

Going to court

Call of the list. In most courts a group of cases are scheduled for the same time. The judge calls the names of all the cases on the list to take attendance, and then each case has a turn with the judge. If your court day is on Zoom, the judge will still take attendance and hear the cases one by one.

Mediation. When your case is called, the judge might ask if both parties would like to try to settle the case in mediation. (Court-appointed mediators are available on the hearing day.) A mediator is a person who helps parties talk about how they might settle their case. The mediator does not take sides. This service is free. If you settle the case in mediation, your agreement is given to the judge to make sure it is reasonable. If the case does not settle in mediation, the judge will hear the case.

Hearing. Both sides appear before the judge. The judge asks the plaintiff to say why they are there and to make their case. Then it is the defendant's turn to explain any reasons why the plaintiff should not win. Both sides can show pictures or documents like canceled checks or pay stubs, and witnesses can testify.

Decision. After the hearing, the judge decides who wins the case. The judge can announce the decision right away at the end of the hearing or can mail the decision later, after studying the evidence or doing legal research. The judge's decision is called a "judgment."

Collecting a judgment

If the plaintiff wins and the defendant does not pay or follow the terms of the judgment, the plaintiff may call the defendant back to court for a "disclosure hearing" to work out a payment plan. Defendants are often asked to bring documents about their finances. A disclosure hearing can be scheduled by either:

Serving the other side with the Notice of Small Claims Disclosure Hearing (form SC-004) – (the clerk will tell you the date to insert),

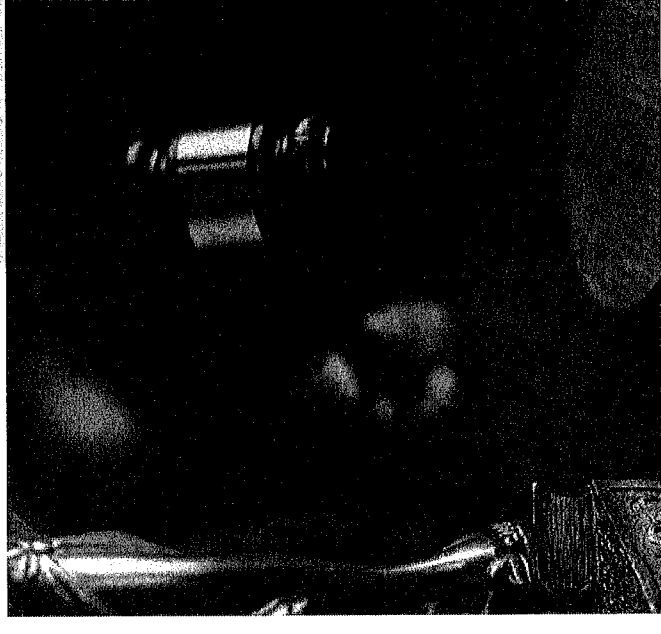
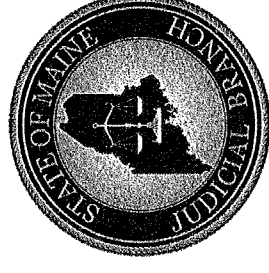
OR

If not planning to file more than 3 disclosures in the calendar month, sending the clerk the Request for Small Claims Disclosure Hearing (form SC-003) and the Affidavit and Request for Service (form SC-006). The clerk needs these forms to arrange for service of the notice of the disclosure hearing on the defendant.

Appealing the case

Either side can appeal the decision within 30 days of judgment by filing a Notice of Appeal (form SC-007). You can get this form from a clerk or on the Judicial Branch website.

For more information on filing or responding to a small claims case, ask a court clerk for a copy of A Guide to Small Claims or visit: www.courts.maine.gov/help/small-claims



An Overview of Small Claims Court

Small Claims Court is a simple, quick, and low-cost way to get a money judgment for up to \$10,000.

How to file a small claim

You can get court forms to start a small claim case from any district court clerk's office or from the Judicial Branch website at www.courts.maine.gov/forms.

There are four steps to a small claim:

1. Complete the form.
2. "Serve" the other person.
3. File the case in the District Court.
4. Attend the hearing.

Step 1: Fill out the Statement of Claim (form SC-001). You are the plaintiff, the person you are against is the defendant. On the form, explain to the court why the person owes you money and provide details. Complete the rest of the form, and sign.

Step 2: "Serve" the Statement of Claim on the defendant. This means making sure the defendant gets notice of the case and a chance to respond. See the "Service" section, to find out how to do this. Proof that you served the defendant is called "return of service."

Step 3: File the case in the clerk's office. Within 20 days after the defendant has been served, file the Statement of Claim and proof of service with the court, along with the \$70 filing fee.

Step 4: Attend the Hearing. The clerk will mail both parties a Notice with the date, time, and place of their hearing. The hearing may be in

person or by Zoom (remotely). If you are unable to attend on the date in the notice, let the clerk's office know right away and ask in writing for the hearing to be rescheduled. The clerk cannot reschedule your hearing over the phone.

Service

Service is how you give the defendant notice that you are filing a case. Return of service is proof to the court that the defendant was served. Service of a small claims case can happen in several ways:

1. By U.S. Mail: You will first need form SC-005. Mail a copy of the Statement of Claim, two copies of form SC-005, and a self-addressed stamped envelope to the defendant(s). The defendant needs to sign the SC-005 form and send it back to you to file with the court. If you don't receive a signed acknowledgment after 20 days, you may serve by one of the methods below.

2. By U.S. Mail, Return Receipt Requested. The signed receipt (form from the post office) that comes back to you is the return of service.

3. Service by Sheriff. Contact your county sheriff's office about how to have the Statement of Claim served by the sheriff. You must pay for service by the sheriff up front, but can ask for the cost to be added to the judgment if you win. Give the sheriff two copies of the Statement of Claim. The defendant keeps one. The sheriff signs and returns the other to you for filing.

4. Service by the Clerk's Office. For \$15 the clerk may try to have the defendant served by U.S.

Mail. If an acknowledgement does not come back within 20 days, the clerk will return the paperwork to you, and you will need to complete service by one of the three ways described above.

5. Service by Alternate Means. If you want to do service in some other way, you must file a motion with the court for permission to do so.

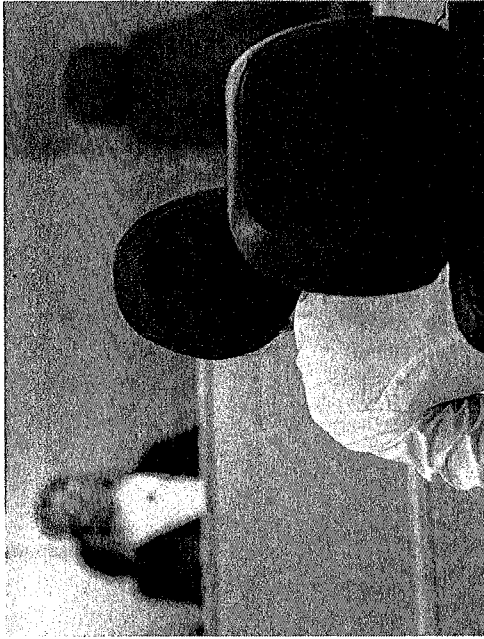
If you have been served with a Statement of Claim

If you have been served with a Statement of Claim, you are being sued. You are the defendant in the case.

The clerk will mail both sides a Notice of Hearing with the date, time, and place of the hearing. The hearing may be in person or by Zoom (remotely). If you are unable to attend on the date in the notice, let the clerk's office know right away and ask in writing for the hearing to be rescheduled. The clerk's office cannot reschedule the hearing by phone.

Be sure to go to the hearing! Be ready to tell the judge any reasons why you should not have to pay the plaintiff. If you do not attend, it is likely you will lose the case by "default" and owe the full amount claimed.

Settlement. You might be able to settle the case by talking with the plaintiff, either before the hearing day or at court. Many cases settle in mediation at court (see the "Mediation" section). You can also contact an attorney or legal services provider for advice.



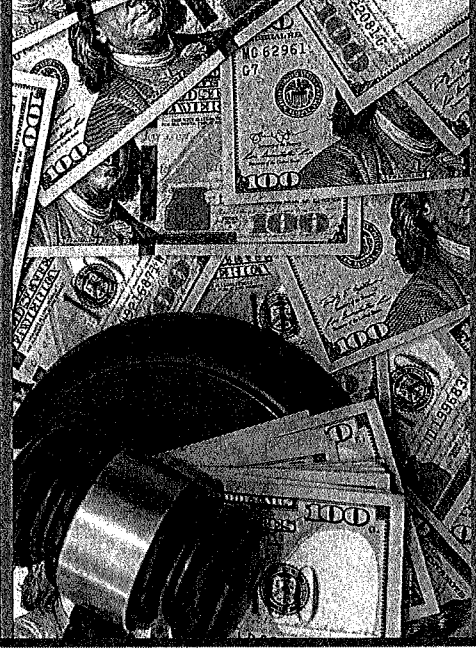
Legal Help

Court staff are not allowed to give legal advice. If you want legal help with your case, you may hire a lawyer. You may also visit the court's website, which has a page called "Legal Help & Guides" that has information about how to get legal help. Some of the services are free or low-cost for low-income parties. Visit www.courts.maine.gov for more information.



