



# KAREN NICOLAI

CLERK OF CIRCUIT COURT - HERNANDO COUNTY, FLORIDA

20 N. MAIN ST.

BROOKSVILLE, FLORIDA 34601

(352) 540-6377

## SMALL CLAIMS

### **DID YOU KNOW?**

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#### WHAT IS A SMALL CLAIMS COURT?

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In Florida, a County Court now handles what was once called small claims court. By statute and court rules, a less formal and less complicated procedure is available for small claims, that is, claims of \$5,000.00 or less.

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#### DO YOU NEED A LAWYER?

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No. In most cases you can represent yourself if you so desire. If the case is complex, you'll be better off with legal counsel. The clerk will provide the necessary forms to file a claim. General information and assistance are available at the clerk's office, however no legal advice can be given.

If you want a lawyer and don't know one, you may call the Florida Bar's referral service, toll-free, 1-800-342-8011.

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#### STATUTE OF LIMITATIONS

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How long you have to file a claim in court, notably Small Claims Court, varies, depending on the topic and circumstances of respective litigation. Chapter 95 Florida Statutes explains the limitations of actions. If you are unsure as to how these statutes apply to your case, please consult an attorney immediately.

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#### WHERE TO FILE

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The small claims/county civil department is located on the second floor of the Hernando County Government Center, Judicial wing, Room 248, Brooksville, Florida. The telephone number is (352) 540-6377. Business hours are 8:00 a.m. to 5:00 p.m., Monday thru Friday.

You can file your suit in the county of your residence, but the claim may have to be filed in the county where the person you're claiming against lives, in the county where the cause of the controversy occurred or in the county where property involved in the controversy is located. Please consult an attorney if you are unsure as to where to file your suit.

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## WHAT TO FILE

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The clerk will provide you with a form to fill out which will state your claim. This form will tell the other party why you are claiming the amount he/she owes you. **Please bring with you information to substantiate your claim, for example: contracts, paid bills, estimates, etc.**

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## COPIES

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**You must supply one set of copies for the court file and one set of copies for each defendant that you name in your claim.** Our office can provide copies at a nominal fee. The clerk cannot advise you what to use as evidence. **You will need to decide this before you file your case.**

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## FILING FEES

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Filing fees are dependant on the amount of claim. The current fee schedule is as follows:

From \$0.01 to \$99.99	\$55.00
From \$100.00 to \$500.00	\$80.00
From \$500.01 to \$2,500.00	\$175.00
From \$2,500.01 to \$5,000.00	\$300.00

**IN ADDITION TO THE FILING FEE: \$17.00 PER DEFENDANT WILL BE CHARGED TO PREPARE, SIGN AND SEAL A SUMMONS**

Please be advised, filing fees are subject to change. Fees are payable by cash, money order or cashier's check. Personal checks are accepted (for clerk only) made payable to Clerk of Court.

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## JURISDICTIONAL LIMITS

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Small claims cannot exceed \$5,000.00. Claims in excess of \$5,000.00 but less than \$15,000.00 are handled in County Civil. The clerk **CANNOT** provide forms for these claims. We recommend that you retain an attorney, due to the complexity of filing. Claims exceeding \$15,000.00 are handled in Circuit Court.

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SERVING THE DEFENDANT

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After filing your suit with the clerk, the defendant(s) must be served with a copy of your claim. This can be done by **sheriff's service or by certified mail.**

**The charge for sheriff's service is \$40.00 per defendant. If sheriff's service is elected a separate money order or cashier's check is necessary. This should be made payable to the sheriff of the county in which service is to be made. The address MUST be a street address, not a post office box. The pre-trial court summons will be sent to the sheriff with your payment for service attached. If taking the Summons to the sheriff's office personally, the sheriff's office ONLY accepts the exact fee. There will be NO CHANGE provided.**

**The fee for certified mail is \$5.75 per defendant. Certified mail is effective in the State of FLORIDA ONLY. Service on defendants out of the State of Florida must be made by the sheriff. It is the Plaintiff's responsibility to obtain the address of the Sheriff of the county for out of State service where the defendant is to be served, and provide the fee and address to the clerk. Service MUST be obtained in order to proceed with the case.**

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THE PRETRIAL HEARING

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Before you get to trial, you will have to appear at a pretrial conference. At this hearing the judge will probably talk to you and the person you are claiming against about the problem and try to settle the dispute without a formal trial.

If a trial is needed, the judge will discuss the matter of witnesses and evidence needed to proceed.

If either you or the defendant do not show up for the pretrial conference, the court may enter its judgment against the party failing to appear.

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THE TRIAL

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On the date set by the clerk, you must appear in court with your evidence and witnesses. Your witnesses will need to be present at the trial. Letters, statements or affidavits will not suffice.

If you need a witness who may not appear voluntarily, you may request the clerk to prepare a witness subpoena. The subpoena will be delivered by the sheriff upon payment of a subpoena service fee. You must pay a mileage allowance and a fee to each witness. There is also a clerk fee for preparation of each subpoena.

