an Attorney**

Small claims cases are designed for people who do not have an attorney. However, you do have a right to hire an attorney. The Finding Legal Help web page has information about ways to get the help of an attorney. Go to [www.vermontjudiciary.org](http://www.vermontjudiciary.org) and search: **finding legal help**.