

CONCILIATION COURT PROCEEDINGS



10 Things You Should Know

1. JURISDICTION

There is no minimum amount required for a conciliation court claim. The maximum amount of money claim allowable currently is \$7500 in Hennepin County, but the maximum may be less in non-urban counties. For actions in counties other than Hennepin County, check with the clerk of court before filing the action. Claims over the maximum amount must be filed in the district court.

With regard to subject matter, conciliation courts can hear any civil action that may be brought in district court except where title to real estate is involved.

It is necessary to bring the action in the county where the defendant resides. An action may be brought in another county, i.e. where the plaintiff resides or where the offense occurred, but such action may either be subject to a change of venue, or more likely, subject to a subsequent challenge to the validity of any judgment rendered on the basis that the court lacked jurisdiction over the person. If the defendant resides outside Hennepin County, contact the clerk of court in the county of his or her residence for directions on how to proceed and to obtain the appropriate forms and fee schedule. Conciliation courts are conducted by all counties in the seven-county metropolitan area.

An exception to the residency rule is one that allows a renter or former renter of residential property the option of bringing certain specific actions against the landlord either in the county in which the property is located or in the county that the landlord resides.

2. VENUE

For actions involving defendants residing anywhere in Hennepin County, the actions are filed in and heard in one of the following locations: Downtown, Brookdale, Ridgedale, or Southdale. To have your action heard in a location other than Downtown, you should request the location you want at the time you file your statement of the case.

3. FILING THE ACTION

The complaint may be filed in person or by mail after it has been properly notarized. The filing fee for Hennepin County is \$70.00. Check with the appropriate county for the correct filing fee. The filing fee must accompany the claim, or it will not be accepted.



4. SERVICE

The conciliation court clerk will handle service of the summons by first class mail for claims of \$2500 or less. It is important to have the defendant's correct mailing address. However, if the claim exceeds \$2500, the plaintiff must serve the summons by certified mail, return receipt requested or by personal service. Proof of service must then be filed with the court administrator. If the service is not completed properly and the proof of service is not filed with court administrator within sixty (60) days from the issuance of the summons, the action may be dismissed.

5. STATEMENT OF THE CLAIM

The statement of the claim involved is made on forms provided by the court. These are available from any of the conciliation court locations, or available for download from some county websites. Most claims will use the general claim form and the claim will be inserted in a blank paragraph provided on the form.

The limited requirements of conciliation court on any complaint are that there be "a brief statement of the amount, date of accrual and nature of the claim." To fulfill this requirement, the plaintiff should compose a simple, but direct, statement of the claim with sufficient information to inform the court and the defendant of the grounds for the claim, including the amount sought. A precise recitation of all the facts concerning the claim is not necessary.

A special form is available for automobile accidents (automobile damage). This form is self-explanatory and involves filling in blanks regarding details of time and place. A further simplified form is available when goods or services have been supplied to the defendant on account and full payment has not been made (goods and services).

6. COUNTERCLAIMS

A party that has been sued who has a claim against the plaintiff may bring a counterclaim. Counterclaim forms are available from any of the conciliation court locations, or for a nominal cost at any legal stationery store. The counterclaim must be filed at least five (5) days before the date set for hearing and the filing fee must be paid at the time of filing. Where the counterclaim arises out of the same factual situation as the claim, the counterclaim may be lost if not made. No response is necessary to a counterclaim.

The following are sample, but not model, statements of a claim which would be sufficient to file your claim:

"Plaintiff rented Apartment No. 101 at 2100 Grand Avenue South from the defendant. Plaintiff vacated the premises at the expiration of her lease on June 1, 1993, and provided defendant with her forwarding address but has not received from defendant her security deposit of \$150.00."

"Plaintiff rented Apartment No. 202 at 100 Oak Grove Street to the defendant from January 1, 1992 to August 31, 1993. Defendant vacated premises at the end of the lease, leaving substantial damage to the furniture and plumbing in the amount of \$550.00."

"Plaintiff loaned defendant \$300.00 in exchange for his Promissory Note due and payable to Plaintiff on May 1, 1993. Demand has been made and defendant has refused to make payment when due."

7. NOTICE OF TRIAL

The clerk of court will assign a trial date for the action. In Hennepin County a delay of one to two months can be expected. In less populous counties, it will take less time for a trial date. The parties will be notified by mail at the address listed on the plaintiff's statement of claim.

If there is a conflict in a party's schedule, the party should notify the clerk and his opponent as soon as possible. Continuances are, by court rule, granted only if requested in writing to the court at least five (5) days before the scheduled hearing. Only one (1) continuance will be granted and you may be required to pay a fee.

Failure of the plaintiff to appear for trial will result in the action being dismissed. If the defendant has counterclaimed and the defendant appears, judgment may be entered against the plaintiff. If the defendant fails to appear and the plaintiff appears, plaintiff will be entitled to judgment by default against the defendant upon making a satisfactory explanation to the court of the nature of the claim and the reasonableness of the amount.

8. HEARING

The parties must report to the court room assigned, as indicated on the notice of hearing. The clerk in the court room will call the calendar, asking those parties present to identify themselves. When the clerk calls a party's name, the party should identify himself as a party by saying, for example, either "Joe Green is present," or "Ace Apartment Company is present."

The typical calendar in Hennepin County may involve 20-50 cases to be heard in one day. The default cases (where only one claimant appears) are sometimes heard first. Parties in disputed cases should be prepared to wait from two to three hours before their case is called.

When a case is called, the parties should approach the bench to be sworn in. All testimony will be given under oath. Parties should bring with them all evidence to support their claim—photographs, notes, leases, agreements, or bills of sale. Affidavits or signed statements are of little value and possibly may not be admitted as evidence. A live witness is always better than a written statement or letter.

Witnesses are allowed and are encouraged when necessary to support a party's claim. If any witness will not willingly come to testify, the court will issue subpoenas mandating a witness's presence, but application for subpoena must be made to a clerk well in advance of trial.

After a party presents his version on the merits of the claim, the court referee will probably question the party regarding specific facts. Also, the other party will have an opportunity to question both the party opponent and his witnesses.

The court will take the case under advisement rather than issue a decision immediately. Most decisions are mailed one week after the hearing. Conciliation court referees and judges usually limit the role of

attorneys. An attorney may be useful in advising you beforehand how to present your arguments and evidence in a way that will maximize success.

9. JUDGEMENT

The prevailing party will be given judgment in a specific dollar amount. Collection of the judgment is up to the party, not the court. If the defendant will not willingly pay, judgment remedies such as garnishment, attachment, and liens are available to the prevailing party. One should use extreme caution in undertaking these remedies as courts and recent statutes are highly protective of debtors' rights. It is advisable to consult an attorney in this regard. The clerk of conciliation court may be of some help in discussing means of executing the judgment.

10. APPEALS

If either party is dissatisfied with the judgment rendered, he may appeal within 20 days. The final date of appeal will usually appear on the notice of decision. Formal service of a complaint drafted to meet the requirements of Rules of Civil Procedure is required for an action in District Court. Therefore, because these requirements must be perfected within the 20 day appeal period, no time should be lost in deciding whether to appeal a decision. The effect of an appeal is to erase the outcome of the original action. The new proceeding will be a formal trial held either before a judge or jury, depending on the choice of the parties. Because the new trial of the appeal will be conducted according to formal rules of evidence and trial practice, a party will be at a severe disadvantage in appearing without an attorney and therefore legal representation is highly recommended.