

Conciliation Court

A User's Guide to Small Claims Court



From the Office of

Minnesota Attorney General
Lori Swanson

www.ag.state.mn.us



What Is Conciliation Court?

Conciliation court is often called “people’s court” or “small claims court” because its basic purpose is to help people recover relatively small sums of money without having to hire a lawyer. Conciliation court allows you to bring your legal disputes to a court without the hassles of confusing legal procedures and high costs. Court rules are generally simple and informal, and the cost of filing in conciliation court is low.

This brochure is intended to give you general information about the conciliation court process. The information is not intended as legal advice but as a guide to the legal process. Questions related to your specific situation can best be answered by the county court administrator.

This publication contains some legal or technical words that may need further explanation. You may want to scan the *Conciliation Court Definitions* located on page 11 before reading ahead.

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Conciliation Court: A User's Guide to Small Claims Court

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Introduction

Who May Use Conciliation Court?

Any person (18 years or older), company, government agency or organization may sue or be sued in conciliation court. A person under 18 may sue, or be sued, but they must be represented in court by a parent or guardian.

How Much Money Can You Recover?

The maximum amount you may recover through conciliation court is \$7,500. (The maximum for consumer credit transactions is \$4,000.)

You cannot file a claim in conciliation court that exceeds the monetary limit set by law. 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.

Do You Need An Attorney?

No. However, you may have an attorney if the judge lets you. Also, the judge can decide in which ways the attorney can help. Court procedures are simplified to allow you to represent yourself.

Are There Any Drawbacks To Conciliation Court?

Conciliation court doesn't offer the best course of action in every situation. Generally, you may sue only for money. Items and disputes involving over \$7,500 cannot be determined in conciliation court. However, lost or destroyed property or merchandise usually cannot be recovered. For example, if a dry cleaner loses your jacket, a conciliation court might order the dry cleaner to pay you money for your loss rather than order the

cleaner to replace the jacket. In addition, conciliation court usually cannot be used to force delivery or completion (such as redoing a repair job or delivering merchandise). This kind of problem must usually be translated into financial terms, such as how much it will cost to have someone else make the repair.

Be aware of these facts:

- You must be prepared to appear in conciliation court when your case is set.
- Expenses such as time lost from work are usually not recoverable.
- In Minnesota, the largest amount for which you can sue in conciliation court is \$7,500. The judge cannot award more than this amount.
- If you win your case, the defendant usually will not have to pay more than the amount the court awards you. Don't expect the defendant to be sent to jail or required to pay a fine.
- Delays occur frequently for various reasons. (When these delays change the day set for a hearing, they are called "continuances.")
- Conciliation court may not be very effective in resolving disputes with companies that don't have property located in the area or with people who live outside the court's jurisdiction. It is especially difficult if the company or person is located in another state.
- In some situations, it may be quicker, more effective, and less troublesome to hire an attorney.

What Types Of Complaints Do Conciliation Courts Handle?

In general, the types of cases handled are for property damage, money disputes arising out of a tenant/landlord relationship, personal injury (actual medical bills only), losses due to bad checks, nonpayment for goods or services, or other bad debts. You cannot use conciliation court to file a claim involving real estate titles.

You may file a complaint in conciliation court when you can show that a person or business owes you money but won't pay you.

Conciliation court may be used when:

- You believe someone owes you money;
- That person or business refuses to pay;
- The amount owed is \$7,500 or less; and
- You believe the person or company you are suing will be able to pay you (because it will cost you some money to make your claim).

Examples of situations in which you might consider using conciliation court include:

- You may want a snowmobile returned that you sold but were not paid for.

- You performed work for someone, but the person refuses to pay you.
- Your former landlord won't refund your security deposit, even though you have not damaged the rental property.
- A repair shop does defective work on your car and won't correct it or reimburse you.
- Your neighbor backs his motorcycle into your car and refuses to pay the repair bill.
- A dry cleaner loses your new jacket and offers you only a fraction of its worth.

If you are uncertain about whether you can bring your claim, talk to your county's conciliation court administrator. The court administrator will tell you if your claim can be heard there.