To learn more visit
www.courts.maine.gov

COLLECTING MONEY FROM A COURT JUDGMENT



Maine Judicial Branch
Administrative Office of the Courts



If the court judgment in your Small Claims or civil case includes money owed to you, you have the right to collect that money. If the money owed is not paid, you can call the other party back to court to order them to pay you. This court event is called a "disclosure hearing."

At the disclosure hearing you and the person who owes you (the "debtor") look at the debtor's money and property to find out what they can pay. You and the debtor might also make a payment plan at the disclosure hearing.

Steps to Start a Disclosure Case

1. Complete the court forms based on the case type below.
2. Make sure the debtor gets the forms. ("Serve" them.)
3. File the forms at the District Court, with proof that you "served" the debtor.
4. Go to court on the hearing day.

1. Complete the court form

Small claims judgment - You must wait 30 days after the judgment in your Small Claims case before you can ask the court for a disclosure hearing.

- Get the form "Notice of Small Claims Disclosure Hearing," from the court

clerk, who will put the date of the hearing on the it and will sign it. There is a small fee for this form.

Civil case judgment - If the court judgment in your civil case includes money owed to you, you need a Disclosure Subpoena, Civil Summary Sheet, and Writ of Execution. You need to get the Disclosure Subpoena and Writ from the clerk. The clerk will tell you the date and time to put on the Disclosure Subpoena before you can serve it on the debtor for the hearing. There is a small fee for the Disclosure Subpoena.

Documents - Both disclosure forms have a place to list the documents you need the debtor to bring to the hearing to help figure out what they can pay. Examples are bank statements and tax returns.

When you finish filling out the form, make two copies. Keep one copy for yourself.

2. Serve the Debtor

"Service" is giving the debtor notice that you are taking them to court to collect your money. Service is typically done by the Sheriff. Contact your local Sheriff's office to get service.

For a small claims disclosure you must serve the other side at least 7 days before the disclosure hearing date. For an extra fee you can ask the clerk to try to serve the other side. Ask the clerk if you need their help with this.

For civil disclosure, you must serve the debtor at least 10 days before the disclosure hearing date. There are other ways to serve the other side. For more information on other service options, please see the "Service" pamphlet.

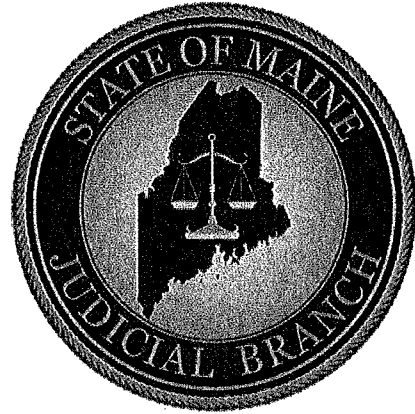
The Sheriff will send back to you a document to show that the other side was served. Keep this to file with the court when you file your papers.

3. File the Papers with the Court

Take the form you served (either a Notice of Small Claims Disclosure Hearing or a Disclosure Subpoena) and your service document from the Sheriff to the court and file it. There will be a filing fee when you bring the form to the court.

4. Go to Court

You will have a hearing on the date the court gave you. At this hearing, both you and the person who owes you money will get to talk to a judge. Go to this hearing. If you do not, the court may make orders without your input.



A GUIDE TO

Small Claims Cases

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LIST OF SELECTED SMALL CLAIMS FORMS AVAILABLE FROM THE DISTRICT COURT

Blank small claims forms are available from any clerk's office or on the Maine Judicial Branch website: www.courts.maine.gov/forms/index.html.

Current filing fees are listed in Administrative Order JB-05-26, available on the Judicial Branch website here: www.courts.maine.gov/adminorders/jb-05-26.pdf. You may also contact the clerk's office for filing fee information. If you cannot afford to pay filing fees, you may request a waiver from the court by submitting form CV-067, *Application to Proceed without Payment of Fees*.

- SC-001 *Statement of Claim* (plaintiff) (starts the case)
- SC-005 *Acknowledgement of Service of Statement of Claim* (plaintiff) (serve by mail on the defendant) (for service of *Statement of Claim* and/or *Notice of Disclosure Hearing*)
- SC-006 *Affidavit and Request for Service* (for plaintiffs filing fewer than three (3) small claims cases per month, service by clerk)

Post-judgment forms (appeals, disclosure hearing, or settlement-related)

- SC-007 *Notice of Small Claims Appeal* (plaintiff or defendant)
- CV/CR-165 *Transcript and Audio Order Form* (plaintiff or defendant, if applicable)
- SC-003 *Request for Small Claims Disclosure Hearing* (plaintiff/judgment creditor, if filing less than three (3) small claims cases per month, option to request service by clerk)
- SC-004 *Notice of Small Claims Disclosure Hearing* (any plaintiff/judgment creditor may use; those filing three (3) or more small claims cases per month must use this form and provide for service on defendant/judgment debtor directly)
- SC-006 *Affidavit and Request for Service* on the defendant (for plaintiffs filing less than three (3) small claims cases per month, service by clerk) (same form for *Statement of Claim* and disclosure hearing)
- MJ-SC-001 *Affidavit and Agreement* (defendant/judgment debtor's agreement to make installment payments) (use form MJ-SC-012 for business entities)
- MJ-SC-002 *Contempt Subpoena* (plaintiff/judgment creditor, if the defendant/judgment debtor fails to come to court for a disclosure hearing)
- MJ-SC-005 *Motion for Contempt* (plaintiff/judgment creditor, if the defendant/judgment debtor fails to appear or otherwise comply with a court order)

In addition to filing fees, the plaintiff/judgment creditor is responsible for paying for service on the defendant/judgment debtor.

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Important Disclaimer

The specific requirements concerning your case are contained in statutes, rules, and administrative orders.

Representing yourself in court can be challenging. This guide was developed to assist non-lawyers. To make the guide more readable, some sections of the statutes, rules or administrative orders referred to have been shortened or summarized. While every effort has been made to ensure that the information presented is accurate, comprehensive, and clear, if there is any conflict between the law and this guide, the law controls. Readers should therefore not rely on the guide for the final word on the requirements of the applicable laws.

In addition, the guide describes the general procedures and requirements of the laws that apply to small claims cases. The court's decision in individual cases will take into consideration the specific facts and circumstances of each case.

INTRODUCTION

What is small claims court?

Small claims court provides a speedy and inexpensive way to resolve disputes when the plaintiff's claim is \$6,000 or less. Cases are heard and decided in Maine District Court by a judge without a jury.

This guide explains how to file or respond to a small claims case and what can happen if you are on the winning or losing side. For plaintiffs (the person filing the case), the guide walks you through the process of starting the case through judgment, and the steps that may be required after judgment to collect. For defendants (the person against whom the case has been brought), the guide tells you how to respond to a case, and why it is crucial for you to do so. A key message for defendants is: if you are sued in small claims court, do not ignore the case.

The guide is not legal advice or a substitute for getting legal or advocacy help. An attorney may help evaluate the strengths and weaknesses of your case, if you are a plaintiff, or possible defenses, if you are a defendant.

Both sides can choose to represent themselves in a small claims court case or can hire attorneys. Even if you decide to represent yourself, you may find it very helpful to get legal advice before going to court. Free and low-cost legal assistance and consumer protection resources are listed on the back cover of the guide.

Although the small claims process is a simple and informal court process to provide relief for disputes concerning money, it still requires court resources, and should therefore be used only when really necessary. Depending upon the facts of the case, an out-of-court settlement can save time, effort, and money for both sides.

In some kinds of consumer disputes, the Maine Attorney General's Consumer Mediation Service may be helpful in resolving the dispute. See Part A.3 for more information on this. In addition, if a small claims case is filed, the parties may have the chance to resolve the dispute by mediation through the Judicial Branch's Court Alternative Dispute Resolution Service (CADRES) on the day of the hearing, before the hearing is held. See Part B.11 for more information on CADRES mediation. Both services are free.

Small claims court forms and clerk's office assistance

The District Court has forms that must be used in all small claims cases. A checklist of many of the most frequently used forms can be found on the inside front cover of the guide.

