

What is Conciliation Court?

Minnesota statute 491A.01 created the Conciliation Court also called small claims court. This court allows citizens to bring their legal claims to court without expensive costs or complicated legal procedures.

Do you have a claim to file in Conciliation Court?

You can file a claim in conciliation court for an amount up to \$7,500.00. This is the limit set by law. You cannot file a claim involving title to real estate, libel, slander, class actions or medical malpractice in Conciliation Court.

Conciliation Court will not accept a claim that exceeds \$7,500.00. If you reduce your claim to the limit of Conciliation Court, you cannot claim more later. This rule may apply to any other claims related to the same incident.

Obtaining a judgment in Conciliation Court may prevent you from bringing any other claims based on the same transaction or occurrence.

In deciding whether to file your claim, be aware that obtaining a judgment in conciliation court does not guarantee payment. As you attempt to collect the judgment, you will have out of pocket expenses for filing fees, transcription costs and other costs of collecting a judgment.

Where do you file a claim in Conciliation Court?

The person against whom you are making a claim is called the defendant and you must file your complaint in the county where the defendant lives. You may, however, seek recovery for dishonored checks in the county where the check was issued. You may make a claim for a security deposit on rental property in the county where the rental property is located. You may sue corporations in the county where their business office or branch office is located.

How do you file a claim in Conciliation Court?

If you are filing the claim, you are the plaintiff in the action. The person you file against is the defendant. You should contact the Court Administrator's office in the

county where you are filing the claim. The form for filing your claim is available from any Court Administrator's office or on-line at www.courts.state.mn.us/ctforms. Upon request, a person from that office will help you complete the form. You must have the following information:

- Your name and address
- The name and address of the defendant
- Home address if the defendant is an individual
- The amount of your claim
- The reason for the claim and the date your claim arose

You must sign the claim before a notary public or court clerk and pay the current filing fee. The amount of the filing fee will be added to your claim.

After you have filed your claim, it must be served on the defendant. For cases under \$2500.00, the Court Administrator's office will serve the claim on the defendant by first class mail stating the date and time that the case will be heard. You will also receive a notice from the court as to the date and time of the hearing. For claims over \$2500.00 or if service cannot be made by first class mail, the Court Administrator's office will give you instructions as to how service must be performed. Many cases settle when the defendant receives notice of the hearing. It is your responsibility to inform the Court Administrator in writing if you and the defendant settle your case.

What happens if a defendant files a claim against you?

The defendant may file a claim against you. This is called a counterclaim. The defendant must file the claim at least 5 days before the date set for a hearing (Saturday, Sunday, and holidays are not included).

The defendant will pay a filing fee and the Court Administrator will notify you if a counterclaim is filed. The counterclaim will be heard at the same date and time as your claim.

If the counterclaim is more than \$7,500.00, your claim will be transferred to District Court and you will be notified if a transfer is needed. If the defendant then fails to file the counterclaim in District Court after giving notice of intent to do that, you may have your claim reinstated in Conciliation Court. You may do this anytime after thirty (30) days and before three (3) years expire by

filing an **affidavit** with conciliation court. The **affidavit** must say that the defendant has not served you with a District Court **summons stating his counterclaim**.

How do you prepare for the hearing?

Conciliation Court hearings are informal, but you must be prepared to present your case. Attorneys are only allowed to represent parties in conciliation court with permission of the court. All parties and witnesses who appear will testify under oath. The witnesses should be present and ready to testify. If a witness is reluctant to appear, you may get a **subpoena** to compel them to appear. You can get a **subpoena** from the Court Administrator's office. You will need one subpoena for each witness you want to testify. There is a fee for each subpoena requested. Written statements and affidavits of persons not present in court have very little value.

You should also bring to court all other evidence, such as receipts, repair bills, estimates, and other items to help prove your claim. If the defendant or some other person has documents relating to your claim that they will not give to you, you can get a subpoena to require the person to provide the documents.

