

# Iowa Small Claims (Part 1)

## SMALL SMALLS COURT AND PROCEDURE NEWSLETTER

### Basics of Small Claims Litigation.

#### What is Small Claims?

Individuals seeking monetary compensation for amounts less than \$5,000 can initiate their lawsuits in Small Claims Court. This court uses stream-lined procedures to simplify the process and to promote quick resolutions. It is generally far less formal than other court procedures, and is a low cost alternative to traditional lawsuits. In Iowa, if your case qualifies for this court, it must be heard here.

#### What kind of actions can this court hear?

- Actions for money damages. (Civil lawsuits where the amount in controversy does not exceed a set amount, inclusive of court costs and interest).
- Actions for garnishment. (The court has power relating to executions against personal property).
- Concurrent and other collateral issues. (The court is empowered to hear issues relating to detainers and forcible entries, repossessions and goods held by pawnbrokers, and the collection of taxes by county government).
- Actions for replevin. (Replevin refers to the process of seeking the return of items held by another person with less right to it than a “true” owner).

### Terminology

**When initiating a small claims action, one should become familiar with some basic terms and phrases:**

**Pro Se Litigant**—generally is a person representing himself or herself in a court of law. Most small claim procedures do not involve the use of attorneys.

**Court, Judge, Bench**—are terms generally used synonymously to represent the same things. Sometimes a person addresses a “court” which means basically to address a judge. The same is true when “addressing the bench”.

**Court of First Impression**—is the court where an action must be heard and decided upon first before any other action can be taken later, ie. appeals to District Court and beyond.

**Try an Issue**—sometimes referred to as “hearing a case” is a phrase used to describe the process of resolving a legal dispute, case, or matter. When we “try” a case in small claims court, we are asking for a judge to decide upon a final resolution. There is no jury.

**A Party or Parties**—refers to the participants of a court action. Plaintiff is the one filing a lawsuit and the opposing party is the Defendant.

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### LEGAL NOTICE

- Information provided in this Newsletter is not intended to serve as nor should be construed as formal legal advice.
- The decision to bring an action into Small Claims Court is generally a matter of law. If your case qualifies, it will be heard here, regardless of how it was originally filed.
- This Newsletter provides only a basic education and should not be solely relied upon.



## BASICS OF COURT STRUCTURE

When bringing a Small Claims Action, you will be presenting your case before a legal decision-maker. These “judges” can include any of the following.

- **Judicial Magistrates**—at the most basic level, magistrates comprise of the lowest level of judgeship. They generally hold limited powers and usually handle minor cases and minor criminal offenses.
- **District Associate Judges**—associate judges hold more power and authority than magistrates. However, they lack the full authority vested by the government.
- **District Judges**—are fully empowered to hear any case which comes before them. Generally, they handle the most complex issues and cases. Often, these judges will sit in review of magistrates and appeals from magistrate court will generally be heard before a District Judge.
- **Other Court Personnel**—include the Clerk of Clerk, Judicial Clerks (assistants to judges), Court Reporters, and Court Administrators. While these persons are not official legal decision-makers, they can still provide valuable information on the court process and procedures.

*While there are distinctions among the various judgeships, they all essentially provide the same level of scrutiny over small claims issues .*

### MORE ON IOWA'S EDMS SYSTEM

The EDMS system was designed and created to help reduce court time and costs. It is relatively easy to use. But it does require access to a computer with Internet access.

In limited cases, online filing may be waived by a court. For instance, you may not have Internet access or not be computer savvy. However, you will be asked if someone else could aid you, like an attorney, and if so be required to file online only.

Registering with the system is easy and will provide you with great access to court documents and information. It reduces the need to keep large amounts of paperwork.

You can register with the system and create your user profile by going to:  
[www.iowacourts.state.ia.us/EFile/](http://www.iowacourts.state.ia.us/EFile/)

Click on the “Request Account” button. There is also great links on how to use the system and some important court rules.