Filing a Claim

Where May Claims Be Filed?

You must file your conciliation court claim in the right county. This is the county where the person against whom you are making a claim (the defendant) lives. If the defendant is a business, you should sue in the county where the business or branch office is located. There are some exceptions to this. You may want to call the conciliation court in your county for more information about those exceptions.

If you are seeking recovery for a dishonored check, or are making a claim for a security deposit on rental property, then you should file your claim in the county where the check was issued, or where the rental property is located.

How Do You File A Claim?

If you file a claim, you are the "plaintiff" and the party you are suing is the "defendant." As the plaintiff, you begin the process by contacting the court administrator's office in the county where you are filing the claim. (The phone numbers of the conciliation

courts in several Minnesota counties are located on pages 11 and 12 of this brochure.) You will be charged a filing fee and law library fee. The total fees vary by county, but are generally between \$55 and \$65.

Completing The Complaint Form

You will be required to fill out a uniform conciliation court form. If you ask, a person from the court administrator's office will help you complete the form. See the page 13 of this book for a sample form. Forms are available online at www.courts.state.mn.us/forms.

In addition to putting your name and address on the form, you must provide the following information:

- The name (no abbreviations or nicknames) and address of the defendant. (Use the home address if the defendant is an individual.) If this information is incorrect or incomplete, your case may be dismissed. To learn the proper name and address of a company doing business in Minnesota,

contact the Secretary of State, 180 State Office Building, 100 Rev. Dr. Martin Luther King Jr. Blvd., St. Paul, Minnesota 55155-1299; (651) 296-2803. Information is also available on their website at: www.sos.state.mn.us.

- The amount of your claim and a reason (one or two paragraphs) for requesting it. Include specific dates, times, and places.

You must verify the claim by signing the form before a notary or court deputy. You will also pay the court fees. If you win your case, the court may order the defendant to pay you for the fees.

Notification Of The Trial Date

It is possible that two to six weeks may pass between the time you file your claim and the day you have your hearing. The court administrator's office will mail, by first class mail, notices to you and the defendant indicating the date and time for the hearing, except if the claim exceeds \$2,500, then the plaintiff must serve the summons upon the defendant via certified mail. Service by certified mail must be proven by filing an affidavit of service with court. An affidavit of service should be in the form of Form 508.1 on page 15 of this brochure.

Many cases settle when the defendant receives notice of the hearing. It is your responsibility to tell the court administrator in writing if you and the defendant settle your case. Do this by signing and returning to the court your copy of the hearing notice.

The Defendant May File A Counterclaim

If you are the party being sued (the defendant) in the case, and you have a claim against the party suing you (the plaintiff), you may be able to file a counterclaim. The procedure is similar to that for filing a claim, but it must be filed at least five business days prior to the court date (Saturday, Sunday, and holidays are not included).

The court will notify the plaintiff that a counterclaim has been filed. The counterclaim will be heard by the court at the same time the original claim is scheduled to be heard.

The claim will be transferred to district court if the counterclaim is above the legal limit for conciliation court (\$7,500). If the defendant fails to file the counterclaim in district court after giving notice of intent to do so, the plaintiff may have the claim reinstated in conciliation court. The plaintiff may do this any time after 30 days and before three years by filing an affidavit with the court administrator. The affidavit must say that the defendant has not served you with a summons to district court.

Settlement Prior To The Hearing

If the parties agree on a settlement prior to the hearing, each party who has made a claim or counterclaim must promptly tell the Court in writing that the claim or counterclaim has been settled and that it may be dismissed.



The Hearing

What If You Can't Appear On The Court Date?

If you are the defendant in a case, or if you are the plaintiff and the defendant has filed a counterclaim, it is absolutely essential that you appear in court to tell your side of the story. Failure to do so will probably result in a judgment against you.

However, if for some reason you will not be able to appear in court on the scheduled hearing date, notify the court administrator immediately and request that the date and/or time be changed. If you have a good reason, a continuance may be granted. That is, the hearing will be rescheduled for a later date. The request for a continuance must be made in writing at least five business days prior to the hearing date. You may be ordered by the court to pay additional costs. Court administrators can only give one continuance to you.

