

BARTHOLOMEW COUNTY SUPERIOR COURT 2
FREQUENTLY ASKED QUESTIONS:
SMALL CLAIMS

Court Address:

234 Washington Street
P.O. Box 924
Columbus, IN 47201

Phone Numbers:

Bartholomew County Community Corrections: (812) 379-1611
Bartholomew County Court Services Department: (812) 379-1640
Bartholomew County Legal Aid: (812) 378-0358
Bartholomew County Sheriff's Department: (812) 379-1650
Circuit Court: (812) 379-1605
Clerk's Office: (812) 379-1600
Columbus City Hall: (812) 376-2510
District 11 Legal Aid: (812)378-0358
Prosecutor's Office Child Support Division: (812) 379-1603
Prosecutor's Office: (812) 379-1670
Superior Court 1: (812) 379-1623
Superior Court 2: (812) 379-1610
Superior Court 2 Small Claims: (812) 379-1620
Turning Point: (812) 379-1629

Helpful Websites:

mycase.in.gov
www.bartholomew.in.gov
www.bartholomew.in.gov/clerk.html#pay-small-claims-judgment
www.in.gov
www.in.gov/courts/selfservice/legal-help

1. Where is the Small Claims Office and when is it open?

The Small Claims Office is on the Third Floor of the Bartholomew County Courthouse located at 234 Washington Street, Columbus, IN in room 306A. The office hours are 8:00 AM to 5:00 PM. All new Small Claims must be filed no later than 4:30 PM.

2. What is the filing fee for Small Claims?

The filing fee for Small Claims is \$97.00 to file against one (1) defendant. There is a \$10.00 fee for each additional defendant added to the case. The defendant(s) may be served notice of the claim by certified mail, which is included in the filing fee. If you prefer the defendant(s) be served by Sheriff, there is an additional fee of \$28.00. A stamped envelope addressed to the defendant(s) is also required for sheriff service.

3. Which form should I use?

- a. All forms are available at the Small Claims Office and the Small Claims website at <https://www.bartholomew.in.gov/courts.html#small-claims>. If you are filing an Eviction, a Summons for Claim for Possession of Property must be filed along with a copy of the lease/rental agreement, if applicable. A Verification of Ownership form must also be filed.
- b. If you are filing a claim for money, damages, or specific item(s), you should file a Claim for Damages along with an Affidavit of Debt form. If there is a written contract, agreement, estimate, etc., a copy of such must also be filed.
- c. If you are filing for a title to a vehicle, an Application for Title must be filed along with a VIN check that's completed by a Law Enforcement Officer.
- d. An Appearance form must be filed with **all** new claims. Packets for all claim types are premade and available at the Small Claims Office and online. Forms that start the collection process of a judgment are also available at the Small Claims Office and online.

4. Who's who on a Small Claims case?

Plaintiff and Claimant are synonymous for the individual who starts a lawsuit. Defendant is the individual against whom damages are sought or the individual being sued. Affiant is the Plaintiff. Garnishee defendant is the defendant's employer.

5. How long do I have to file my case?

The Statute of Limitations varies depending on what type of case you are filing. You should seek legal advice if you have questions about the Statute of Limitations in your case.

6. Is this the correct place to file my claim?

A Small Claim should be filed in the county where:

- a. The defendant resides or is employed at the time the complaint is filed
- b. The transaction or occurrence took place
- c. Where the obligation was incurred or is to be performed
- d. OR where the residence is located for all Eviction Proceedings
- e. OR where the vehicle is located for all Applications for Title

7. Who should I file against?

The Court staff are not attorneys, cannot give legal advice, and cannot advise whom to name in a lawsuit. You may name more than one (1) individual in your lawsuit if more than one (1) individual is responsible.

8. What if I can't find the defendant or don't know their address?

The Court cannot locate the defendant for you. It is your responsibility to locate an address for the defendant so notice of all hearings can be served on the defendant. The Court cannot hold a hearing unless there is proof that defendant was properly served notice of the hearing.

9. What is the maximum I can sue for in Small Claims?

The jurisdictional limit in Small Claims is ten thousand dollars (\$10,000.00) for individuals and for businesses.

10. If I'm a business, who may appear on the business' behalf?

Sole Proprietorships, Partnerships, Corporate Entities, Limited Liability Companies, and Limited Liability Partnerships may appear by a designated **full-time** employee of the business. A Certificate of Compliance with Small Claims Rule 8(C) must be filed designating who may appear on behalf of the business.