## HOW TO BEGIN A LAWSUIT

**The essentials of a lawsuit must be met (otherwise it may be transferred to another court and system):**

- \* The issue in contention must amount to less than \$5,000. This does not mean that only monetary awards qualify. Other issues can also be tried in small claims, so long as their aggregate value are less than the statutory maximum.
- \* A case must be filed in the proper venue (court). Usually, lawsuits must be commenced where any defendant resides (lives). This is equally true in small claims, where notice must be effected upon a defendant.
- \* Small claims in Iowa are begun by filing an Original Notice with the court. There is a standard form to use, so ask the clerk of court. This notice generally serves as both a complaint/petition and for service of process upon the defendant.
- \* Upon the payment of filing and for mailing, the clerk of court will serve the defendant. The defendant will be provided notice to appear/answer within 20 days after notice. (Non-resident defendants are given 60 days to respond).
- \* After the defendant has made appearance or filed an answer to the claims made against him or her, the clerk will set a hearing and court date for the case. (A defendant can appear personally, by attorney alone, or by written answer).

In Iowa, all new cases will require electronic filing thru the EDMS system. EDMS is an online digital system that is required, even for Pro Se Litigants. To use this system, you must register online, create a profile, and file all your documents digitally. Only in rare cases can a person be granted permission not to use this system. Therefore, do not be surprised if you try to file a “paper lawsuit” with a clerk of court and have it be rejected.

For more information on Iowa's EDMS system, see insert at left.



## BASICS OF A LAWSUIT

**Besides having a grievance or dispute, there is a basic structure and procedure for trying a small claims case.**

**First**, an Original Notice must be filed. This will officially begin your case. There are many different forms that can be used, ask the clerk of court. (The use of traditional pleadings, petitions, and answers are not allowed).

**Next**, the Original Notice must be served on the opposing party.

- ⇒ The Plaintiff can elect to have the clerk of court mail a certified letter to the Defendant. There is a fee for this service, but can be waived by the court if properly requested and upon showing proof of inability to pay.
- ⇒ **Or** the Plaintiff can elect for a Sheriff to personally deliver the notice on the opposing party. There is a fee for this service, and it is usually more expensive than having the clerk of court mail the notice.

**After Service**, the opposing party is given a chance to “Answer” the complaint. This pleading (document) usually responds directly to all issues outlined in the petition. Iowa Defendants are generally given 20 days to respond. Out-of-state Defendants are given 60 days to respond.

**After Notice and Appearance**, the clerk of court will schedule the case for hearing before the court (judge or magistrate). All parties must be present for this. If the Plaintiff fails to show, the case will be dismissed. If the Defendant fails to show, a default judgment can be entered against him or her.

**In cases of default**, where a Defendant fails to respond or fails to show for the hearing, the clerk of court is empowered to enter a judgment granting the Plaintiff all the relief requested, so long as it can be easily determined from the initial complaint/filing.

See insert at right for more information on where to find help (links to online documents and sites).

### ONLINE HELP RESOURCES

The Internet provides a wealth of resources to the Pro Se Litigant. A review of this information is a must for any self-helper.

1. Iowa’s Rules of Civil Procedure (these rules govern how to conduct a case) <https://www.legis.iowa.gov/law/courtRules/courtRulesListings>
2. Iowa’s Judicial Branch website on representing yourself. [http://www.iowacourts.gov/For\\_the\\_Public/Representing\\_Yourself\\_in\\_Court/](http://www.iowacourts.gov/For_the_Public/Representing_Yourself_in_Court/)
3. Iowa’s Code and Laws <https://www.legis.iowa.gov/law/iowaCode>
4. FindLaw is an excellent online research site with many free features for researching legal issues. <http://www.findlaw.com/>
5. Iowa’s law for how to compute time when setting dates and for responding is found by reviewing Iowa Code: Title I, Chapter 4, Section 4.1 at subpart 34.
6. Self-help forms for small claims in Iowa can be found by going to: [http://www.iowacourts.gov/eFiling/eFiling\\_Forms/Small\\_Claims/index.asp](http://www.iowacourts.gov/eFiling/eFiling_Forms/Small_Claims/index.asp)
7. For some good pro se help generally, visit <http://www.iowafathers.org/prose/default.html>

## HOW THE AID OF AN ATTORNEY CAN HELP

Small Claims issues in Iowa can be conducted with or without legal representation by an attorney. (Some states do not allow lawyers in small claims, but this is not true in Iowa).