You can get blank forms from any District Court clerk's office at no cost. Forms are also available on the Maine Judicial Branch website at:
www.courts.maine.gov/forms/index.html.

Many of these forms can be filled out on a computer and then printed. If you do not have access to a computer or printer, you can go to a library with public computer access and ask the librarian to help you find the forms. A list of public libraries can be found at: www.maine.gov/msl/libs/directories.

Court clerks can answer questions about the small claims court process, including scheduling. Clerks and other court employees cannot, however, tell you what to put in forms, or give legal advice. For legal assistance and consumer protection resources, see the back cover of the guide.

MAINE STATUTES AND RULES THAT APPLY TO SMALL CLAIMS CASES

The Supreme Judicial Court has adopted rules that say how small claims cases will be handled (the Maine Rules of Small Claims Procedure or "Small Claims Rules"). You can find these rules on the Maine Judicial Branch website Court Rules web page.

The Maine Rules of Small Claims Procedure can be found here:
www.courts.maine.gov/rules/text/mr_small_claims_p_2007-6.pdf.

In addition, the following sections of the Maine Revised Statutes may also apply to small claims cases:

- Title 14, Sections 7481-7487 (Small Claims); and
- Title 14, Sections 3120-3136 (Enforcement of Money Judgments).

The Maine Revised Statutes are available online at:
www.mainelegislature.org/legis/statutes.

ENSURING ACCESS TO JUSTICE

To help people with limited English proficiency use Maine courts effectively, parties who need the assistance of an interpreter may request assistance at the clerk's office in any District Court. All Maine courts have interpreters available by telephone at the clerk's office.

Information on interpreter services can be found on the Judicial Branch website here: www.courts.maine.gov/programs/lep/index.html.

Assistance is also available for individuals with disabilities. To request a reasonable accommodation in a small claims case, contact the clerk in the District Court where the case is filed, or submit a Disability Accommodation Request Form. A link to this form, and more information on ADA Accessibility is available on the Maine Judicial Branch website here: www.courts.maine.gov/ada/index.html.

PART A — OVERVIEW OF SMALL CLAIMS COURT

1. When to consider using small claims court

You may use small claims court if:

- Your claim is \$6,000 or less, excluding court costs and post-judgment interest, and you want to use the simple and informal process of small claims court. The \$6,000 dollar limit is reviewed periodically by the Legislature. The clerk's office will tell you if the amount has changed.
- Please note: you have a choice of forum (the court where the case may be filed), but filing in small claims court will limit the amount you can be awarded if you win. If you file in small claims court and win the case, you will be barred from filing another case for any additional amount based on the same facts, either in small claims court, regular District Court, or Superior Court.
- For example, if your claim against the defendant is \$7,000, you may choose to file your case in small claims court, District Court, or Superior Court. If you file in small claims court, the maximum judgment you can receive if you win is \$6,000. You will not be able to file another claim for the \$1,000 difference in small claims court, District Court, or Superior Court.

2. Examples of small claims cases

Examples of the types of cases that may be appropriate for small claims court:

- Collecting a debt for goods or services owed by an individual or business;
- A purchase of unsatisfactory goods from an individual or business where the person will not refund your money, give a credit, provide an acceptable exchange, or repair the goods;
- Your former landlord has refused, without justification, to return a security deposit;
- Your former tenant has refused to pay for damage to rental property the tenant is responsible for; or
- You loaned personal property to someone and he or she did not return it, or returned it in damaged condition.
- Small claims court may not be used for a case involving title to real estate, a personal injury case against a city or town, or an action to collect a consumer debt pursuant to Title 32 of the Maine Revised Statutes.

3. Is small claims court the best option for resolving the dispute?

Sometimes there are other ways of resolving disputes:

Negotiating in good faith with the other party. Have you tried to work out the dispute with the other party directly?

For example, if a person owes you money, have you considered giving the person more flexibility or time to pay to avoid the uncertainty of a court case and the possibility of having to take additional steps to collect if you win?

If you owe money to a business or individual, have you tried to work out a payment plan to avoid the possibility of having a court judgment entered against you if you lose?

Settling out-of-court may require both sides to meet one another halfway but may be the most efficient and beneficial way to resolve the dispute for both parties. Be sure the agreement is in writing and signed by all parties. Please notify the clerk's office in writing immediately that the case has settled, and no hearing is required.

Contacting the Maine Consumer Mediation Service if the case involves a consumer dispute.

The Maine Attorney General's Office offers a free service to Maine consumers who have a dispute with a business. This service does not take place at a court or as part of a small claims case. If your dispute is eligible for the Attorney General's Consumer Mediation Service, a consumer specialist can, in many cases, provide information and practical advice on how to get your money back or resolve the problem on your own. In some situations, if both parties agree, you may be able to resolve the dispute with the help of a volunteer mediator from the Attorney General's Office. The Attorney General's Office does not provide legal advice on specific cases.

- To find out if the dispute is eligible for the consumer mediation service, contact the Attorney General's Office at 207-626-8849 or 1-800-436-2131, or online at: www.maine.gov/ag/consumer/complaints.
- The Attorney General's Office also has an online Consumer Law Guide that covers many kinds of consumer situations. It is a good resource for consumers and businesses to help understand their rights and responsibilities. The Consumer Law Guide can be found at: www.maine.gov/ag/consumer/consumer_law_guide.

Mediating the dispute in court before your hearing is held.

On the date of small claims hearing, the parties may have a chance to resolve their dispute with the help of a court-appointed mediator. For more information on the potential benefits of mediation, go to: <https://www.courts.maine.gov/programs/adr/index.html>. There is no separate fee for using this service after a small claims case has been filed.

4. Do you need to hire an attorney?

Plaintiffs and defendants may represent themselves in small claims cases, or may hire attorneys, if desired.

Both parties may find it helpful to, at a minimum, consult an attorney before going to court. An attorney can help you understand the law that applies to the case and be better prepared to present the claim or a defense that may apply. If you represent yourself, and the other party is represented by an attorney, you may be at a disadvantage.

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Information on legal assistance options and resources can be found on the back cover of the guide, including the Maine State Bar Association's Lawyer Referral Service.

The Lawyer Referral Service charges a \$25 administrative fee that includes a 30-minute free consultation with a lawyer with experience in the area of law your case concerns.

5. Can someone other than an attorney represent you in a small claims case?

Generally, only licensed attorneys may represent parties in a court case, with the following exceptions in small claims cases:

- A parent or legal guardian may represent a child under the age of 18; and
- An employee, board member, officer, or member may represent a corporation or other entity, even if that individual is not an attorney.

As noted, an individual may represent himself or herself in a court case. However, a spouse or other family member, or friend who is not a party, cannot assist the plaintiff or the defendant at the small claims hearing, including sitting at the counsel table.

PART B — STEPS IN A SMALL CLAIMS CASE: STATEMENT OF CLAIM THROUGH JUDGMENT

1. Complete a Statement of Claim

The *Statement of Claim form (SC-001)* is used to start a small claims case. The plaintiff provides a brief statement of the facts of the dispute: what happened, when it happened, and what the plaintiff is asking the court to do (relief). What amount of money does the defendant owe? What, if any, non-monetary relief related to the case are you asking for? For example, if the *Statement of Claim* alleges that your neighbor borrowed your lawnmower but has not returned it, you may ask for the return of the lawnmower in the same condition as when it was borrowed, or in the alternative, the value of the lawnmower.

If there is a contract, invoice, bill, statement of account, or other document, which shows the amount of the debt, attach a copy to the *Statement of Claim*. Keep originals for the hearing.

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The clerk's office can provide a blank *Statement of Claim* form for you to fill out, or the form can be found on the Court Forms page:

www.courts.maine.gov/forms/index.html.

2. Determine in which District Court the case should be filed

File your small claims case in either: (a) in the District Court where the facts or events giving rise to the case happened, (b) where the defendant resides or has its principal place of business, or, (c) if the defendant is an entity such as a corporation, where the defendant's registered agent is located. (The Maine Bureau of Corporations, Elections & Commissions has records of registered agents. See contact information in Part B.3.)

Addresses and telephone numbers for all District Courts can be found in Appendix A of this guide, and online at:

www.courts.maine.gov/courts/district/index.html.

If you are not sure which District Court is the correct court for your case, see the Find a Court by City/Town on the Judicial Branch website at:

www.courts.maine.gov/courts/find-by-town.html. Directions can be found on the individual District Court web page.

3. Use the defendant's correct name and address

If filing against a business, make sure to use the correct name and address of the defendant in the *Statement of Claim*. You will need to verify whether the business is a corporation, partnership, another kind of entity, or simply an individual doing business under a business name. This is also known as a "d/b/a" for "doing business as."