11. What does it mean to be a designated full-time employee?

A designated full-time employee is someone who has been authorized to appear in Court on behalf of a Sole Proprietorship, Partnership, LLP, LLC, Corporation or other business entity. This individual **must be** a full-time employee of **the business they are representing**. No third-party individuals may represent a business in any form. If a business designates a full-time employee to appear on its behalf, the business will be bound by any and all agreements relating to the Small Claims case entered into by the designated employee. The business will be liable for any and all costs; including those assessed by reason of contempt imposed by the Court against the designated employee. No person who is disbarred or suspended from the practice of law in Indiana, or any other jurisdiction, may appear for a business under this rule. Before a designated employee is permitted to appear in a Small Claims proceeding, the business must file with the Court a Certificate of Compliance form that follows the provisions of Small Claims Rule 8(C).

12. How does the defendant get notified of my lawsuit?

Notice of your claim is sent to the defendant by certified mail unless you specify differently. The filing fee covers the initial claim being mailed to defendant(s) by certified mail. If you need to request any additional hearings, you will be responsible for the cost and preparation of the certified mailer. You may also request service by the Sheriff's Department Civil Process Division, which is an additional fee of \$28.00. If you are requesting service by sheriff, you will need to provide a stamped envelope addressed to the defendant(s) for the sheriff to mail a copy. It is your responsibility to ensure that the other party has notice of all hearings in your case. If you want the defendant(s) served out of the state, you must contact that county's Sheriff's Department to determine their service fee and address to which they prefer the paperwork mailed to receive and serve upon the defendant. You will be required to pay their service fee in either the form of personal check or money order. This Court will then mail the check or money order, provided by you, and copies of the Claim to that Sheriff's Department for service. **IF SERVICE IS NOT PERFECTED IN ONE OF THE ABOVE WAYS, THEN A HEARING CANNOT BE HELD.**

13. How long does it take to get a hearing date?

- a. A trial date will be set by the Court staff when you file your claim. Most claims are set at least 20-23 days from the day you file your suit. This time frame may be altered depending on the Court's calendar and your schedule.
- b. Eviction hearings are set approximately 10-14 days from the day the Eviction is filed. The first hearing is to determine if the tenant should vacate the property. During the first hearing, a second hearing will be scheduled for approximately 30 days after the vacate date to determine any back rent or damages that may be due. If parties agree to participate in the Pre-Eviction Diversion Program, multiple hearings will be set. Status hearings will be set out for 30 days, another for 60 days, and a trial will be set out for 90 days.
- c. All hearing dates are dependent upon the Court's calendar.

14. Can I change my hearing date?

A continuance will only be granted if a good reason is shown. Any request for a continuance should be made, in writing, and submitted to the Court at least seven (7) days prior to your hearing. You must include your name, address, and case number on any correspondence you send to the Court.

15. I missed my hearing date, what do I do?

You may write a letter to the Judge/Magistrate explaining why you did not come to Court and what it is you are requesting from the Court. Your name, address, and case number must be on any correspondence you file with the Court.

16. What happens if someone doesn't appear?

If the Defendant fails to appear for a hearing and was properly served notice of the hearing, the Plaintiff is required to prove his/her case in order to have the Judge/Magistrate enter an Eviction Order or a Judgment Order. If the Defendant fails to appear for subsequent hearings, he/she may be found in contempt of Court and may face penalties for contempt. If the Plaintiff fails to appear for the trial, the Court may dismiss the case without prejudice, which means that the Plaintiff may request the case be reopened. If Plaintiff fails to appear for the trial a second time, the Court may dismiss the case with prejudice, which means Plaintiff cannot reopen this specific case and will have to refile a new case from the beginning.

17. What if the defendant wants to pay the claim before it goes to Court?

If you reach an agreement with the defendant, you may dismiss your case any time prior to the trial.

18. If I dismiss my case, am I refunded my filing fee?

No, the Clerk's Office cannot refund filing fees once they have been paid. Filing fees are nonrefundable.

19. Do I have a good case? Will I win my case?

The Court staff are not attorneys and cannot give legal advice. The Court staff cannot tell you if you should file your case or if you will win your case. The Judge/Magistrate must decide the cases based on the evidence and testimony presented by the parties at the time of the hearing.

20. How do I prove my case?

It is your responsibility to present evidence and testimony to prove your case. You must prove two (2) things to the Court before judgment can be awarded:

- a. You must prove that the other party has done something that makes that individual liable to you for damages; and
- b. You must prove, by a preponderance of the evidence, the amount of damages that you are entitled to recover.

21. What do I do when I arrive at Court?

Once you arrive at the Courthouse, you will need to check in at the Small Claims Office where you will be directed to have a seat in the hallway. Prior to the start of your hearing, a court reporter will check you in and ask you to sit in a chair against the wall in the Courtroom. Once your hearing starts, the Judge/Magistrate will call your case number and name and you can have a seat at one of the tables.