But keep in mind, a pro se individual can use the aid of an attorney for limited purposes without giving up the right to self representation.

Generally, an attorney, aiding a pro se person, can help draft preliminary documents, help select and fill out forms, and even provide some guidance on the law and how to conduct your case.

However, the attorney will not actually represent you in court. You will be expected to decide for yourself how to proceed. This includes making final revisions to documents you intend to file with the court, the presentation of evidence, and conducting your own legal research and due diligence in knowing the law.

Many attorneys who provide limited assistance will do so at a reduced fee rate. In addition, many attorneys providing full representation in small claims court charge lower fees because of the less complex nature of these cases.

In addition, an attorney can help walk you through the entire process.

## FEES AND COSTS

### Small Claims fees and costs are established by Iowa statutory law:

1. Filing fee for Plaintiffs to initiate an action is \$85.00.
2. Notice and Service by certified mailing from clerk of court to the Defendant is \$10.00. (Required for both in-state and out-of-state Defendants).
3. Notice and Service on out-of-state Defendants will incur an additional fee of \$10.00, in addition to the fee for certified mailing described above (because this notice is served on the outside state's Secretary of State).
4. Fees for using a Sheriff's office for service will vary greatly. Contact your local Sheriff's Department for details.
5. There is no fee assessed against a Defendant for written answers and appearances.

These fees and costs periodically change over time by legislative action. They can be found and verified by visiting Iowa Code §631.6.

## HOW TO RESEARCH FOR YOUR CASE

In today's modern electronic world, a resourceful person can find just about anything using Internet searching. The same can be said of researching legal issues. All States provide public access to their laws and some provide access to prior court decisions. Using these two media is of paramount importance to the pro se self-helper. But knowing how to effectively use them is another matter.



First, you must familiarize with online sources of information.

- ⇒ Most States publish their laws online under various court websites. A general online search engine can be used to find these.
- ⇒ Case law is the heart of our legal system. Just looking at the text of laws is often not enough. Pro se persons must also see how various issues have been handled in the past before deciding how to proceed in their cases. FindLaw is a great free resource and can be accessed by going to: <http://www.findlaw.com/>

## WHAT YOU SHOULD KNOW ABOUT COURT

Court is a very formal environment where much care is taken to enforce an area of decorum and respect. The Court expects no less from pro se individuals as it does for lawyers. This is true even in small claims court even though it uses less formal procedures. Some things to keep in mind include the following:

- Be prepared. Know your case and evidence thoroughly, bring all documents and witnesses needed to hearings, and bring several copies for the court.
- Be Honest and Respectful. This includes being on time for all hearings, avoid unruly behavior, tell the whole truth, and follow court rules (ask the clerk of court).
- Dress appropriately. While the standard is to dress in business casual, your case can sometimes be delivered more effectively by wearing formal attire, like a suit and tie.

In addition, you must be aware that judges and clerks of court can help with some things but they CANNOT provide you with legal advice. What they can tell you is procedural matters, like how to serve opposite parties, who the judge is, and where proceedings will occur. They cannot provide advice on whether you have a valid claim, what remedies to seek, and what specific information may be needed in documents and filings.



## MORE PROCESS NOTES

Most Small Claims issues will be concluded within 90 days of filing, exclusive of any time allowed for continuances.

Generally, if a claim qualifies, it will be commenced or transferred to the Small Claims docket automatically. This is true even if you filed in another court or even if some of the issues of your claim include issues which don't qualify (in this case only those qualifying issues will be transferred).

However, if a counter-claim is filed by a Defendant in an amount beyond the \$5,000 maximum, the court can remove all small claims issues to regular court or try both cases separately (one in each court type).

In order to win or defend your case, all you need to show is a "preponderance of the evidence." All this means is that you must show only that your position is slightly more likely than the other side's. It can be thought of in terms of moving a scale just slightly over 50% (so that your proof is 51% more believable with the other side's proof at 49%).