To get information on corporate entities, you may call customer service at the Maine Bureau of Corporations, Elections & Commissions at (207) 624-7752. You may also search online by corporate name at: <https://icrs.informe.org/nei-sos-icrs/ICRS?MainPage=x>. Include the business name and the name and address of the business's registered agent in the *Statement of Claim*.

If you discover that the business is not a separate legal entity, but simply an individual doing business under a business name, you must file your case against the individual owner or owners. If you do not, the judge will probably dismiss the case and require you to re-file it with the defendant's correct name and address.

4. Provide notice of the case to the defendant (service)

An essential part of a small claims case is giving notice of the case to the defendant so the defendant has an opportunity to respond. To do this, the plaintiff must serve the defendant with the *Statement of Claim*. If the plaintiff wins, costs for service may be awarded as part of the judgment.

The *Statement of Claim* must be successfully served on the defendant by one of the following methods:

1. By restricted delivery, certified mail, return receipt requested.

- For this method, fill out a green certified mail card provided by and paid for at the post office and attach it to your first-class, postage-prepaid envelope. The defendant must sign for the envelope containing a copy of the *Statement of Claim* at the post office. “Restricted delivery” means that only the defendant may sign for the letter for service to be successful.
- The post office will return the card or an electronic receipt to you after the defendant has signed for the envelope. If, after about three weeks, the defendant has not signed for the envelope, the post office will notify you that the envelope has not been signed for. If this happens, it means service has failed and you will need to arrange for service by the sheriff’s office.
- More information about postal services can be found at:
www.usps.com/ship/insurance-extra-services.htm.

2. By the sheriff’s office in the county where the defendant lives or has his, her or its principal place of business.

- Give two copies of the *Statement of Claim* and any attachments (the original and one photocopy) to the sheriff’s office. Make sure that the second page of the Statement of Claim form, which contains the return of service information, is included. This page is what the officer will fill out once service has been made. When filed, the completed return of service form is sometimes called “proof of service.”
- If you know that the defendant’s physical residence is different than the mailing address, be sure to let the sheriff’s office know where the defendant can be located. After serving the defendant, the sheriff’s office will send the original *Statement of Claim* back to you with the return of service information filled out.

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- Please note: each sheriff's office has its own fee schedule for service. You are responsible for paying these fees up front if the sheriff's office requires it. You can ask the court to require the defendant to reimburse you for fees paid if you win the case.
- If you can pay the sheriff's office for service, this is generally the quickest and most reliable method to serve a defendant.

3. Service arranged by the clerk's office.

- A plaintiff who files fewer than three small claims cases per month can ask the clerk's office to arrange for service. The plaintiff must file an *Affidavit and Request for Service form (SC-006)* and pay a fee for each defendant.
- The clerk's office will attempt to notify the defendant of the case by first class mail. You must give the clerk the address of each defendant. If service by mail is unsuccessful, the clerk's office will return the paperwork to you. The clerk will arrange for service by the sheriff's office **only** if the court has first waived the cost of service after approving an *Application to Proceed Without Payment of Fee (CV-067)* and a *Financial Affidavit (CV-191)*.
- Although some plaintiffs are eligible to have the clerk's office arrange for service, it is not the most efficient method. To speed up the scheduling of the Small Claims hearing, a plaintiff should arrange for service themselves.

4. By first-class mail, postage prepaid.

- Enclose a copy of the *Statement of Claim* and any attachments along with two *Notice of Service forms (SC-005)* in an envelope along with a stamped, self-addressed envelope that the defendant can use to send one of the signed *Notice of Service* forms back to you.
- If the defendant does not sign and complete the return of service within 20 days, you must use another method of service. This method does not work well in many cases because the defendant must voluntarily sign and return the *Notice of Service* included with the *Statement of Claim* within 20 days of mailing.

5. File the Statement of Claim and receive the hearing date from the clerk's office.

Within 20 days after service is completed, the plaintiff must mail or deliver to the appropriate District Court the following:

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- The original *Statement of Claim* with any attachments*;
- Evidence of service; and
- Payment of the filing fee in the amount listed in Administrative Order JB-05-26. This order lists filing fees and other administrative information for cases in Maine courts. The order can be found online at: www.courts.maine.gov/adminorders/index.html.

*Attach any receipts for payment to the sheriff's office or post office for service to the *Statement of Claim* as well.

The clerk will notify both parties by mail of the date of the hearing using the addresses in the *Statement of Claim*.

Each party is responsible for notifying the clerk's office promptly of any change of address.

6. Recording the hearing

Small claims hearings are not electronically recorded as a matter of course.

If you think you may want to appeal the judge's decision in the event you lose, you should notify the clerk's office that you would like the hearing recorded. Please provide at least 24 hours' notice.

7. What should the defendant do after receiving the Statement of Claim?

Do not ignore the *Statement of Claim* and Notice of Hearing.

A defendant is not required to file a written response to the plaintiff's *Statement of Claim* but should be prepared to respond to the *Statement of Claim*, including going to court on the date of the hearing.

- If you do not go to court for the hearing (and have not received a continuance or settled the case with the plaintiff before then), you will likely lose the case by default.
- If you lose by default, you will probably not be able to assert any defenses you may have had to the plaintiff's claim at a later stage.
- Carefully review the *Statement of Claim* and any attached documents.

Gather documents or evidence to support your side of the case.

Be prepared to raise any errors, inaccuracies, or questions about information you do not understand at the hearing.

- For example, if you do not recognize the plaintiff as a company or individual with whom you have done business, do not assume the case is a mistake and that you do not need to respond. You should be prepared to respond to the case and participate in the small claims hearing.
- If you have questions about the plaintiff's claim, standing to file the case, or defenses you may have, contact an attorney, advocate, or consumer protection organization before the date of the hearing. Legal assistance and consumer protection resources are listed on the back cover.

File a separate case against the plaintiff, if appropriate.

If you believe you have a claim of your own against the plaintiff, you must file a separate case. Part B.1-B.5 of the guide explains how to do this.

Ask the clerk's office to schedule both cases for the same hearing date.

8. What parties should expect when going to court for the hearing

If you have never been involved in a small claims case, you may find it helpful to attend a small claims session before your hearing to familiarize yourself with the process. All small claims hearings are open to the public. The clerk's office can tell you the dates other small claims court sessions are scheduled.

On the date of your small claims case, other small claims cases will be scheduled as well. The judge generally begins a small claims session by reading the names of the parties in each case on the docket for that day to make sure both sides are in the courtroom.

- Plan on arriving at the courthouse early to give extra time to park, get through security screening, and find the courtroom.
- Do not bring weapons, pocketknives, scissors, or other prohibited items to the courthouse.
- Dress appropriately: wear neat, clean, clothing. Dress as you would for an important job interview. Do not wear a hat and do not use your cell phone in the courtroom.

If the defendant is not present and has not received a continuance, the judge will likely grant the plaintiff judgment by default.

If the plaintiff is not present and has not received a continuance, the judge will likely dismiss the case with or without prejudice.

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If both parties are present, the judge will generally first ask if they are willing to speak with a mediator or with one another directly to attempt to resolve the case before having a hearing. Part B.11 contains additional information on mediation.

In some courthouses, a volunteer attorney may be available to speak with parties prior to the hearing, as time permits. Do not assume there will be a volunteer attorney to consult the day of your hearing. Seek legal assistance before your hearing date.

After calling all the cases on the docket, the judge will begin holding individual hearings for cases that have not been resolved.

In many District Courts, hearings take place on the same day that the docket is called and mediation is held. Occasionally, in some District Courts, hearings may be scheduled for another day after mediation has occurred. Be prepared to stay, and have witnesses available, until your case is resolved or rescheduled.

9. How to prepare your claim or defense at the hearing

Get ready for the small claims hearing.

Both parties should prepare for the hearing by collecting and organizing the information and documents that support their side of the case. These can include contracts, invoices, bills, receipts, photographs, cancelled checks, letters, and emails. Bring the original and two copies of any documents you intend to ask the judge to consider as part of your side of the case to court.

Write down the important facts in the case in the order they occurred, and questions you might want to ask the other party or witnesses. This will help you make a clear presentation of your claim or defense.

If you will be representing yourself at the small claims hearing, you might find it helpful to learn more about how to present your claim, or about specific defenses that may be relevant to your case. See the legal assistance and consumer protection resources on the back cover of the guide.

Present your side of the case.

Both parties testify under oath at the hearing. When it is your turn to present your side, speak slowly and clearly. Testify truthfully, to the best of your ability and recollection.

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Do not interrupt the judge, the other party, or witnesses. If you disagree with any statements or testimony, you will have a chance to question the other party or witness and present your side.

The plaintiff goes first. As in any civil case, the plaintiff has the burden of proof regarding the facts in the Statement of Claim, including the validity and amount of the debt at issue.