22. What do I need to bring with me?

It is important you bring the proper documents or other exhibits to the trial and present them to the Judge/Magistrate in an orderly manner. This may include photos, receipts, invoices, or other exhibits that help prove your case. Please DO NOT staple exhibits. If you have photos on a camera, phone, laptop, or other electronic device that you want the Court to see at trial, those photos must be printed before the trial. Otherwise, the Court is required to keep your camera, phone, laptop, or other electronic device for thirty (30) days. If you have a video you want the Court to see, the video must be on a disc or USB flash drive. You must also notify the Court, and the opposing party, you intend to show the video seven (7) days prior to your trial so the Court can have the equipment to play the video.

23. I have Social Security numbers on the documents I'm submitting to the Court, is that okay?

Pursuant to Administrative Rule 5(C)(1)(a & b), any documents submitted with complete Social Security numbers of living persons and/or complete account numbers, personal identification numbers, and passwords **MUST** be submitted on green paper that will go in a "Not for Public Access File." A copy of the same document must also be submitted on a white copy with the confidential information redacted so it can be placed in the Court's public file.

24. If I file an Eviction, how long do the defendants have to vacate?

This depends on the facts of your case and is different on a case-by-case basis. The Court's standard policy is that tenants must vacate by the Monday that is two (2) weeks from the date of the Eviction hearing, unless that Monday is a holiday. The Judge/Magistrate will give an exact vacate date and time at the Eviction hearing. These guidelines are not absolute rulings.

25. What happens if the defendants don't vacate by the vacate date?

If the defendant(s) fail to vacate as ordered, you should contact the Bartholomew County Sheriff's Department as directed in the second paragraph of the Order of Possession that resulted from your Eviction hearing. Once you contact the Sheriff's Department, a time will be scheduled between you and a Sheriff's Deputy for the Deputy to assist in having the defendant(s) removed from the property. You must contact the Sheriff's Department on or before the expiration date that is listed in the third paragraph of your Order of Possession.

26. What do I do with the items tenants leave behind when they vacate? Can I dispose of the items?

The Court staff cannot give legal advice regarding personal property that has been abandoned by former tenants. There are specific statutes about personal property a tenant leaves behind. You should seek legal counsel for this advice.

27. How do I get a subpoena for a witness?

You may request the Bartholomew County Clerk issue a subpoena ordering a witness to appear at your hearing. Requests for subpoenas should be made in the Bartholomew County Clerk's Office as soon as possible after you file your claim. It is your responsibility to make sure the subpoena is served. If you have any questions about service, you will need to contact the Sheriff's Department. You will need to file a copy of any subpoena with the Court.

28. Where is the judgment paid?

Payments **MUST** be made in the Bartholomew County Clerk's Office in person, online, or by mail at P.O. Box 924, Columbus, IN 47202-0924. For Small Claims judgments, the Clerk will accept cash, money order or credit/debit card. Please note: if paying with a credit/debit card, a charge of 3% of the amount you are paying will be applied to your total. You must include your case number on any payment you send in or have it with you if you are paying in person. Payments can be made online at <https://www.bartholomew.in.gov/clerk.html#pay-small-claims-judgment>

29. How do I collect my judgment?

If a judgment is entered and the defendant fails to pay the judgment, there are supplemental proceedings you can file to attempt to collect your money. If you know where the defendant is employed, you may be able to pursue a garnishment of their paycheck, provided the defendant qualifies for a garnishment order. It may be necessary for you to file more than one request for proceedings supplemental. If you need to request additional hearings, you will be responsible for the cost and preparation of the certified mailer, which can be purchased at any post office, OR the stamped envelope addressed to the defendant in cases where service by sheriff is requested. For Sheriff service on supplemental proceedings, a one-time post-judgment fee of \$28.00 applies.

30. What happens if the defendant files bankruptcy?

If the Defendant files bankruptcy and lists you as a creditor, even if a judgment has already been entered, the Court MUST stay or stop any further attempts at collection of your case. If the Bankruptcy Court discharges the debt, you will not be able to make any further attempts to collect your judgment through this Court. If the Bankruptcy Court dismisses the defendant's petition for bankruptcy, you may then proceed with further proceedings to attempt to collect your judgment.

31. How do I obtain a clear title for a vehicle?

You must complete an Application for Title; there is a \$97.00 filing fee to do so. When you file your claim, you must know the year, make, model, color, odometer reading, and VIN of the vehicle. You must also know the approximate date you acquired the vehicle and how the vehicle was acquired; e.g. buy, trade, gift. A VIN check is also required at the time of filing that has been completed by a Law Enforcement Officer. The Court staff will then give you a hearing date approximately 20-25 days out. At the hearing, if the Judge/Magistrate finds in your favor, you will receive an Order to take to the BMV to get a clear title.

32. Can you keep my name out of the newspaper?

Cases filed through Small Claims Court are public record. The Court cannot withhold information from the media.