IC 33-28-3

Chapter 3. Small Claims and Misdemeanor Division

IC 33-28-3-1

Applicability of chapter to circuit courts having standard small claims and misdemeanor division

Sec. 1. This chapter applies to each circuit court for which this title provides a standard small claims and misdemeanor division.

As added by P.L.98-2004, SEC.7.

IC 33-28-3-2

Dockets

Sec. 2. The small claims and misdemeanor division of the court has the following dockets:

(1) A small claims docket.

(2) A minor offenses and violations docket.

As added by P.L.98-2004, SEC.7.

IC 33-28-3-3

Jurisdiction of small claims docket

Sec. 3. (a) The small claims docket has jurisdiction over the following:

(1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than three thousand dollars ($3,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds three thousand dollars ($3,000) in order to bring it within the jurisdiction of the small claims docket.

(2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed three thousand dollars ($3,000).

(3) Emergency possessory actions between a landlord and tenant under IC 32-31-6.

(b) This section expires July 1, 2005.

As added by P.L.98-2004, SEC.7.

IC 33-28-3-4

Jurisdiction of small claims docket

Sec. 4. (a) This section applies after June 30, 2005.

(b) The small claims docket has jurisdiction over the following:

(1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than six thousand dollars ($6,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds six thousand dollars ($6,000) in order to bring it within the jurisdiction of the small claims docket.

(2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed six thousand dollars ($6,000).

(3) Emergency possessory actions between a landlord and

tenant under IC 32-31-6.
As added by P.L.98-2004, SEC.7.

IC 33-28-3-5
Exceptions to formal practice and procedure; answer and appearance; continuance; informality

Sec. 5. (a) The exceptions provided in this section to formal practice and procedure apply to all cases on the small claims docket.

(b) A defendant is considered to have complied with the statute and rule requiring the filing of an answer upon entering an appearance personally or by attorney. The appearance constitutes a general denial and preserves all defenses and compulsory counterclaims, which may then be presented at the trial of the case.

(c) If, at the trial of the case, the court determines:

(1) that the complaint is so vague or ambiguous that the defendant was unable to determine the nature of the plaintiff's claim; or

(2) that the plaintiff is surprised by a defense or compulsory counterclaim raised by the defendant that the plaintiff could not reasonably have anticipated;

the court shall grant a continuance.

(d) The trial shall be conducted informally, with the objective of dispensing speedy justice between the parties according to the rules of substantive law. The trial is not bound by the statutes or rules governing practice, procedure, pleadings, or evidence except for provisions relating to privileged communications and offers of compromise.
As added by P.L.98-2004, SEC.7.

IC 33-28-3-6
Change of venue in cases on small claims docket

Sec. 6. There is no change of venue from the county as of right in cases on the small claims docket. However, a change of venue from the judge shall be granted as provided by statute and by rules of the supreme court.
As added by P.L.98-2004, SEC.7.

IC 33-28-3-7
Waiver of trial by jury; demand for jury trial; transfer to plenary docket

Sec. 7. (a) The filing of a claim on the small claims docket is considered a waiver of trial by jury.

(b) The defendant may, not later than ten (10) days following service of the complaint in a small claims case, demand a trial by jury by filing an affidavit that:

(1) states that there are questions of fact requiring a trial by jury;

(2) specifies those questions of fact; and

(3) states that the demand is in good faith.

(c) Notice of the defendant's right to a jury trial, and the ten (10)

day period in which to file for a jury trial, must be clearly stated on the notice of claim or on an additional sheet to be served with the notice of claim on the defendant.

(d) Upon the deposit of seventy dollars ($70) in the small claims docket by the defendant, the court shall transfer the claim to the plenary docket. Upon transfer, the claim then loses its status as a small claim.

As added by P.L.98-2004, SEC.7.

IC 33-28-3-8

Minor offenses and violations docket; jurisdiction; traffic violations bureau

Sec. 8. (a) The minor offenses and violations docket has jurisdiction over the following:

(1) All Class D felony cases.

(2) All misdemeanor cases.

(3) All infraction cases.

(4) All ordinance violation cases.

(b) The court shall establish a traffic violations bureau in the manner prescribed by IC 34-28-5-7 through IC 34-28-5-10.

As added by P.L.98-2004, SEC.7.

IC 33-28-3-9

Evening sessions; additional sessions

Sec. 9. (a) The court shall provide by rule for an evening session to be held once each week.

(b) The court shall hold additional sessions in the evening and on holidays as necessary to ensure the just, speedy, and inexpensive determination of every action.

As added by P.L.98-2004, SEC.7.

IC 33-28-3-10

Compliance with requests by executive director of state court administration

Sec. 10. The court shall comply with all requests made under IC 33-24-6-3 by the executive director of the division of state court administration concerning the small claims and misdemeanor division.

As added by P.L.98-2004, SEC.7.