If you miss the court hearing, you may be sent a notice that a default judgment will be entered against you if you do not reopen the case before the judgment becomes final.

How Do You Prepare For The Hearing?

Although conciliation court hearings are informal, be adequately prepared to present your case. Before you go to court:

- Organize your presentation to make it as clear and complete as possible. Remember, your testimony may be the most important information you have.
- Prepare a list of facts you wish to present.
- Make a detailed chronological history of the problem.
- Contact people who have witnessed important aspects of the problem, and ask them to be present at the hearing and ready to testify

under oath. (If a witness is unwilling to appear, you may subpoena the witness. You can get a subpoena from the court administrator by paying a fee for each person you would like subpoenaed. It is your responsibility to see that the subpoena is delivered to the witness by someone other than yourself. Subpoenas may not be delivered on a Sunday or a legal holiday. Further, you may have to pay a basic fee plus round trip mileage to the courthouse to any witness you subpoena).

- Understand that written statements and affidavits of persons not present in court have very little value.
- You can also subpoena documents relating to your claim which the defendant or some other person possesses but will not give to you.

What Should You Bring To Court?

Bring all evidence (and witnesses) necessary to prove your case.

Be prepared to show the judge:

- Contracts or agreements you made with the defendant. (Example: If your claim is against a landlord for recovery of a security deposit, bring the lease.)
- Letters you and the defendant have exchanged relating to the problem. (Example: If you wrote to the defendant asking for the money, or if the defendant wrote to you admitting the debt, bring these letters.)
- Bills, canceled checks, warranties, receipts, or written estimates having to do with your claim. (Example: If you are claiming your television set is defective beyond repair, bring original receipts, a copy of the warranty, and estimates from repair shops.)
- Photographs of the damaged property. (Example: If your car was damaged by the defendant, bring photos that show the extent of the damage.)

What Happens At The Hearing?

You and the defendant will appear before a judge (or in some counties, a referee). The judge may encourage you to settle the case. The judge will first ask you, the plaintiff, to state your case. Tell your story calmly, clearly and concisely. Use the notes you've prepared ahead of time to make sure you have all of your main points. Be sure to explain how you arrived at the specific damage figure you are claiming and show the judge evidence which supports your claim, such as bills, receipts, estimates, contracts, photos, etc.

When it is the defendant's turn, do not become angry or interrupt. Be courteous at all times. If you disagree with something the defendant says, ask the judge if you may respond to the defendant's statement. The judge may ask questions of you, the defendant, or witnesses who are present.

If you have never been to conciliation court, you may want to attend another hearing ahead of time to see what happens. Conciliation court hearings are open to the public. Your visit should help you know what to expect and how to prepare your own case.

What If You Don't Appear For The Hearing?

All parties should appear! If you appear and the defendant does not, the judge may enter a default judgment for you. It means that you have won (the "judgment" is in your favor) by default. 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.



The Judgment

When Will You Hear The Court's Decision?

The court may help you and the defendant reach an agreement at the hearing. If not, the court will decide the case and you will be notified by mail of the decision. (The court usually does not rule on claims at the time of the hearing.) The judgment will not become effective until 20 days after the notice is mailed. The court administrator will tell you the date in this notice. This 20-day period is called the "stay period" and it allows you to appeal or make a motion to vacate the judgment.

What If You Lose?

If either the plaintiff or the defendant is dissatisfied with the judge's decision, the 20-day stay period allows the unhappy party to appeal or bring a motion to vacate the judgment. This is discussed further on page

10 in Removing the Case. The court may also vacate the judgment and order a new hearing if a party that did not appear had 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.

Application for "vacation of judgment" must be made within the 20-day stay period. You must show:

- You were not given proper notice of the trial;
- You were mistaken about the time of the trial; or
- You missed the trial for some other valid reason.

The court will only reopen the case if it decides that your absence was unavoidable and unintentional. You will be notified by mail of the new trial date.

How Do You Pay The Judgment?