Before you go to court, prepare a list of facts you wish to present. Organize your presentation as clearly and completely as possible so you will not forget important facts and details.

What happens if you do not appear for the hearing?

All parties must appear. If you do not appear for the hearing, the court may dismiss your claim or award a default judgment against you. This may happen even if you originally brought the claim. If the defendant does not appear, the court may award a default judgment in your favor.

What happens after the hearing?

The court usually does not rule on your claim at the time of the hearing. The Court Administrator will mail notice of the court's decision to all parties. The judgment will not become effective until twenty days after mailing the notice. This twenty day period allows you to appeal or make a motion to vacate the judgment. The court may vacate the judgment and order a new hearing if a party that

did not appear has a good reason for not appearing. Before it grants a new hearing, the court may require the party who did not appear to pay costs to the other party.

How do you appeal a judgment of the Conciliation Court?

Appeal procedures are more complex than Conciliation Court rules. Although it is not required, it is suggested that the appealing party be represented by an attorney. Court administration staff are not attorneys and cannot practice law. Therefore, they cannot assist you in preparing your appeal. However, forms are available at the Court Administrator's office or online at www.courts.state.mn.us/ctforms.

If both parties appeared at the Conciliation Court Hearing and if either party is dissatisfied with the judgment, the case may be appealed/removed to the District Court. To do this, you must file a **Demand for Removal**, an **Affidavit of Good Faith**, and an **Affidavit of Service** with the Court Administrator within twenty (20) days of the date the judgment was mailed. The appealing party must pay an additional fee. The District Court is more formal than Conciliation Court and its proceedings are governed by the Minnesota Rules of Civil Procedure.

What happens upon an appeal?

Filing an appeal (removal) means a completely new trial will take place. You may file a **Jury Trial Demand** if you wish the appeal be heard before a jury. An additional fee is required for a jury trial demand. Attorneys may represent both parties. Again, you should prepare to present your case, have your witnesses ready to testify, and have all your other evidence available.

If you appeal and do not win, you will pay the other party \$50 as costs.

You will not have to pay the other party \$50 if:

- 1) you win your case in District Court and get either 50% of what you asked for or more than \$500 in money or goods.
- 2) the other party wins some amount in Conciliation Court but nothing in District Court.
- 3) you win at least \$500 in money or goods or 50% more in District Court than you received in Conciliation Court.
- 4) the other party has the amount won from you in Conciliation Court reduced by at least \$500 or 50%

by the District Court.

How do you collect a Conciliation Court judgment?

Although a case is decided in your favor, it is not always easy to collect a judgment. Conciliation Court is not a collection agency and cannot assist you in locating assets of the other party.

If you (judgment creditor) received a judgment and the other party (judgment debtor) does not appeal or voluntarily pay, you may choose to have the judgment enforced. You may have to pay additional fees. These will be added to the judgment and will be collected from the judgment debtor if assets are found. To do this, you must have the Conciliation Court judgment transcribed to the District Court and file an **Affidavit of Identification**. You may wish to file a lien against real estate that the debtor owns by contacting the county recorder of the county where the real estate is located. A judgment also affects the debtor's credit rating. The judgment may be enforced for up to ten years from the date of the original Conciliation Court judgment.

After you transcribe the judgment to District Court, you may request the Court Administrator to issue a **Writ of Execution**. Deliver the **Writ of Execution** to the Sheriff's office with a specific list of property, bank accounts which belong to the judgment debtor or the name of the debtor's employer. Some assets are exempt from collection by the Sheriff.

You may request the Court Administrator to issue an **Order for Disclosure** if you are unable to determine the debtor's assets. Additional fees may be charged. This order requires the debtor to disclose all non-exempt property and financial information to you within ten days.

If the debtor fails to respond, you may request the court to issue an **Order to Show Cause**. An **Order to Show Cause** will require the judgment debtor to appear in court and explain why the **Order for Disclosure** was disobeyed.

This information is not intended as legal advice but as a guide to the legal process. If you do not understand any of these procedures, we suggest you consult an attorney.