*Self-representation can be complex at times, don't be afraid to seek limited legal help from an attorney, when necessary.*

## HOW TO AVOID PITFALLS

The following is a list of some common mistakes made by pro se litigants:

1. Failure to pay a required filing fee. While the court will process your case prior to payment, a continued delinquent payment will result in your case being dismissed.
2. Failure to fully and properly "serve" the other party with all filings. Cases are often dismissed for failure to notify others and to use the exact proper procedures.
3. Missing deadlines and hearing dates. There are many dates to prepare for. It is sometimes a long process.
4. Failure to seek court costs to be paid by the other party for some court proceedings. Iowa law usually allows the winning party in an action to have court costs paid for by the loser, but you **MUST** ask for this.
5. Failure to sign documents or to sign in front of a notary public when required.
6. Failure to separate facts and evidence. Most court filings are based on facts; whenever you intend to introduce **your own testimony** it must be done in an Affidavit.
7. Some cases will include many side issues, like motions to dismiss and motions for summary judgments. These are separate issues but must be handled before your main case can continue.
8. Using an improper document in filings. The Iowa court system has standard form documents which **must** be used in small claims.
9. Failure to redact or eliminate highly confidential information from court filings. Things like SSN, full dates of birth, and full names of minor children are not to be included in court documents (a separate form is to be used—ask the clerk of court).
10. Attempting to represent someone other than just yourself. Some legal issues will require you to join with another person to complete your case. You cannot act on behalf of others, this is the Unauthorized Practice of Law and it is prohibited. For instance, you may not be able to represent your minor children.



## MORE ON THE BURDEN OF PROOF

In order to successfully win or defend a case, you must convince the court/judge that you are right. This is called the burden of proof and it is comprised of the level and quality of the evidence you bring to court.

There are generally three standards of proof used in the United States.

1. Beyond Reasonable Doubt—is the highest burden and usually is reserved solely for criminal court cases. Under this burden, it must be proven that no rational alternative can exist which could make a legal claim fail.
2. Clear and Convincing—is a standard used in more complex civil issues. It requires the showing of good and valid evidence.
3. Preponderance of the Evidence—is the lowest standard and the easiest to prove. Merely tipping your odds to 51% is all that is needed.

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Iowa's Code can be found by reviewing:

Title XV, Chapter 631  
(on Iowa's Legislative Website)

## TIPS ON SELF-REPRESENTATION

There are many things a self-helper must be constantly aware of. The following is a list of some useful tips to keep in mind when presenting your case.

1. In some cases, the filing of a "verified account", or an instrument in writing for the payment of money with an affidavit can constitute an appearance by the Plaintiff, even if a Plaintiff fails to personally appear at the hearing. See Iowa Code 631.10.
2. Bring all documentations and evidence with you. This is extremely important as many people fail to do this and thus end up losing their case.
3. You can bring witnesses with you or even have them subpoenaed to appear. Subpoena forms **must** be requested from the clerk of court.
4. Use the pre-formatted self help forms provided by the court. They are self-explanatory with instructions on how to fill them out. **Their use is mandatory.**
5. When in doubt, consult an attorney. Oft times a simple answer can be given during a free consultation.
6. Many locales offer some reduced fee or free legal help to pro se litigants, usually termed as 'self-service' or 'pro se' clinics.
7. Become thoroughly familiarized with legal terms, words, and definitions. (Some valuable terminology is presented in our Newsletter on Pro Se Representation).
8. Remember, no one knows your case better than you do and no one will fight as hard for you as yourself, keep this confidence in mind.
9. If you want the hearing to be fully recorded you must **at your own expense** request a court reporter for your case, ask the clerk of court on how. Keep in mind that the use of court reporters and transcription services are rather expensive. If a full record is not requested, any court provided recording of your hearing can be destroyed by the court once the time for any appeals has expired, usually after 30 days.
10. Remember that your burden of proof is low under the preponderance of the evidence standard. This means you only have to show the judge that your proof is just slightly better than the opposing side's proof.
11. Proof refers merely to the amount of evidence you have for winning a case.
12. There is much information online. Be sure you are looking for items that are directly tied to your court and case. For instance, some issues will be found in both state and federal courts, **never follow a system that is foreign to your court.** When conducting a state case, Never rely on federal court procedures—very important!