If you are within the metropolitan counties, make payment directly to the conciliation court by the date the judgment becomes final. The court records will then reflect that payment was made. For Greater Minnesota areas, check with the court administrator for payment guidelines.

How Do You Collect Your Money If You Win?

The conciliation court cannot and will not collect the judgment for you. It is not always easy to collect a judgment; therefore, it may be necessary for you to take additional measures to enforce the judgment. Remember, you may not try to collect the judgment until 20 days after the notice of judgment is postmarked.

In the collection process, you are the judgment creditor, or collector. The person you are trying to collect from is called the debtor, or judgment debtor. The following procedural steps must be taken when a debtor refuses to pay and the location of collectible assets is known. The costs associated with these procedures will be added to the amount of your claim.

1. Have the conciliation court judgment transcribed to the district court. Your district court administrator can help you with this.
2. File an affidavit of identification with the court administrator. This creates a lien against real estate the debtor owns in the county. If he or she went to sell any of that property, you might have to be paid first. It also affects the debtor's credit rating.
3. If you intend to serve the party with a writ of execution, you must first notify the party. (A writ of execution is an order which enforces the decision of the conciliation court.) Notification must take place at least 10 days before the execution may be served. The sheriff will not accept the first writ of execution without proof that you complied with the 10 day notice.
4. Request the court administrator to issue a writ of execution.
5. If you know where the party banks or works, deliver the writ of execution to the sheriff's office

with a specific list of property or bank accounts which belong to the debtor, or the name of the debtor's employer. (Some assets are exempt from collection.) With sufficient information and the writ of execution, the sheriff can "levy" the debtor's property. This means the sheriff will actually take the items you have identified. However, the sheriff cannot break into the debtor's home to collect an item subject to levy. If the sheriff is unable to levy the assets within 180 days after the sheriff receives the writ, the writ will be returned to you "unsatisfied."

6. If you are unable to determine what assets the debtor owns, request the court administrator to issue an order for disclosure. This order requires the debtor to reveal all non-exempt property and financial information to you within 10 days.
7. If the debtor fails to respond, request the court to issue an order to show cause. This requires the judgment debtor to appear in court and explain why the order for disclosure was disobeyed.

Despite all of these legal actions, there will still be some cases where the debtor is "judgment proof." The debtor may possess only minimum viable assets and may be unemployed with public assistance as the only source of income. In that case, there is little you can do. However, a conciliation court judgment is valid for 10 years. Over that time, a person's financial circumstances will often change.



Removing the Case

Can You Remove Your Case?

Your case may be removed to the district court for a new trial if you or the defendant are dissatisfied with the conciliation court judgment and all parties appeared at the conciliation court hearing. Default cases may not be removed. (This does not leave a defaulting party without recourse. See Pages 8-9 for vacation of judgment proceedings.)

Rules of civil procedure apply to cases removed to district court, where proceedings are more formal and more complex. Although it is not required, it is suggested that parties be represented by an attorney in district court.

To remove, file and pay fees for the following within 20 days of the date the judgment was mailed:

1. Demand for removal;
2. Affidavit of good faith; and
3. Affidavit of service.

What Happens Upon A Removal?

Filing a removal means a completely new trial will take place. You may file a jury trial demand if you wish the case to be heard before a jury. Both parties may have attorneys. Again, you should prepare to present your case, have your witnesses ready to testify, and have all of your other evidence available.

If you remove your case and do not win, you will have to pay the other party \$50 for costs. You will not have to pay the other party \$50 for costs if:

- You win your case in district court and get either 50 percent of what you asked for or more than \$500 in money or goods, whichever is less;
- The other party wins some amount in conciliation court but nothing in district court;

- You receive 50 percent *more* in district court than you got in conciliation court or at least \$500 in money or goods, whichever is less.
- The other party has the amount recovered from you in conciliation court reduced by at least \$500 or 50 percent by the district court, whichever is less.



Appendix

Conciliation Court

Definitions

Continuance

The postponement of a court trial or hearing to a later date.

Counterclaim

A separate claim made against the plaintiff by the defendant.

Default

Failure to appear in court.

Defendant

The party who is being sued.

