

SMALL CLAIMS INFORMATION FOR PRO SE LITIGANTS

Small claims are disputes involving money damages where the amount at issue does not exceed \$8,000.00 excluding costs, interest, and attorney's fees. Please refer to Section 34.01(1) (c), Florida Statutes, for a description of which causes of action are under the jurisdiction of Chapter 34, Florida Statutes, and to the Florida Small Claims Rules.

Other than specifically indicated in these procedures or provided for in Florida Small Claims Rule 7.050(c), the Clerk's Office cannot help you or provide you with assistance in preparation of any forms with the exception of providing ministerial assistance as provided for in Small Claims Rule 7.050(c). Any further advice or assistance must come from private counsel. The Clerk's Office CANNOT recommend an attorney for you. If you do not have private counsel, you may contact the Florida Bar's Lawyer Referral Service, which offers limited consultations for a minimal fee, at 1-800-342-8011.

You may print blank Small Claims forms from the Clerk's website at www.brevardclerk.us > Forms > Civil/Small Claims/Evictions/Garnishments/Probate/Guardianship > Small Claims > Forms. Additionally, you may file your small claims action at one of the Clerk's branch offices or you may file your action electronically using the Florida Courts E-Filing Portal at www.myflcourtaccess.com.

To check the progress of a case throughout the small claims process, please use BECA on the Clerk of Court's website at www.brevardclerk.us > Public Records > Court Case Search > BECA Logon.

GENERAL INFORMATION

1. The law gives the person filing a lawsuit the right to sue in any of several places (venue). If a lawsuit is filed in the wrong venue, the court may direct that the case be transferred to the correct venue or may direct that the case be dismissed. A proper location or venue may be one of the following:
 - A. Where the contract was entered into
 - B. If the suit is on an unsecured promissory note, where the note is signed and the maker resides. The original note must be filed when the case is initiated.
 - C. If the suit is to recover property or to foreclose a lien, where the property is located
 - D. Where the event giving rise to the suit occurred
 - E. Where any one or more of the defendant(s) reside(s)
 - F. Any location agreed to in a contract
 - G. In an action for money due, if there is no agreement as to where suit may be filed, proper venue lies in the county where payment is to be made
2. When filling out the small claims forms, please print or type so that the forms are

legible. If the Statement of Claim includes an Affidavit as to the defendant's military status, the plaintiff's signature on the Statement of Claim must be notarized and sealed by either a Notary Public or a deputy clerk. A blank Statement of Claim is available on the Clerk of Court's website at www.brevardclerk.us > Forms > Small Claims > Statement of Claim.

3. **When you file your case, please ensure that you provide the appropriate number of copies for each document as indicated within these instructions.** The deputy clerk will charge you a copy fee for each copy you require to complete your package if the copies are not submitted with your complaint. If you fail to advise the deputy clerk that you do not have the appropriate number of copies needed for mailing prior to the deputy clerk time stamping and in effect filing your document, the fee will be \$1.00 per page. The fee is \$.15 per page for documents that have not yet been filed with the Clerk's Office and \$1.00 per page for documents that have been filed with the Clerk's Office.
4. You must bring two copies of any documents on which your claim is based, such as cancelled checks, invoices, contracts, letters, estimates, etc. If you are suing more than one person, you must add one extra copy per document for each additional person being sued.
5. When filing your complaint, please ensure that you provide the appropriate number of preaddressed, pre-stamped business size envelopes as indicated within these instructions. The envelope should reflect the plaintiff's return address. The plaintiff will be responsible for insufficient postage or re-execution of returned mail. The Clerk's Office has envelopes and stamps available for sale.
6. The Clerk's Office will not refuse to accept any filing presented to them and will not review pleadings to determine whether the document is sufficiently prepared according to law. These determinations are made by the court.
7. For filing fee amounts, refer to the Fees and Charges quick Link on our website at www.brevardclerk.us > Quick Links > Fees and Charges > Quick Reference Fee Schedule. Fees payable to the Clerk's Office may be paid by cash, personal check, cashier's check, money order, or credit card. Checks, money orders, or cashier's checks should be made payable to the Clerk of the Court.
8. All filing and service fees are recoverable as costs.
9. If your case has been assigned to Judge David Silverman, please refer to the Clerk's website at www.brevardclerk.us/e-filing regarding important information about proposed orders. Judge Silverman requires ALL proposed orders to be submitted electronically through the statewide Portal at www.myflcourtagency.com. Please review the FAQs on the Clerk's or the Portal's website for more information, or e-mail civilefilingassistant@brevardclerk.us.