## Coming up in the Next Issue:

1. Detailed information for Defendants
2. The appeals process
3. Setting aside a default judgment
4. Best practices and advice



# Iowa Small Claims (Part 2)

## SMALL SMALLS COURT AND PROCEDURE NEWSLETTER

### Details of Small Claims Litigation.

#### Review of Last Issue

The decision to proceed pro se under self-help representation is not one to be made lightly. There are many complex areas which must be mastered and pit falls await around every corner. However, many people do quite well in self-representation and can oft times be successful without the reliance on an attorney.

#### Keep in Mind

- If your case qualifies for small claims court, it will be automatically transferred there, even if you began it in another court.
- Small Claims Court is a very informal process and often a low cost alternative to traditional lawsuits.
- You may represent yourself or use an attorney. And, some lawyers will provide limited unbundled services to provide support for specific and discrete matters for which you may not be able to handle.

#### Avoid Pitfalls

- Knowledge and skill are key to successful litigation.
- Follow all court rules and procedures.
- Don't allow your emotions to disrupt your case. Always keep calm and maintain your confidence.

## IN THIS ISSUE

**In this Issue, detailed discussion will dive deeper into the workings of Pro Se Litigation, including:**

1. Detailed information for Defendants.
2. The appeals process.
3. Setting aside a default judgment.
4. Best practices and final notes.

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#### SPECIAL POINTS OF INTEREST

#### LEGAL NOTICE

- Information provided in this Newsletter is not intended to serve as nor should be construed as formal legal advice.
- The decision to represent oneself in a court of law is a serious matter and should not be attempted without thorough preparation!
- This Newsletter provides only a basic education and should not be solely relied upon.



## YOU HAVE BEEN NAMED A DEFENDANT IN A SMALL CLAIMS ACTION—WHAT HAPPENS NEXT?

You have just been served with Notice of a pending lawsuit against you, what should you do?

- First, remain calm. The presence of a small claims action against you is not the end of the world. Actions in these courts are much less formal and less complex than traditional lawsuits.
- File your Answer or Response—there are standard forms to use, ask the clerk of court. Generally, if you are an Iowa resident you will have 20 days to respond.
- You can respond by appearing in person at the place and time noted on your copy of the Original Notice. **Or** you can hire an attorney to appear for you. **Or** you can send in a written “answer” form disputing the claims made against you (this is a standard document the clerk of court can provide you with).
- Review the claim or claims made against you and prepare a defense or counterclaim as needed.
- Above all else, follow the instructions provided by the court and show up for all dates and hearings. (A default judgment is not something you want to have happen).

*A thorough understanding of legal terms is necessary to aid in your overall understanding of the legal process.*

### MOTION PRACTICE GENERALLY

Sometimes it will become necessary to bring up side issues and to develop alternate courses in your case. These side issues can either be used to hurt or to help your case.

Motions—these actions usually attempt to narrow issues or to dismiss a case. There are some special provisions for these side actions.

First, a judge must rule on a motion within 30 days generally. The opposing party must file a “Resistance” within 10 days of a motion or forfeit the chance to challenge it. Finally, motions will result in court costs which will be taxed against the losing party.

Motions are oral or written requests for a court to do some action, such as: motions to dismiss for lack of jurisdiction, lack of notice, and failure to state a valid legal claim.

### ASSERTING YOUR DEFENSE

Once you have overcome the initial surprise of by served a lawsuit, you should begin to think of ways to defend yourself:

- Review the issues or claims against you. If you do not dispute them, perhaps seeking negotiation with the other side to settle them might be in your best interests. All concluded court actions against you will become part of your personal record history (and become reviewable by credit agencies and potential employers).
- If you dispute the claims made against you, be sure to include them in your answer/response. You **must** state legal grounds for any defense. Merely voicing your opinion and disgust will not win the day.
- Consider filing a counter-claim against the other party. You will have to pay a filing fee similar to those found on part 1 of this Newsletter (page 4).

- Counter-claims are usually necessary to seek relief from harm done to you. If you do not assert these claims you may be barred from bringing them up later.

- No counter-claim is necessary to assert an offset of claims made against you. For example, the Plaintiff claims you paid no rent for a month, but you have proof of paying half of it. That fact that you paid half is not a counter-claim but rather is an offset from the full amount claimed against you.