In addition to testifying, the plaintiff may call one or more witnesses, and offer other evidence to support the claim. Testimony, documents, and other evidence must be relevant to your claim and based on the witness' personal knowledge of the facts of the case or records at issue.

The defendant follows the plaintiff. The defendant may also testify, call witnesses, and offer other evidence as to why the plaintiff should not win, including evidence of payment, settlement, or defenses such as fraud, or lack of an enforceable contract.

- The judge hears the case without a jury. He or she decides both questions of law and questions of fact.
- The Maine Rules of Evidence do not apply to small claims cases, but the judge will not consider irrelevant, unimportant, or repetitive evidence or testimony in reaching a decision.

If you need to call a witness.

As mentioned previously, both parties may call witnesses. If a witness is unable to attend the hearing, he or she may give sworn testimony in an affidavit. If a witness is unwilling to attend voluntarily, either party may request that the court issue a subpoena requiring the witness to attend.

If a subpoena is necessary, the party issuing a subpoena for a witness must arrange for service and pay the witness fee as provided in Title 16 of the Maine Revised Statutes, Section 251.

If you need to subpoena a witness for the hearing, make sure to give enough notice to the witness so that he or she can attend.

If you need an interpreter or accommodation at the hearing.

If you will need an interpreter or a reasonable accommodation at the hearing, request assistance from the clerk's office as soon as possible before the hearing. See

the Introduction, Ensuring Access to Justice, for more information on requesting an interpreter or reasonable accommodation.

Recording the small claims hearing.

If you would like to have the hearing electronically recorded in the event of an appeal, request this from the clerk's office at least 24 hours before the hearing. Note: if an interpreter is involved in your case, it is required to be electronically recorded. You do not need to make a separate request for the hearing to be recorded.

10. How to request a postponement of the hearing

If either party has an emergency or another good reason for being unable to go to court on the hearing date, that party must request a continuance in writing from the court as soon as possible. Contact the other party and ask if the other party will agree to a postponement.

If the other party agrees, let the clerk's office know about the agreement in writing. Include the date of the request; name and address of the District Court; names of the parties; reason for the request; date the hearing is scheduled; and docket number.

If the other party does not agree to a continuance, submit a written request to the court with the same information above. Send a copy of the request to the other party at the same time you send the request to the court.

The clerk's office will notify the parties whether the judge has granted the continuance. If the continuance is granted, the clerk's office will mail another *Notice of Hearing* to both parties with the date of the rescheduled hearing.

You can request a continuance at any time before the hearing, but it is best to file it at least seven days before the hearing date.

If you are the defendant and have asked for, but have not received a continuance, you must go to court on the date of the hearing. If you do not, you will probably lose by default and the court may order you to pay the plaintiff the total amount of the claim, plus court costs.

If you are the plaintiff and have asked for, but have not received a continuance, you must go to court on the date of the hearing. If you do not, the court will probably dismiss the case with or without prejudice. If the case is dismissed with

prejudice, you will be barred from filing another case on the same facts or debt. If the case is dismissed without prejudice, you will need to start the case over from the beginning, including serving and filing another *Statement of Claim* and paying the required fees again.

11. Mediation

Before holding a hearing, the judge may ask the parties to meet with a mediator to attempt to settle the dispute. There is no separate charge on the hearing day for this service.

Mediators are trained individuals from the Court Alternative Dispute Resolution Service, also known as CADRES. They do not take sides or make recommendations to the judge.

Mediators allow the parties to make choices about what they feel is in their best interest. Parties are under no obligation to reach an agreement, and do not give up the right to a hearing if they are unable to agree.

If the parties settle their case in mediation, the parties submit their agreement to the judge for approval. The parties may use the *Affidavit and Agreement form (MJ-SC-001)* to write down the terms. If approved, the agreement has the same effect as a final judgment, except it cannot be appealed.

More information on mediation through CADRES can be found on the Maine Judicial Branch website Mediation & Alternative Dispute Resolution (ADA) web page here: www.courts.maine.gov/programs/adr/index.html.

12. Judgment

Judgment by default. If the defendant does not go to court and the plaintiff attends, and submits sufficient evidence of the debt, the judge will likely grant the plaintiff judgment by default. The plaintiff will be able to get a copy of the judgment from the clerk's office before leaving the courthouse. A copy of the judgment will be mailed to the defendant.

Judgment of dismissal. If the plaintiff does not go to court for the hearing, the judge will probably dismiss the case with or without prejudice. A copy of the judgment of dismissal will be mailed to the plaintiff and mailed or provided to the defendant (if the defendant has attended).

Judgment by consent. If the parties reach an agreement on the case with or without the help of a mediator, they may present the agreement to the judge for approval. If approved, the agreement has the same effect as a final judgment, except that it cannot be appealed.

Judgment following a hearing. If a hearing is held, the judge may or may not announce the decision immediately after the hearing. He or she may take the case under advisement to do some legal research, or review submitted documents or testimony.

- If the judge takes the case under advisement, each party will receive a copy of the judgment by mail. If the judge decides the case at the end of the hearing, the clerk's office will provide a copy of the judgment to both parties at that time.

A judgment contains the name of the winning party, the time allowed for the losing party to appeal (30 days in a small claims case), the amount awarded plus court costs, if awarded by the judge, and any other action ordered by the judge.

If the defendant loses and does not pay the judgment to the plaintiff within 30 days, or files a *Notice of Appeal (SC-007)*, post-judgment interest may be added to the amount awarded. See Title 14 of the Maine Revised Statutes, Section 1602-C.

If the defendant does not pay, the plaintiff may need to take additional steps to collect. The court does not collect judgments for plaintiffs.

If the plaintiff loses, the plaintiff may appeal within 30 days on questions of law only. If the plaintiff does not appeal, the case is over, and the plaintiff cannot file another case on the same issue or debt.

If the plaintiff wins a small claims case, the plaintiff is referred to as the judgment creditor (or creditor) and the defendant is referred to as the judgment debtor (or debtor).

PART C — AFTER JUDGMENT: INFORMATION FOR CREDITORS AND DEBTORS

1. Appeals

Both parties have 30 days from the date the judgment is entered by the clerk to appeal a judgment to Superior Court.

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- The plaintiff may appeal only on one or more questions of law.
- The defendant may appeal on one or more questions of law or fact.

If the defendant's appeal is on one or more questions of fact, the defendant may request a jury trial in Superior Court. There is a fee for a jury trial. For fee information, see Administrative Order JB-05-26 on the Judicial Branch website at: www.courts.maine.gov/adminorders/jb-05-26.pdf.

The party appealing (called an "appellant") must file a *Notice of Appeal* with the required fee (unless waived by the court). The appellant must also request and pay for a transcript of the hearing if a recording was made. Use the *Transcript and Audio Order Form (CV/CR-165)*. The fees for filing a *Notice of Appeal*, for a transcript of the hearing, and for a jury trial, are non-refundable.

If for reasons beyond the control of the parties an electronic recording of the hearing was not made or is not available, the appellant may prepare a summary of the important facts and testimony presented in the hearing. This is called a "statement in lieu of a transcript." The parties can also submit an agreed-upon statement. If a transcript from the hearing or an approved statement in lieu of a transcript is not submitted as part of the record submitted to the Superior Court, the appeal may be denied.

Additional requirements on submitting a statement in lieu of a transcript are described in Rule 76F(c) and 76F(d) of the Maine Rules of Civil Procedure.

Appealing a small claims judgment is more complicated than bringing or responding to a small claims Statement of Claim. It is strongly recommended that you get legal assistance before going forward with an appeal. Legal assistance resources can be found on the back cover of the guide.

2. If the debtor does not appeal

If you are a judgment debtor and have lost a small claims case, the judgment creditor may take additional steps to collect the amount owed after the 30-day appeal period has ended as described in Part C.3-C.10.

A common step to collect a judgment includes requesting a disclosure hearing, which the debtor must attend. The creditor may request a disclosure hearing every six months to determine whether the debtor's current financial situation will allow the debtor to pay all or part of the judgment.

After 30 days, post-judgment interest may be added to the amount awarded by the judge. A judgment may be enforced (collected) for up to 20 years.

A small claims judgment is a public record searchable by credit reporting agencies and others. If included in a credit report, a judgment can have a negative effect on your financial standing.

3. Requesting a disclosure hearing

A common way to collect a small claims judgment is through a disclosure hearing.

The purpose of a disclosure hearing is to have the debtor testify concerning income, earnings, and assets that can be used to pay the judgment. You may request that the debtor bring financial information such as bank statements, pay stubs, and income tax returns to the disclosure hearing.