SERVICE INFORMATION

1. If you are suing an individual:
 - A. Obtain the proper name and street address of the individual. If the spouse will be included in the suit, obtain the proper name and street address of the spouse.
First names must be used and any alias names, if known.
2. If you are suing a corporation:
 - A. You must know the correct name of the corporation and the state in which it is incorporated.
 - B. Obtain the name and address of an officer of the corporation: the president, vice-president, etc. or in the absence of any of these, the name and address of the business agent residing in the state, or the name of the resident agent transacting business for the corporation in this state. To find this information, which will be necessary to perfect service on the corporation, you may contact:

Florida Department of State
Division of Corporations, Clifton Building
2661 Executive Center Circle
Tallahassee, FL 32301
<http://www.sunbiz.org>
corphelp@dos.myflorida.com

3. If you are suing a partnership:
 - A. Obtain the names and addresses of all partners.
 - B. A fictitious name cannot be sued because it is not an entity. It is the plaintiff's responsibility to investigate to determine by calling the Secretary of State, Division of Corporations; the Occupational License Section of the Tax Collector's Office; or the licensing department of the city where the principal place of business is located. This information may also be obtained from the Florida Department of State's Division of Corporations. The website for this Division is www.sunbiz.org. The path to obtain the information is Document Searches > Fictitious Names. If the name is not registered, the law will not allow the opposing party to defend the action until the name is registered. Conversely, if you are doing business under a fictitious name, you must be registered under the fictitious name statute before you can maintain a suit in any court in this state.
Cash, personal check, cashier's check, money order, or credit card may pay fees payable to the Clerk's Office should be made payable to the Clerk of the Court.

- C. Certified mail fees are charged per person at the current United States Postal Service rates and due to the Clerk's Office when applicable. Service by certified mail is optional and may only be used for service on persons within the state of Florida. If the defendant is located out of the state or if the plaintiff wants personal service, the plaintiff must have summons issued and served by the Sheriff or a Certified Process Server. If service will occur outside of Brevard County, the plaintiff must obtain information regarding the fees required for service and the address to which the summonses should be mailed. If the plaintiff wants the deputy clerk to mail the issued summonses to an out-of-county sheriff, the plaintiff must provide preaddressed, pre-stamped business size envelopes as indicated within these instructions. The Clerk's Office has envelopes and stamps available for sale.
- i. Persons are not obligated to sign for Certified Mail, and many times such mail is returned "Unclaimed". You must monitor the case for return of service on the certified mail. If the defendant does not sign for the certified mail, the deputy clerk will cancel your Pre-Trial Conference date and you must have summonses issued. The case would be set for a later pretrial conference date.
- D. There is a \$10.00 summons issuance fee for each summons issued. If the Statement of Claim lists multiple defendants, a summons issuance fee will be required for each defendant.
- E. Service may be performed either by the Sheriff's Office or by a Certified Process Server.
- i. There is a \$40.00 Sheriff's Service fee per summons to be served. If the Statement of Claim lists multiple defendants, a service fee will be required for each defendant. The plaintiff is responsible for hand delivering the summons to the Sheriff's Office – Civil Processing Unit.
 - ii. If service is to be performed outside of Brevard County, the plaintiff must contact the Sheriff of that county to obtain service and fee information.
 - iii. If the plaintiff opts to have a Certified Process Server serve the summons, the plaintiff must contact the Certified Process Server to arrange service and obtain fee information. A listing of Certified Process Servers may be obtained from the Clerk of Court's website at www.brevardclerk.us > Courts > Process Servers. Listings are available for both Brevard and Seminole Counties. Any reference to the Sheriff as it relates to service of a summons within this procedure should be replaced with the Certified Process Server information if a Certified Process Server is selected by the landlord to provide service of process.

IMPORTANT – READ CAREFULLY ONLINE DISPUTE RESOLUTION

You must participate in ONLINE DISPUTE RESOLUTION by doing the following:

1. Within 10 days of service of the summons, complete a Non-Attorney Designation of Email Address form and file it with the Clerk of Court. The form is attached to this summons and may be found at <http://www.brevardclerk.us/index.cfm/small-claims-forms> and may be filed using the application at <https://www.myflcourtaccess.com>.
2. You will then receive notice of hearings by email and be able to participate in Online Dispute Resolution (ODR).
3. The Plaintiff will contact you through ODR to attempt to resolve their dispute before the Pretrial Conference and you may request the assistance of a mediator during ODR. **There is no charge to either party.**
4. Parties and attorneys may participate in ODR using their smartphone, computer, or tablet at any time prior to the Pretrial Conference, including evenings and weekends.
5. After making good faith efforts, **either party may discontinue the process at any time, for any reason, with written notice to the other party.**

For an explanation of ODR and a (90 second) video go to <http://www.brevardclerk.us/small-claims>. Questions and other communication concerning ODR should be directed to: BrevardODR@flcourts18.org.

- This process does not apply to PIP actions or lawsuits involving an insurance carrier.

If the parties reach an agreement using ODR and the agreement is filed with the Clerk of Court, the parties will not have to appear in court on the Pretrial Conference date.

If you have not reached a settlement agreement before the Pretrial Conference date, you are required to attend the Pretrial Conference as indicated on the summons. Failure to attend the proceedings, when required, may result in the entry of a default judgment against you.