- Keep in mind that most all Motions you may want to file with the court will only be heard during the final hearing of the case. There are no separate actions for these motions. (For more on motion practice, see insert at left).





## THE APPEALS PROCESS

**If a judgment has been entered against you or if you failed to win against a defendant, and you feel that it was unjust, there are ways to appeal from it.**

These procedures work the same for both Plaintiffs and Defendants. Appeals from small claims court are heard in the District Court for the same county as your first case.

1. At the conclusion of the hearing, you can orally “notify” the court that you wish to Appeal. Or, you can file a written notice within 20 days following the hearing date.
2. The aggrieved party appealing must pay a filing fee. (This fee is based on the ordinary filing fee for general cases, currently set at \$185.00).
3. If you seek a stay of judgment (postponement of enforcement), you must post a bond or surety with the court. (This amount varies and depends greatly upon the total amount in controversy).
4. The appealing party may file with the court a transcript of the small claims proceeding within 20 days after making the notice of appeal. (This is also known as the “record on appeal”). There may be fees associated with filing a transcript.
5. Other parties seeking a copy of the filed transcript (see above) must pay a small fee.
6. No additional or further evidence will be allowed. The reviewing judge will base a decision solely upon the record alone. The judge may do any of the following: affirm, reverse, or modify the lower court decision. However, if the judge finds the record to be lacking somehow, additional evidence or testimony may be called for.

**Appeals beyond the District Court to the Iowa Supreme Court are generally not allowed.** However, the Iowa Supreme Court will sometimes hear discretionary reviews of cases where a serious matter remains in contention. These discretionary reviews are extremely rare and used when the court feels that serious legal precedents must be made to correct errors at law so that future problems will not arise. It is not a process for you to gain personally (although your case may be effected), rather the process is reserved to help clear up problems that may arise in future cases.

## SETTING ASIDE A DEFAULT JUDGMENT

If a Defendant fails to respond or fails to appear for court hearings, the court may enter a default.

Default judgment will be granted, whereby the Plaintiff will be given whatever damages were sought.

But a default is not the end of the world. Sometimes, defaults can be set aside, allowing you another chance to present your defense to the court.

To set aside a default, one must show good cause for the failure. Good cause includes: honest mistake, inadvertence, surprise, excusable neglect, or unavoidable accidents.

Good cause must be more than just a mere happenstance. The court has discretion to find your excuse as unreasonable and will do so readily in cases where you really should have been more careful.

Good cause is sometimes difficult to prove. For instance, some judges will find that attending a friend’s funeral is not a good reason not to show up for court. Likewise, claiming that you had the flu will not be excused. Thus, good cause requires something rather extreme.

**A Motion to Set Aside a Default Judgment must be made and filed with the court as soon as possible**, but not more than 60 days following the judgment.

## PROHIBITED ACTIONS

Your right to self-represent in small claims court is a privilege and may be revoked if the court finds you doing any of the following:

1. Falsely holding (claiming) yourself out as an attorney.
2. Making several prior false or frivolous claims.
3. Repeated violations of debt collection laws or practices prohibited under the consumer credit code and law.
4. Making several prior claims which resulted in dismissal or losing the case. (The court will bar a person from self-representation if you have lost more than 3 cases within the prior 6 month period).

If you are barred from self-representation or have had the privilege revoked, you might still be allowed to bring your case through an attorney.

However, you should be aware that sometimes even an attorney will not be allowed to bring your case to the court. If you have been barred because of making several prior claims in which you were the losing party, this disability may act against your attorney as well.

Any pending cases you have open at the time the court bars you, they will be automatically dismissed. And all court costs for them will be assessed against you.

**In addition, for every open case now dismissed, you will be charged an additional penalty of \$100.00 per case.**

Further attempts to bring court actions (lawsuits) while you are barred can result in punishments for contempt of court, including jail time.