A creditor may request a disclosure hearing using one of the following two forms:

1. *Request for Disclosure Hearing (SC-003)* form. If you file fewer than three small claims cases per month, you may, but are not required to, ask the clerk's office to arrange service on the debtor by using the *Request for Disclosure Hearing form (SC-003)*.

- If you are eligible to request service by the clerk's office, the clerk's office will first attempt service by first class mail, then by the sheriff's office, if mail is unsuccessful.
- If service by the sheriff's office is necessary, you are responsible for paying this cost up front, if required.
- When the clerk's office arranges for service, the clerk's office will notify both you and the debtor of the date of the disclosure hearing.
- Although some creditors are eligible to have the clerk's office arrange for service for a disclosure hearing, it is not the most efficient method. To speed up the scheduling of a disclosure hearing, all creditors may use the *Notice of Small Claims Disclosure Hearing (SC-004)* method described below.

2. *Notice of Small Claims Disclosure Hearing (SC-004)* form. All creditors may use this method. Creditors filing three or more small claims cases per month must use this method.

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- First, ask the clerk for the dates and times that are available for a disclosure hearing. Choose a date that allows adequate time for service on the debtor and filing the *Notice of Small Claims Disclosure Hearing* form with the court, as explained below.
- Serve the debtor by any of the service methods described in Part B.4, including first class mail, or service by the sheriff's office. Make sure you provide at least seven days' notice to the debtor. (Rule 12(b) of the Small Claims Rule.)
- When you receive proof of service, file the original *Notice of Small Claims Disclosure Hearing* form, with the filing fee and proof of service with the clerk's office. You must file within 20 days of service and at least two days prior to the day of the disclosure hearing.
- If either party needs to subpoena a third-party witness to provide testimony at a disclosure hearing, the party should request a subpoena from the clerk's office. Parties are responsible for serving witness subpoenas on any witnesses and paying any witness fees. Give witnesses adequate notice of the date and time of the disclosure hearing.
- In some circumstances, a debtor may also request a disclosure hearing, including a debtor who has had his or her driver's license suspended pursuant to Title 29-A of the Maine Revised Statutes, Section 2251(10), to work out an installment payment plan to pay fines imposed in connection with the license suspension.

4. Prepare for the disclosure hearing

The sole focus of the disclosure hearing is the debtor's ability to pay the judgment. It is not a time to contest the amount owed or re-try the facts of the case. That is done at the small claims hearing.

The debtor must bring copies of all financial documents requested in the *Request for Disclosure Hearing (SC-003)* or the *Notice for Small Claims Disclosure Hearing (SC-004)*. See Part C.3.

In other ways, the process of a disclosure hearing is like a small claims hearing described in Part B.9 of the guide.

The judge generally begins a disclosure hearing session by calling the docket to make sure that both the creditor and the debtor are present. If both parties are

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present, the judge may first ask if the parties would like to speak with one another outside of the courtroom to try to work out a payment arrangement before holding a hearing. Mediation is not available at this stage.

If the parties can reach an agreement, they return to the courtroom and present the agreement to the judge. The judge may accept the agreement as presented or may change the terms with the input of the parties.

The parties complete and sign an *Affidavit and Agreement form (MJ/SC-001)*. If the judgment debtor is a corporation or other entity, form MJ/SC-012 is used. The judge incorporates the *Affidavit and Agreement* into a disclosure hearing order.

5. Conducting a disclosure hearing

If both parties are present, but are unable to agree on a payment plan, a disclosure hearing is held. As in a small claims hearing, the parties testify under oath. Both parties may call or subpoena witnesses and may offer evidence that the debtor is able or unable to pay all or part of the judgment.

The creditor should be prepared to ask the debtor questions about the debtor's income, wages, and assets that can be used to pay the judgment. These questions may be based on the financial documents on income, wages, and assets the debtor has provided to the creditor in response to the creditor's request.

The judge may also ask the parties and witnesses questions to help move along the disclosure hearing.

6. What relief against a debtor can be included in a disclosure hearing order?

With the information obtained in the disclosure hearing, the judge may order you (the debtor) to pay the creditor in full, make regular installment payments to the creditor, or may find that you do not have sufficient funds to pay the creditor at that time.

In determining the ability and maximum amount of regular installment payments you may be required to make, the court applies the guidelines contained in Title 14 of the Maine Revised Statutes, Section 3126-A.

The judge can also order that a lien be placed on personal or real property that is not exempt from being used to pay a judgment, or order that a specific item of

your property be turned over to the creditor for sale to pay the judgment (turn-over sale).

If the judge determines that you do not have sufficient income or assets to pay all or part of the judgment at the time of the disclosure hearing, or that your income or property is exempt, the hearing is terminated (ended). You will not be ordered to pay any amount at that time.

If the hearing is terminated, the creditor must wait six months before requesting another disclosure hearing. The debtor still owes the creditor the amount of the judgment. Post-judgment interest may continue to be added to the judgment amount.

7. If the debtor fails to appear for a disclosure hearing

If you do not go to court for the disclosure hearing (and have not received a continuance from the court), the creditor may file a *Request for Civil Order of Arrest or Order for Appearance (MJ- 002)*. In the *Request for Civil Order of Arrest*, the creditor states under oath that the creditor knows of no good cause why you have not come to court and provides the address and telephone number where the creditor may be reached.

If the judge signs a *Civil Order of Arrest (MJ-003)*, a sheriff's officer will civilly arrest you and bring you to court on a date it is in session or release you on your personal recognizance if you promise in writing to go to court on the date specified in the order. In a civil arrest, the sheriff's officer does not take a debtor to jail.

The clerk's office will arrange for service of the *Civil Order of Arrest* on the debtor, but the creditor is responsible for paying the sheriff's office fees. This cost can be added to the amount of the judgment.

The creditor may also file a *Motion for Contempt (MJ/SC-005)* with a *Contempt Subpoena (MJ/SC-002)*. The creditor is responsible for serving the *Contempt Subpoena* on the debtor and filing the motion. A *Contempt Subpoena* must be served by the sheriff's office. The debtor must have at least 10 days' notice of the date of the hearing on the *Motion for Contempt*.

If you fail to go to court after being released on your personal recognizance, or after being served with a Contempt Subpoena, you may be charged with a Class E crime, and are at risk of being jailed or fined.

8. What can happen if a debtor does not comply with a disclosure hearing order

If, as a judgment debtor, you do not comply with a disclosure hearing order, the creditor may file a Motion for Contempt as described above.

In addition, if the disclosure hearing order required you to make regular installment payments and you miss two or more payments, the creditor can request that the court order the Maine Department of Labor (DOL) to provide the creditor with information on your reported wages. See *Motion, Affidavit and Order to DOL to Provide Employment Information (MJ-015)*.

The creditor can also ask the court to order your employer to make payments directly to the creditor. To do this, the creditor serves on the employer and files a *Motion and Affidavit for Order to Withhold and Deliver form (MJ-009)*. A *Motion and Affidavit for Order to Withhold and Deliver (MJ-009)* can be served by the methods described in Part B.4.

The employer is required to complete and file an answer within 20 days of service (*Answer by Employer to Order to Withhold and Deliver (MJ-007)*) listing the amounts earned, deductions and withholdings. The employer must serve copies of the answer on both the debtor and creditor. Either party may request a hearing on what amount, if any, the employer will be ordered to pay directly to the creditor.

9. What income and property of the debtor is exempt from a judgment?

Income that is exempt (may not be used) under Maine law from being used to pay a judgment includes the following:

- Social security benefits;
- Unemployment compensation or benefits;
- Public assistance;
- Veteran's benefits;
- Disability benefits; and
- Alimony, support or separate maintenance amounts, to the extent reasonably necessary for the support of the debtor and any dependents.

Other income of the debtor may be used to pay a judgment, but only to the maximum amount permitted by Maine law. See Title 14 of the Maine Revised Statutes,

Section 3126-A. The court determines the maximum amount you are required to pay.

A partial list of exempt property includes the debtor's interest in the following:

- Debtor's residence, up to the value of \$80,000 or if 60 years of age or older, up to the value of \$160,000;
- A motor vehicle, up to the value of \$10,000;
- Clothing, furniture and similar items, up to the value of \$500;
- Jewelry, up to the value of \$1,000; and
- Other property, up to the values listed in Title 14 of the Maine Revised Statutes, Section 4422.

10. Transfer to another District Court

If the debtor fails to appear for a disclosure hearing and currently lives outside the county where the District Court that issued the judgment is located, the creditor may request an *Order for Appearance or Civil Order of Arrest with Order of Transfer (MJ- 002)*. The case will be transferred to the District Court in the geographic area where the debtor currently lives. The debtor is released on his or her personal recognizance after promising to appear in court on the date and time specified in the order.