PRETRIAL CONFERENCE

1. If your case has not been settled, you must appear in person or by counsel at the Pretrial Conference. Your filing a motion or an answer does not excuse your appearance.
2. The Pretrial Conference is a scheduling proceeding, not a trial so do not bring witnesses.
3. At the Pretrial Conference, your case may be scheduled for trial, hearing or continued for you to participate in Mediation, Online Dispute Resolution or for other reasons.
4. If you claim you were sued in the wrong location - the issue of venue – you may raise that at the Pretrial Conference. Additional information about the right to venue may be found at <http://brevardclerk.us/small-claims-faqs>.
5. Unless the Court grants additional time, you are required to file any counterclaim at or before the Pretrial Conference.

PRETRIAL CONFERENCE, SETTLEMENT AND JUDGMENT

1. If the plaintiff and defendant reach a settlement outside of court, the plaintiff must contact the Judge's Assistant to **cancel the hearing if one has been scheduled, mail notice of the cancellation to the defendant(s), and file an original Voluntary Dismissal**. A blank form is provided on our website at www.brevardclerk.us >Forms > Small Claims > Court Disposition. Additionally, the plaintiff must mail or deliver a copy of the Voluntary Dismissal to the defendant.
2. **DO NOT BRING WITNESSES** to the scheduled Pre-Trial Conference. The purpose of Pre-Trial Conference is to encourage the parties to resolve their conflict and avoid a trial.
3. If the plaintiff does not appear for the Pre-Trial Conference, the case may be dismissed.
4. If the defendant does not appear for the Pre-Trial Conference, the Court may enter a Default Judgment.
5. **If the plaintiff does not provide a proposed Final Judgment, the assigned judge may not enter a Final Judgment, which will delay the progress of the case.** The plaintiff must bring the proposed Final Judgment with a sufficient number of copies of the proposed Final Judgment and preaddressed, pre-stamped business size envelopes for mailing to the plaintiff and each defendant. The envelope should reflect the plaintiff's return address. The plaintiff will be responsible for insufficient postage or re-execution of returned mail.
6. If the court enters a judgment, the court may enter an order requiring the defendant(s) to complete the Florida Small Claims Rules Form 7.343 (Fact Information Sheet). This form may be found on the Clerk of Court's website at www.brevardclerk.us > Forms > Small Claims > Fact Information Sheet.
7. If the court enters a judgment, you may obtain an information sheet describing how to collect a judgment from the Clerk of Court's website at www.brevardclerk.us > Forms > Small Claims > How Judgments are Collected. If this document does not effectively address any questions you have regarding collecting a judgment, you must contact an attorney for guidance.

TRIAL

1. If the parties cannot reach an agreement, a specific time will be scheduled for the trial and you will be notified of that date.
 - A. Bring with you any witnesses who have personal knowledge of the facts of your case to the courtroom on the date of the trial. Also, bring all documents, papers, etc., relating to your claim.

- B. If you are not sure that your witness(es) will attend, witness subpoenas may be necessary to require their attendance.
 - C. You must pay the witness cost associated with formally subpoenaing a witness. Pursuant to Section 92.142(1), F. S., the witness fee is \$5.00 plus \$.06 (six cents) per mile for each mile the witness must travel to and from court (money order or cashier's check made payable to the witness). These charges are recoverable as costs.
 - D. If you are suing for damages because of an automobile accident, you must obtain an estimate for repair of the damages AND you must subpoena the person who quotes the estimate to appear in court to testify as to the amount of damage.
 - E. If the plaintiff does not provide a proposed Final Judgment, the assigned judge may not enter a Final Judgment, which will delay the progress of the case. The plaintiff must bring the proposed Final Judgment with a sufficient number of copies and preaddressed, pre-stamped business size envelopes for mailing the Final Judgment to the plaintiff and each defendant. The envelope should reflect the plaintiff's return address. The plaintiff will be responsible for insufficient postage or re-execution of returned mail.
- 2. If the court enters a judgment, the court may enter an order requiring the defendant(s) to complete the Florida Small Claims Rules Form 7.343 (Fact Information Sheet). This form may be found on the Clerk of Court's website at www.brevardclerk.us > Forms > Small Claims > Fact Information Sheet.
 - 3. If the court enters a judgment, you may obtain an information sheet describing how to collect a judgment from the Clerk of Court's website at www.brevardclerk.us > Forms > Small Claims > How Judgments are Collected. If this document does not effectively address any questions you have regarding collecting a judgment, you must contact an attorney for guidance.
 - 4. If either party is unsatisfied with the court's decision, the party may refer to Small Claims Rule 7.230 and the Florida Rules of Appellate Procedure.
 - 5. Any further assistance or legal advice must come from private counsel. The Clerk's Office cannot recommend an attorney for you. If you require assistance in obtaining an attorney, you should contact the Lawyer's Referral Service at 1-800-342-8011 or 1-800- 733-6337.

MAILING ADDRESS:

BREVARD CLERK OF
COURTS P.O. BOX 219
TITUSVILLE, FL 32781-0219

(321)637-5413