

Rules for Small Claims

Rule 2. Commencement of Action

(A) In General. An action under these rules shall be commenced by the filing of an unverified notice of claim in a court of competent jurisdiction and by payment of the prescribed filing fee or filing a petition for an order waiving the filing fee~~filing an order waiving the filing fee.~~

(B) Form of Notice of Claim. The notice of claim shall contain:

- (1) The name, street address, and telephone number of the court;
- (2) The name, mailing address, e-mail address, or filing a petition for an order granting an exemption as to the e-mail address, and telephone and cell phone numbers of the claimant and the name, mailing address, and, if available, telephone cell phone numbers of the defendant(s);
- (3) The place, date, and time when the parties are to appear on the claim, which date shall be set by the court with the objective of dispensing speedy justice between the parties according to the rules of substantive law;
- (4) A brief statement of the nature and amount of the claim; and
 - (a) if the claim arises out of written contract, a copy shall be attached; however, the fact that a copy of such contract is not in the custody of the plaintiff shall not bar the filing of the claim; or
 - (b) if the claim is on an account, an Affidavit of Debt, in a form substantially similar to Small Claims Appendix A shall be attached;
 - (c) in addition to the requirements set forth above in subsection 4(a) and (b), if the plaintiff is not the original creditor, and the claim arises from a debt that is primarily for personal, family, or household purposes, the plaintiff shall provide an Affidavit of Debt that shall have attached as one or more Exhibits which shall include:
 - 1) a copy of the contract or other writing evidencing the original debt, which shall contain a signature of the defendant. If a claim is based on credit card or other debt and no such signed writing evidencing the original debt ever existed, then copies of documents generated when the debt was incurred or the credit card was actually used shall be attached; and
 - 2) a chronological listing of the names of all prior owners of the debt and the date of each transfer of ownership of the debt, beginning with the name of the original creditor; and

3) a certified or other properly authenticated copy of the bill of sale or other document that transferred ownership of the debt to the plaintiff.

- (5) A statement that the parties may appear either in person or by an attorney;
- (6) An instruction to the defendant that the defendant should bring to the trial all documents in the possession of or under the control of the defendant concerning the claim;
- (7) A statement that if the defendant does not wish to dispute the claim he may nonetheless appear for the purpose of allowing the court to establish the method by which the judgment shall be paid;
- (8) The name, street address and telephone number of the person designated by the court with whom the defendant may communicate if defendant is unable to appear at the time or place designated in the notice;
- (9) A statement that a default judgment may be entered against the defendant if he fails to appear on the date specified in the notice of the claim;
- (10) Notice of the defendant's right to a jury trial and that such right is waived unless a jury trial is requested within ten (10) days after receipt of the notice of claim; that once a jury trial request has been granted, it may not be withdrawn without the consent of the other party or parties; and within ten (10) days after the jury trial request has been granted, the party requesting a jury trial shall pay the clerk the additional amount required by statute to transfer the claim to the plenary docket or, in the Marion Small Claims Court, the filing fee necessary to file a case in the appropriate court of the county; otherwise, the party requesting a jury trial shall be deemed to have waived the request; and
- (11) Any additional information which may facilitate proper service.