If the debtor does not go to court after being served with the *Order for Appearance or Civil Order of Arrest with Order of Transfer*, he or she may be charged with a Class E crime and is at risk of being jailed or fined.

The reason the case is transferred in situations where the debtor has moved is because the sheriff's office does not have the authority to arrest someone residing in a county outside of its jurisdiction.

If an *Order for Appearance/Civil Order of Arrest with Order of Transfer* is issued, the creditor must go to the District Court where the debtor resides for the disclosure hearing.

11. If the creditor fails to appear for a disclosure hearing

If the creditor fails to appear for a disclosure hearing, the hearing is terminated and the creditor must wait six months before requesting another disclosure hearing.

12. If the debtor pays the judgment in full

Each party should keep receipts and a record of any payments made or received on the small claims judgment. The clerk's office does not keep track of payment information.

After the judgment has been paid in full, the creditor may, but is not required to, provide a document to the debtor verifying that the judgment has been paid in full. This document is sometimes called a "satisfaction of judgment."

A satisfaction of judgment should be signed by the creditor (or the creditor's assignee, if applicable) and should include the name of the creditor; the name of the debtor; the name of the District Court and docket number of the small claims case; and the date the judgment was paid in full.

The debtor may send a copy of a satisfaction of judgment to any credit reporting agency, if the debtor wishes to update his or her credit report.

The parties should keep copies of all payment records.

DEFINITION OF KEY TERMS

Affidavit: A written statement made voluntarily and signed under oath by the person making the statement. The oath must state the affiant (the individual signing) affirms, under penalty of perjury, that the facts contained in the affidavit are true.

Answer: Generally, a response to an initial filing in a court case. In a small claims case, the defendant is not required to file a written answer. In a small claims case, also refers to the response of the judgment debtor's employer to a judgment creditor's *Motion and Affidavit for Order to Withhold and Deliver (MJ-009)*.

Appeal: A written request to another (appellate) court to review, change or reverse a decision of a trial court. In a small claims case, an appeal is taken from the decision of the District Court and is filed in Superior Court. The party appealing must file a *Notice of Appeal (SC-007)* within 30 days of the entry of judgment and pay all necessary filing fees.

Assignee: The person to whom a property right is transferred, including, in a small claims case, the right to bring the lawsuit to collect a debt or a judgment.

Burden of proof: The plaintiff's task of convincing the finder of fact (in a small claims case, the judge) that the plaintiff's version of the facts is more likely true than not. Another way of describing the plaintiff's burden of proof is that over 50 percent of the believable evidence is in favor of the plaintiff.

Civilly arrest/civil arrest: In a small claims case, a court order directing a law enforcement officer to bring the debtor to court, if it is in session, or release the debtor on his or her personal recognizance, after the debtor's written promise to appear in court at a specific date and time. In a civil arrest, the debtor is not taken to jail.

Contempt: Behavior in or out of court that violates a court order or shows disregard for the court. In a small claims case, failing to go to court for a disclosure hearing or failing to comply with the terms of an order issued can be grounds for a finding of contempt.

Continuance: Postponement of a hearing at the written request of one or both parties. Only a judge may grant a continuance.

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Court costs: In a small claims case, court costs include the filing fee for the *Statement of Claim* and fees for service on the defendant/judgment debtor.

Creditor: See judgment creditor.

Credit report: A written account of an individual's credit history prepared by a credit-reporting agency.

Credit reporting agencies: Private companies that collect and sell information about an individual's credit history. Banks, mortgage lenders, credit card companies, landlords, and potential employers often use information on an individual's credit report to screen applicants. The Maine Bureau of Consumer Credit Protection regulates credit-reporting agencies in Maine. See information on the inside back cover of this guide.

Debt buyer: A company or entity that purchases debt for collection purposes. The original creditors may include credit card issuers, such as banks or businesses. Debt buyers often purchase thousands of debts in bulk sales from the original creditors. Unlike a debt collection agency, which tries to collect as a service to the original creditor, the debt buyer actually owns the debt. This means the debt buyer can make all decisions about the debt, including whether to settle, file a case, and which court to file in. A debt buyer is considered a debt collector under the Maine Fair Debt Collection Practices Act, Title 32 of the Maine Revised Statutes, Sections 11001- 11054.

Debtor: See judgment debtor.

Default: Failure to do something that is required in a court case or an agreement. In a small claims case, default also means the failure to come to court for the small claims hearing after being properly served with the plaintiff's *Statement of Claim*, usually resulting in a default judgment.

Defendant: The person against whom a case is filed; the person being sued.

Defense(s): One or more reasons given by the defendant for why the plaintiff should not win the case, in whole or in part. A defense may be based on facts (for example, the defendant might claim that he or she did not receive the goods or services the plaintiff claims were provided), or on law (for example, the defendant might claim that the debt to the plaintiff was canceled or discharged because of the defendant's bankruptcy).

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Disclosure hearing: In a small claims case, a court hearing to determine what non-exempt assets a judgment debtor may have to pay a judgment.

District Court: The name of the court in Maine where small claims cases and certain other civil, criminal, and family matters are heard. Cases in District Court are decided by a judge without a jury.

Docket: A list of cases and hearings that a court is scheduled to hear or hold on a particular day.

Entity: An organization, corporation, or business that has a separate existence for legal or tax purposes. An entity is treated like an individual for purposes of suing and being sued.

Exempt: Property, income, or assets that cannot be used to pay a judgment to a creditor. Non-exempt property, income or assets may be used to pay a judgment. Title 14 of the Maine Revised Statutes, Section 4422 contains a list of exempt property and income.

File/to file: To submit completed forms and other documents (a filing) to the clerk's office in connection with a court case.

Forum: The court in which a case is filed or a hearing or trial is held. The appropriate forum depends on which court has personal jurisdiction over the parties and the subject matter of the case.

Good faith: Honest intent to fulfill a promise, or to act without taking unfair advantage of another person.

Hearing: A court proceeding before a judge, like a trial.

Individual(s): A natural person; a human being as distinguished from an entity.

Judgment: A final ruling or decision by a court that determines the rights and responsibilities of the parties. A judgment in a small claims case can be enforced through further court action, including requesting a disclosure hearing.

Judgment creditor: An individual or entity that is the owner of any money judgment.

Judgment debtor: An individual or entity against whom or which a money judgment has been entered.

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Lien: A creditor's legal claim against personal or real property owned by a debtor to guarantee payment of a judgment or debt.

Mediation: A flexible, informal process in which the plaintiff and the defendant work together with the assistance of a trained, neutral third party (the mediator), to try to resolve their dispute. The mediator helps both parties communicate with each other and assists the parties in clarifying and expressing their views. The mediator has no power to decide the issues or force the parties to agree.

Motion: A written request by a party to a court to do something in a case.

Order: A direction by a judge to one or both parties to do something or not do something.

Parties: Collectively, the plaintiff and the defendant in a court case. The singular term, "party," can refer to either the plaintiff or the defendant.

Person: An individual or entity, including a partnership, association, limited liability company, or corporation.

Personal property: All property other than land and buildings attached to land. Cars, bank accounts, wages, furniture, tools, equipment, and jewelry are examples of personal property.

Personal recognizance: Release of an individual judgment debtor by a sheriff's deputy or law enforcement officer based on a written promise by the individual released to appear in court on a specified date and time.

Plaintiff: The person suing or filing a case.

Post-judgment interest: In a small claims case, interest on a judgment that a creditor may be awarded from the time the judgment is entered until it is paid. The rate of post-judgment interest is determined either by the rate set forth in the contract or note at issue, if there is one, or by statute. See Title 14 of the Maine Revised Statutes, Section 1602-C.

Question of fact: In a small claims case, an issue that is decided by the judge acting as the trier of fact. Questions of fact can include the credibility of parties and witnesses and the issue of whether something happened or did not happen.

Question of law: An issue in a court case that is decided by a judge applying the law.

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Real property: Land and things permanently attached to it, such as buildings, houses, stationary mobile home, fences, and trees. Real property is also called real estate. Anything that is not real property is personal property.

Reasonable accommodation: Actions taken to make existing facilities or processes readily accessible and usable by individuals with disabilities.

Registered agent: An individual who serves as an entity's contact to receive service of court papers in cases and legal matters.

Relief: In a small claims case, the specific amount of money, or other actions or things asked for by a party or ordered by a judge.

Return of service: Proof that a party has been served, which must be submitted to the court.

Serve/service: The process of giving a party notice of a case, or a request by another party so that the person receiving the notice and legal papers may respond.

Settlement/to settle: To reach a voluntary resolution of a dispute or case.

Standing: The right of an individual or entity to file a case in court. In a small claims case involving consumer debt collection, the debt buyer must show that it owns the defendant's debt in order to have standing to bring a case.

