

Notice of Claim

STATE OF INDIANA)
) SS:
COUNTY OF BROWN)

IN THE BROWN CIRCUIT COURT
CAUSE NUMBER: 07C01-_____

Plaintiff

Address

City, State, Zip Code

Telephone

Plaintiff's Attorney

Address

City, State, Zip Code

Telephone

Email Address

Defendant #1

Address

City, State, Zip Code

Telephone

Defendant #2

Address

City, State, Zip Code

Telephone

Email Address

Service by: Certified _____ Sheriff _____

NOTICE OF CLAIM

Plaintiff(s) seek(s) a judgment against the defendant(s) in the sum of \$_____, interest from _____, at the rate of _____% plus court costs. The hearing on the claim is scheduled for _____, 20__ at _____ a.m./p.m.

A brief statement of the nature of the Plaintiff's claim against you is: an Account (copy attached) _____; Promissory Note (copy attached) _____; Past Due Rent & Eviction (Lease; Notice to Quit attached) _____; Wages _____; Other:

IF THE CLAIM IS ON ACCOUNT, AN AFFIDAVIT OF DEBT IN A FORM SUBSTANTIALLY SIMILAR TO SMALL CLAIMS APPENDIX A SHALL BE ATTACHED. IF THE CLAIM ARISES OUT OF A WRITTEN CONTRACT, A COPY OF THE CONTRACT IS ATTACHED.

To the best of his/her knowledge, the undersigned affirms under the penalties of perjury that the Defendant(s) is/are not now serving in the Armed Forces of the United States, and are not under any other legal disability.

Dated: _____

Plaintiff or Attorney

NOTICE FROM THE COURT

Please read carefully:

INSTRUCTIONS TO BOTH PARTIES

1. **FILING OF CLAIM:** The Notice of Claim shall contain a brief statement of the nature and amount of the claim; and, if the claim arises out of written contract, a copy shall be attached. If the claim is on an account, an itemized affidavit of debt in a form substantially similar to Small Claims appendix A shall be attached. If the plaintiff is not the original creditor, and the claim arises from a debt that is primarily for personal, family or household purposes the plaintiff shall provide an affidavit of debt meeting the requirements of Small Claims Rule 2 (B)(4)(c). All claims and attachments shall be filed in such quantity that one copy may remain on file with the Clerk, one copy may be delivered to the claimant, and one copy may be served on each defendant.
2. **APPEARANCE:** The parties must appear either in person or by an attorney. All Corporate Entities, Limited Liability Companies (LLC's), Limited Liability Partnerships (LLP's), and Trusts may be represented by counsel, owner, or by a designated full-time employee of the corporate entity, or, in the case of a trust by a trustee, in the presentation or defense of claims arising out of the business if the claim does not exceed six thousand dollars (\$6,000.00). Any claims exceeding six thousand dollars (\$6,000.00) must be defended or presented by counsel.

All Sole Proprietorship or partnership may be represented by the sole proprietor or partner, owner, counsel, or by a designated full-time employee of the business in the presentation or defense of claims arising out of the business, if the claim does not exceed six thousand dollars (\$6,000.00). Any claims exceeding six thousand dollars (\$6,000.00) must either be defended or presented by counsel or pro se by the sole proprietor, partner, or owner.

Before a designated employee is allowed to appear in a small claims proceeding, the corporate entity, LLC, LLP or trust, sole proprietor or partnership must have on file with the Court a corporate resolution and an employee affidavit. The Court may sanction a designated employee or trustee and the entity the employee or trustee represents for failure to comply with the Small Claims rules or local rules. Sanctions may include assessment of costs or reasonable attorney's fees, the entry of a default judgment, the dismissal of a claim with or without prejudice, fines, and/or incarceration. The Court has forms available for this purpose.

See also: Small Claims Manual, a copy of which is available from the Clerk of the Brown Circuit Court and available for download at <http://www.in.gov/judiciary/2710.htm> or Indiana Small Claims Rule 8 (c) which may be viewed online at <http://www.in.gov/judiciary/rules>.