## POTENTIAL COMPLICATIONS

**There are many hang-ups that one should be aware of.**

- Know your jurisdictional basis for using a particular court. Jurisdiction refers to both personal and subject matter. Personal jurisdiction is the power of the court to bring a person before it. In most cases, only a court where the defendant lives has power over a defendant (but not always). Subject matter jurisdiction is the power to hear a particular kind of case.
- Bringing a lawsuit against an out-of-state defendant requires the use of a “long-arm statute.” These laws allow for a court to gain personal jurisdiction over someone living outside of Iowa.
- Service of process must be valid. Service simply refers to the process of personally delivering an Original Notice of a lawsuit to the Defendant. This is often done by a sheriff, or by mailing by the clerk of court. If Process is not valid, the other side can have your case dismissed.
- Avoid making vexatious lawsuits. You must have valid legal grounds for bringing a lawsuit. It must not be made merely to annoy or irritate another person and it must not be falsely made nor frivolous (without any legal merit or worth). Such cases will be dismissed.
- Know the difference between case law and statutory law. Case law is judge made law and is often found by researching prior court decisions. Statutory law is law made by legislators and often referred to as code based law. Iowa’s Code is an example. When making legal arguments to favor your case, you should always cite (use) both kinds of law, because code based law is often explained in detail by case law and can be changed by it as well.
- Know when and how court fees will be taxed. Many laws provide that certain court costs will be taxed (held against) the losing party to an action, ie. motion or case. But this is not always true. And to hold the other side liable for these costs, you must request it in any document you file with the court.
- Nothing is set in stone until final resolution. You can make “motions for continuance” to reset hearing dates and times. You can also request (by motion) alternative means to participate in hearings, such as by telephone or other electronic means. Your personal appearance is usually required, but not always (so be sure to ask).



## COMING SOON

In addition to this Newsletter, other publications will periodically become available. These Newsletters focus on specific legal topics and may be of great interest to pro se self-helpers.

In coming editions:

1. The Appeal Process: Ins and Outs of Advanced Legal Proceedings.
2. Guide to Default Judgment and Summary Judgment procedures.

Thompson Legal Assistance also has currently published material in other legal areas which may be of interest to you. Go to the firm's website to access its Newsletters forum.

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Iowa's Code can be found by reviewing:

Title XV, Chapter 631  
(on Iowa's Legislative Website)

## BEST PRACTICES AND PRACTICAL ADVICE

The following discussion is intended for educational purposes only:

### Tips and Advice

1. Always follow the Court Rules. These are posted on judicial websites for public use. These rules provide guidance in how to do certain things and provide for appropriate conduct and behavior before the court.
2. This Newsletter often refers to highly technical material, words and phrases. This is intentional in order to provide brevity. These materials have been written in common legal language and thus can easily be research online thru simple searching.
3. Be aware that a defendant must answer and respond within 20 days of being served, or risk being in default. If default occurs, a plaintiff can win everything asked for in a petition.
4. If a default judgment has been recently entered against you, there might still be avenues of help. Sometimes a default judgment can be overturned (set aside), allowing you another chance to fully defend yourself in court. But, procedures for doing so are very time sensitive and often complex, seek legal help.
5. If a judgment has been entered against you, the clerk of court is authorized to assist in setting up reasonable installment payment plans, check for availability. The court will not order immediate full payment, unless you fail in making the installment payments. Default judgments do not generally qualify for installment plans.
6. As a Plaintiff, if the Defendant ever fails in making payments, including installment payments, your remedy is to file an Affidavit of Default with the court. The court will then place the payment into immediate execution and take other action to enforce it.
7. Iowa law requires that 3 days be added to any important cutoff date, to allow for mailing time (this is also true even if a document is filed electronically). For instance, if a person has 20 days to respond, you must add 3 days for a total of 23 days before the person becomes delinquent in responding.
8. If you are required to respond to some document, never rely on the 3 day additional time (described above). It is generally more acceptable to be respectful and respond well before the time ends for doing so.
9. Representing yourself can be complex, take time to thoroughly review this entire Newsletter, and note that some material may not be presented in a highly organized fashion. Be sure to re-read this Newsletter many times so you don't miss something.
10. For low income persons, the court allows you to request a fee and court cost waiver, this form must be approved **prior** to filing your legal action/Original Notice (ask the clerk of court for details).

**This Newsletter has provided a very cursory (brief) overview of Small Claims Court and procedures. You should be aware of this limitation and be sure to research the materials presented herein in much greater detail on your own before attempting any pro se litigation.**