The following fees are applicable, per subpoena:

SHERIFF SERVICE - per witness . . . . .	\$40.00
<i>(payable by separate cashiers check or money order only)</i>	
CLERK FEE - per subpoena	
For preparation, signing and sealing . . . . .	\$ 7.00
WITNESS FEE - per witness . . . . .	\$ 6.00
<i>plus 6 cents per mile round trip - estimated mileage</i>	
<i>payable by separate cashiers check or money order only</i>	
<i>made out to the WITNESS</i>	

At the trial, the judge will consider all evidence, as well as testimony of witnesses, and decide what the rights of the parties are.

The defendant is entitled to be represented by legal counsel. If he/she so chooses, you should seriously consider seeing a lawyer as you may find yourself at a disadvantage. Remember, the judge cannot represent either side.

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## AFTER JUDGMENT: COLLECTING YOUR MONEY

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If you get a judgment in your favor and the defendant does not pay you, these are some steps you may take to get your money:

Take a certified copy of the final judgment to the county in which the defendant has real property. Record the judgment with the clerk of the circuit court. Also, an Affidavit of Current Address must be recorded pursuant to Section 55.10 Florida Statutes. A recorded judgment shows that you have a claim of lien against any real estate the defendant owns in that county. You may do this in as many counties as the defendant owns real estate. Your claim on that property is a lien against it. Because of that, he/she will usually have to pay before he/she can obtain clear title for resale.

You may also get a writ of execution from the clerk 10 days after the final judgment is entered. Deliver the writ to the sheriff of the county where the defendant lives or where he/she has real property. The sheriff may (for a fee) seize the property and sell it to satisfy your judgment. There are many laws concerning what the sheriff may or may not take to sell and execution of a judgment is a complicated procedure. It will probably be to your advantage to obtain a lawyer at this point.

A WRIT OF GARNISHMENT may also be filed against the defendant's wages, bank account or a third party having in his possession money owed to the defendant. Due to the complexity of garnishments, we recommend that you consult an attorney or a library with legal texts available, so that the proper procedures are followed. This office cannot prepare the writ of garnishment for you.

When the judgment is paid in full, you are **REQUIRED** to furnish the defendant with a **SATISFACTION OF JUDGMENT**, signed in front of a notary by you, so that the defendant may remove any liens placed on his/her property by the recording of your judgment.

This information is furnished to you as a courtesy of this office in an effort to help you better understand your position and what to expect from this court action. It is only intended as a guide to address some of the common questions facing people filing small claims actions. It is not a substitute for competent legal advice from a lawyer of your own choosing. It is also subject to change in the laws which happens without notice. It is our desire to help you in every way possible, as provided under the duties of THE CLERK OF THE CIRCUIT AND COUNTY COURT.

INSTRUCTIONS FOR SMALL CLAIMS WORKSHEET

(Use for claims up to \$5,000.00 only)

**\*Please do not include the instruction sheets when submitting your worksheet**

PLAINTIFF INFO (Party Filing Suit)

Under Plaintiff's Statement, please **PRINT OR TYPE** your name (this may be an individual, company, business or corporate name) and complete address. Also, provide a phone number where you can be reached.

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HOW DID YOUR CLAIM COME ABOUT?

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On the lines provided, fill in the amount for which you are claiming and check the line that best describes your claim. Be sure **NOT TO ADD COURT COSTS** to the amount for which you are claiming. The clerk will add the court costs to the total, if claim is filed in person. If you don't feel that the sentences provided describe your particular situation, check OTHER and write a brief description. You should also provide the date and place where the alleged claim occurred.

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MILITARY SERVICE

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Regarding military service, the question "Is he/she in the military service?" **MUST** be answered to the best of your ability. The Soldiers and Sailors Civil Relief Act of 1940 states that proceedings may be stayed at any stage, at the discretion of the Court, so that military personnel would not be subject to prosecution while unable to attend court proceedings. The Soldiers and Sailors Civil Relief Act, " states that any person who shall make or use an affidavit required under this section, or a statement, declaration, verification or certificate, certified or declared to be true under penalty of perjury, knowing it to be false, shall be guilty of a misdemeanor and shall be punishable by imprisonment not to exceed one year or by fine not to exceed \$1,000.00 or both."

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NAMING YOUR DEFENDANT(S)

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Under "My Claim is Against", **PRINT OR TYPE** the name of the person you wish to sue. If the Defendant is a corporation, we must have the name of the President, Vice President or Registered Agent on which to serve the papers, indicating name and title. You may call the Corporate Records Bureau at (850) 245-6052 in order to obtain this information or on the internet at [www.sunbiz.org](http://www.sunbiz.org). You must also **PRINT OR TYPE** the defendants address or address at which service can be satisfied.

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## SERVING THE SUMMONS

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Please indicate whether you would like the sheriff to deliver the court summons on the defendant(s) or would prefer it to be sent by certified mail. Certified mail is effective in the State of Florida only. If you elect to have the sheriff serve the defendant(s), you **MUST** provide a money order or cashiers check made out to the sheriff of the county in which service is to be made. For out of state service, the Sheriff **MUST** deliver the summons. It is the Plaintiff's responsibility to provide the clerk with the proper money order or cashiers check required and the address of said sheriff in order for us to forward the paperwork for service.