Statement of Claim: The name of the form the plaintiff uses to begin a small claims case in Maine.

Subpoena: An order by a court directing an individual to appear in court at a specified date and time.

Turnover sale: A sale of a debtor's interest in non-exempt property ordered by a court to satisfy a judgment. Requirements for a turnover sale are in Title 14 of the Maine Revised Statutes, Section 3131.

Under advisement: Circumstance where the judge decides not to announce his or her decision immediately after a hearing, but to give the case additional thought or to conduct legal research.

Under oath: A promise by a party or witness to tell the truth, the whole truth, and nothing but the truth in a hearing or trial. Making a false statement under oath in a court document or a hearing is a crime.

Without prejudice: A dismissal of a Statement of Claim allowing the plaintiff to re-file the case later the same debt, facts, or events. A dismissal with prejudice prevents the plaintiff from re-filing the case on the same debt, facts, or events.

APPENDIX A — DISTRICT COURTS

AUGUSTA

1 Court Street, Suite 101
Augusta, ME 04330
(207) 213-2800

BANGOR

78 Exchange Street
Bangor, ME 04401
(207) 561-2300

BELFAST

11 Market Street
Belfast, ME 04915
(207) 338-1940

BIDDEFORD*

515 Elm Street
Biddeford, ME 04005
(207) 283-6000

BRIDGTON

3 Chase Street, Suite 2
Bridgton, ME 04009
(207) 647-3535

CALAIS

382 South Street, Suite B
Calais, ME 04619
(207) 454-2055

CARIBOU

144 Sweden Street, Suite 104
Caribou, ME 04736
(207) 493-3144

DOVER-FOXCROFT

159 East Main Street, Suite 21
Dover-Foxcroft, ME 04426
(207) 564-2240

ELLSWORTH

50 State Street, Suite 2
Ellsworth, ME 04605
(207) 667-7141

FARMINGTON

129 Main Street, Suite 1
Farmington, ME 04938
(207) 778-8200

FORT KENT

139 Market Street, Suite 101
Fort Kent, ME 04743
(207) 834-5003

HOULTON

26 Court Street, Suite 201
Houlton, ME 04730
(207) 532-2147

LEWISTON

Physical: 71 Lisbon Street
Lewiston, ME 04240
Mailing: P.O. Box 1345
Lewiston, ME 04243-1345
(207) 795-4801

LINCOLN

52 Main Street
Lincoln, ME 04457
(207) 794-8512

MACHIAS

Physical: 85 Court Street
Machias, ME 04654
Mailing: P.O. Box 526
Machias, ME 04654-0526
(207) 255-3044

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MADAWASKA

Physical: 645 Main Street
Madawaska, ME 04756
Mailing: 139 Market Street, Suite 101
Fort Kent, ME 04743
(207) 728-4700

MILLINOCKET

Physical: 207 Penobscot Avenue,
Millinocket, ME 04462
Mailing: 52 Main Street
Lincoln, ME 04457
(207) 723-4786

NEWPORT

12 Water Street
Newport, ME 04953
(207) 368-5778

PORTLAND

205 Newbury Street
Portland, ME 04101
(207) 822-4200

PRESQUE ISLE

27 Riverside Drive
Presque Isle, ME 04769
(207) 764-2055

ROCKLAND

62 Union Street
Rockland, ME 04841
(207) 596-2240

RUMFORD

145 Congress Street
Rumford, ME 04276
(207) 364-7171

SKOWHEGAN

47 Court Street
Skowhegan, ME 04976
(207) 474-9518

SOUTH PARIS

Physical: 26 Western Avenue
South Paris, ME 04281
Mailing: P.O. Box 179
South Paris, ME 04281
(207) 743-8942

WATERVILLE

18 Colby Street
Waterville, ME 04901
(207) 873-2103

WEST BATH

101 New Meadows Road
West Bath, ME 04530
(207) 442-0200

WISCASSET

Physical: 32 High Street
Wiscasset, ME 04578
Mailing: P.O. Box 249
Wiscasset, ME 04578-0249
(207) 882-6363

APPENDIX B — SHERIFF'S OFFICES

ANDROSCOGGIN

2 Turner Street
Auburn, ME 04210
(207) 753-2500

AROOSTOOK

25 School Street, Suite 216
Houlton, ME 04730
(207) 532-3471

CUMBERLAND

36 County Way
Portland, ME 04102
(207) 774-1444

FRANKLIN

123 County Way
Farmington, ME 04938
(207) 778-2680

HANCOCK

50 State Street, Suite 10
Ellsworth, ME 04605
(207) 667-7575

KENNEBEC

125 State Street,
Augusta, ME 04330
(207) 623-3614

KNOX

301 Park Street
Rockland, ME 04841
(207) 594-0429

LINCOLN

42 Bath Road, P.O. Box 611
Wiscasset, ME 04578
(207) 882-6576

OXFORD

26 Western Avenue, P.O. Box 179
South Paris, ME 04281
(207) 743-9554

PENOBSCOT

85 Hammond Street
Bangor, ME 04401
(207) 947-4585

PISCATAQUIS

52 Court Street
Dover-Foxcroft, ME 04426
(207) 564-3304

SAGadahoc

752 High Street, P.O. Box 246
Bath, ME 04530
(207) 443-8528

SOMERSET

131 E. Madison Road
Madison, ME 04950
(207) 474-9591

WALDO

45 Congress Street,
Belfast, ME 04915
(207) 338-6786

WASHINGTON

83 Court Street
Machias, ME 04654
(207) 255-4422

YORK

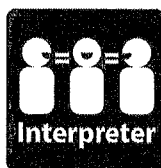
1 Layman Way
Alfred, ME 04002
(207) 324-1113

DISABILITY ACCOMMODATION



The Maine Judicial Branch makes every reasonable effort to provide accommodations and auxiliary aids and services to people with disabilities at no cost to them so that they may access the court and its services. You may talk to your lawyer about arranging for accommodations, or contact the Court Access Coordinator at 207-822-0718, TTY: Maine Relay 711, or accessibility@courts.maine.gov with requests. You may also contact the clerk's office in the court where your case is being heard. A link to the Disability Accommodation Request Form on the Judicial Branch website may be found at: www.courts.maine.gov/ada/accommodation.html.

LANGUAGE ACCESS



The Maine Judicial Branch provides interpreters to people who have Limited English Proficiency (LEP) or who are deaf or hard of hearing at no cost to them so that they may access the court and its services. The Judicial Branch must also provide an ASL interpreter to court observers who are deaf or hard of hearing upon request. Please talk to your lawyer about arranging for an interpreter, or contact the Communications Access Specialist directly at 207-822-0703, TTY: Maine Relay 711, or interpreters@courts.maine.gov with requests, You may also contact the clerk's office where your case is being heard. More information on interpreter assistance can be found on the Judicial Branch website at: www.courts.maine.gov/programs/lep/index.html.

NOTES

LEGAL RESOURCES

Maine State Bar Association's Lawyer Referral Service

1-800-860-1460 | www.mainebar.org/page/AttorneyRequest

\$25 administrative fee to help individuals find a private attorney. Fee includes a 30- minute consultation with an attorney.

Maine Attorney General's Consumer Mediation Service

1-800-436-2131 or 207-626-8849

www.maine.gov/ag/consumer/complaints

Free service offers consumers and businesses information and tips to attempt to resolve consumer-related disputes. Online Consumer Law Guide and volunteer mediation service also available.

Maine Bureau of Consumer Credit Protection

1-800-332-8529 or 207-624-8527 | www.maine.gov/pfr/consumercredit

Agency of state government that oversees many aspects of the consumer finance industry, including debt collectors, debt buyers, and retail creditors. Responds to consumer complaints about unfair debt collection practices. Offers consumer education publications, and assistance on how to get a free credit report annually.

Can help address issues with an individual's credit report.

Legal Services for the Elderly

1-800-750-5353 | www.mainelse.org

Legal Services for the Elderly is a nonprofit organization that provides free legal assistance and resources to individuals 60 years of age and older on a variety of issues, including managing debt. Offers a legal helpline by telephone and an online Elder Rights Handbook with information on debt collection and small claims cases. See www.mainelse.org/content/managing-your-debt

Pine Tree Legal Assistance

207-774-8211 | <http://ptla.org>

Pine Tree Legal Assistance is a statewide nonprofit organization providing free, civil legal assistance to low-income people in Maine. Offers online educational resources on consumer law, debt collection, small claims court, and other areas of law. Online resources are available to individuals at all income levels. On Money, Taxes, and Debt issues, see <http://ptla.org/self-help/2657>.

Maine Judicial Branch
Administrative Office of the Courts
1 Court Street, Suite 301, Augusta, Maine 04330
www.courts.maine.gov