3. **DEFAULT:** If the plaintiff fails to appear, the claim may be dismissed. If the defendant fails to appear, a judgment may be entered against the defendant for the full amount of the claim plus Court Costs.
4. **UNDISPUTED CLAIM:** If the defendant does not wish to dispute the claim, he or she may nonetheless appear for the purpose of allowing the Court to establish the method by which the judgment shall be paid.
5. **PROCEDURE:** Simply tell your side. There are no technical rules. Be prepared on the trial date. Bring all documents in your possession or under your control concerning the claim with you and bring or subpoena any witness who you wish to testify. Subpoenas (an order to appear issued by the Court) may be issued if needed. Contact the Court as soon as possible. Documents you may need include books records, receipts, warranties, etc.
6. **JURY TRIAL:** The plaintiff has waived his or her right to a jury trial by filing this small claim. A defendant must request a jury trial by filing a written request with the Court stating the reasons, including a statement that there are questions of fact requiring jury trial, and the request is made in good faith. It MUST be filed within ten (10) days from the date you received this notice or the jury trial is waived. Once a jury trial request has been granted, it may not be withdrawn without the consent of the other party or parties. The defendant must also pay an additional transfer fee within ten (10) days to the Clerk upon the jury trial request being granted and failure to do so shall be deemed a waiver of the jury trial request. Jury trials are tried under formal rules of procedures and evidence.

7. CONTINUANCES: For good cause shown, the Court may grant a continuance of trial at any time. Any request for continuance should be made in writing and filed with the Court with a copy provided to the other party as far in advance as possible. When filing for a continuance, you must try to contact the other party to determine if that party objects to a continuance and inform the Court of any objections.
8. SETTLEMENTS: If both parties agree to settlement prior to the trial, it must be reduced to writing and signed by both parties. The written agreement must be filed in the Court and approved by the judge.
9. COUNTERCLAIMS: If the defendant has a claim against the plaintiff, he or she may file a counterclaim. The Court will provide forms. They must be filed with the Clerk in time to allow a copy to be mailed to the plaintiff at least seven (7) days prior to trial. If such counterclaim is not received within this time, the plaintiff may request a continuance. The counterclaim may not exceed \$10,000.00 and you will waive any amount over \$10,000.00 if you file in this Court. If the counterclaim is based upon a contract or account, you must attach a copy.
10. RULINGS: The Court may rule after the trial, or may advise you, within ninety (90) days, of the ruling by mail. If one or both parties are not satisfied with the Court's decision and judgment, an appeal may be taken to the Indiana Court of Appeals. To qualify for an appeal, the appealing party must take certain action within thirty (30) days of the judgment. Due to the complicated rules for taking an appeal, the party seeking the appeal should consult legal counsel as soon as possible after the judgment has been entered.
11. GENERAL QUESTIONS: Court personnel may be able to answer general questions about the procedures and practices. The telephone number is (812) 988-7557. However, if you need legal advice, you MUST contact an attorney as the JUDGE, COURT PERSONNEL or the CLERK'S OFFICE PERSONNEL cannot advise you.
12. COURT COSTS: The plaintiff has to pay Court Costs when the lawsuit is filed. If the plaintiff wins, the defendant will be required to pay Court Costs, interest, and attorney fees (in some cases) to the Clerk.
13. CHANGE OF TELEPHONE OR ADDRESS: Advise the Court of any changes in telephone or addresses after the lawsuit is filed.
14. PAYMENTS: Payments must be made to the County Clerk unless the Court establishes other procedures.
15. WHEN PAID IN FULL: Upon payment of the in full, the Clerk shall notify the judgment creditor and shall require him or her to file a release of judgment within thirty (30) days of the issuance of the notice. The Clerk shall enter on the Chronological Case Summary that the judgment has been satisfied. If the plaintiff has failed to release judgment pursuant to Court Directive the Clerk shall enter a release of judgment in the judgment docket.
16. NONPAYMENT OF JUDGMENT: When a losing defendant fails to pay the judgment as ordered by the Court, you may file proceedings supplemental or garnishee (attach) the losing party's wages. You must complete additional forms.

More information can be found at: <https://www.in.gov/judiciary/2710.htm>.