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## COPIES

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Be sure to include copies of basic information to substantiate your claim. We require one set of copies for the court file and one set of copies for each defendant, when you file your case.

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## FILING YOUR CASE

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After we have received your Information Sheet and the proper filing fee, we will enter the information into our computer system. If filing in person, we will ask that you sign a computer printed Statement of Claim. The Statement of Claim will basically duplicate the information on the worksheet, but will be witnessed by a deputy clerk at the time of filing. If filing by mail, you will need to prepare and notarize a Statement of Claim form before mailing.

Once filed, the clerk will set a Pretrial conference date and print a summons for each defendant that you have named. This will take approximately one week. You will receive a copy of each summons and the statement of claim. Each summons printed will have the Pretrial date on it. If you elected sheriff service, we will send the original and a copy of the summons to the sheriff for service on the defendant(s). In most instances, you will receive confirmation of service from the sheriff. If, however, you have not received confirmation of service 7 days prior to your court date, please contact the clerk's office. We will check the court file to verify whether or not the defendant has been served. If you elect certified mail, you will not be notified by us if the summons is served. You **WILL** be notified if the certified letter has come back unclaimed from the post office. You still may contact the clerk's office to confirm service. In the event the summons is returned to our office **UNSERVED** by either the sheriff or the post office, you will **NOT** be able to proceed with your case. By law the defendant **MUST** be served before he or she can be held liable. In this instance, you should try to obtain a new address or if sent by certified mail that was returned unclaimed, attempt sheriff service. You **MUST** advise the clerk, in writing, of any change in **YOUR** mailing address also.

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## WHAT IF'S

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If the defendant has been duly served, and fails to appear on the designated date, in person or by an attorney, a judgment may be entered against them.

If you, as the plaintiff, fail to appear on the designated date, in person or by an attorney, the case may be dismissed for lack of prosecution.

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## VOLUNTARY DISMISSALS

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If at any time in the proceedings a settlement is reached between the parties, this office should be notified to give you further instruction, or you may visit the clerk's office to file a Notice of Voluntary Dismissal. At this time, the clerk will remove the case from the court docket. This will allow other cases to be scheduled in its place.

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## ADDITIONAL INFORMATION

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If you have any questions regarding procedures, this office will assist you. This office **CANNOT** furnish legal advice. If you would like to review the rules of procedure pertaining to Small Claims, they can be found in the "Florida Rules of Court-State", published by West Publishing Co. A copy of this text is located in the Hernando County Law Library located on the ground floor of the Hernando County Government Center.

KAREN NICOLAI  
CLERK OF COUNTY COURT  
SMALL CLAIMS/COUNTY CIVIL DIVISION  
20 NORTH MAIN STREET, ROOM 248  
BROOKSVILLE, FLORIDA 34601  
(352)540-6377

SMALL CLAIMS WORKSHEET

Plaintiff's Statement (person or business filing claim)

PLEASE PRINT OR TYPE

Name \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_

Amount of Claim \$ \_\_\_\_\_ DO NOT ADD COSTS OF FILING THIS ACTION

This claim is for: CHECK THE SENTENCE THAT BEST DESCRIBES YOUR CLAIM

\_\_\_\_\_ Goods, wares and merchandise sold by Plaintiff to Defendant

\_\_\_\_\_ Work done and materials furnished by Plaintiff to Defendant

\_\_\_\_\_ Money loaned by Plaintiff to Defendant

\_\_\_\_\_ Money on a written instrument, copy of which is attached hereto

\_\_\_\_\_ Rent for certain premises in Hernando County, Florida, viz

\_\_\_\_\_ Other (Briefly describe claim) \_\_\_\_\_

Date and Place alleged Claim was incurred \_\_\_\_\_

If the Defendant is an individual, is he/she in the military service ? \_\_\_\_\_ YES \_\_\_\_\_ NO

If not, are you prepared to swear under oath to this fact ? \_\_\_\_\_ YES \_\_\_\_\_ NO

PLEASE NOTE:

(A) If you are claiming against an individual, give his or her full name.

(B) If you are claiming against a business/firm, give the name of the owner and the name of the business.

(C) If you are claiming against a corporation, give the full corporation name and officer or registered agents name for service.

(D) If your claim arises as a result of an automobile accident, you may name the driver and also the registered owner of the vehicle.

My Claim is Against:

(1) \_\_\_\_\_  
NAME

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
CITY STATE ZIP CODE

(3) \_\_\_\_\_  
NAME

\_\_\_\_\_  
ADDRESS

CITY STATE ZIP CODE

(2) \_\_\_\_\_  
NAME

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
CITY STATE ZIP CODE

(4) \_\_\_\_\_  
NAME

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
CITY STATE ZIP CODE

Phone Number of Defendant: \_\_\_\_\_

\_\_\_\_\_  
Plaintiff or Agent for Plaintiff (please sign before filing)