Demand for Removal

A request to move a case to district court.

Judgment

The final decision made by the court.

Judgment Debtor

The party who loses the case and owes money to the other party.

Plaintiff

The party who is suing; the party seeking damages.

Stay Period

A halt in the proceedings during which no action can be taken.

Subpoena

A court order requiring that a witness appear in court, or requiring that documents be brought to court.

Writ of Execution

A court order authorizing a sheriff to seize property of the defendant.

Conciliation Court Listings

Aitkin	(218) 927-7350
Anoka	(763) 422-7350
Becker	(218) 846-7305
Beltrami	(218) 333-8431
Benton	(320) 968-5205
Big Stone	(320) 839-2536
Blue Earth	(507) 304-4050
Brown	(507) 233-6670
Carlton	(218) 384-4281
Carver	(952) 361-1420
Cass	(218) 547-7200
Chippewa	(320) 269-7774
Chisago	(651) 213-8650
Clay	(218) 299-5065
Clearwater	(218) 694-6177
Cook	(218) 387-3610
Cottonwood	(507) 831-4551
Crow Wing	(218) 824-1310
Dakota	(651) 438-8100
Dodge	(507) 635-6260
Douglas	(320) 762-3033
Faribault	(507) 526-6273
Fillmore	(507) 765-3356
Freeborn	(507) 377-5153
Goodhue	(651) 267-4800
Grant	(218) 685-4825
Hennepin	(612) 348-2713
Houston	(507) 725-5806
Hubbard	(218) 732-5286
Isanti	(763) 689-2292
Itasca	(218) 327-7454
Jackson	(507) 847-4400
Kanabec	(320) 679-6400
Kandiyohi	(320) 231-6206
Kittson	(218) 843-3632
Koochiching	(218) 283-1160
Lac qui Parle	(320) 598-3536
Lake	(218) 834-8330
Lake of the Woods	(218) 634-1451
Le Sueur	(507) 357-2251
Lincoln	(507) 694-1355

Lyon	(507) 537-6734
Mahnomen	(218) 935-2251
Marshall	(218) 745-4816
Martin	(507) 238-3205
McLeod	(320) 864-1281
Meeker	(320) 693-5230
Mille Lacs	(320) 983-8313
Morrison	(320) 632-0327
Mower	(507) 437-9465
Murray	(507) 836-6163x135
Nicollet	(507) 931-6800
Nobles	(507) 372-8263
Norman	(218) 784-5458
Olmsted	(507) 285-8108
Otter Tail	(218) 998-8420
Pennington	(218) 683-7023
Pine	(320) 629-5634
Pipestone	(507) 825-6730
Polk	(218) 281-2332 x1312
Pope	(320) 634-5222
Ramsey	(651) 266-8230
Red Lake	(218) 253-4281
Redwood	(507) 637-4020
Renville	(320) 523-3680
Rice	(507) 332-6107
Rock	(507) 283-5020
Roseau	(218) 463-2541
Scott	(952) 496-8200
Sherburne	(763) 241-2800
Sibley	(507) 237-4051
St. Louis (Duluth)	(218) 726-2460
St. Louis (Hibbing)	(218) 262-0105
St. Louis (Virginia)	(218) 749-7106
Stearns	(320) 656-3620
Steele	(507) 444-7706
Stevens	(320) 589-7289
Swift	(320) 843-2744
Todd	(320) 732-7802
Traverse	(320) 563-4343
Wabasha	(651) 565-3012
Wadena	(218) 631-7633
Waseca	(507) 835-0540
Washington	(651) 430-6263
Watonwan	(507) 375-1238
Wilkin	(218) 643-7172
Winona	(507) 457-6385
Wright	(763) 682-7539
Yellow Medicine	(320) 564-3325

Legal Forms

You can obtain legal forms for conciliation court by calling or visiting the respective courthouse that you intend to file your claim in. Forms are also available online at www.courts.state.mn.us/forms. You may want to consider using the sample *Statement of Claim and Summons* form located on the main Conciliation Court section of our website.

When you fill out the form, remember to state the plaintiff(s) correct name and address, the defendant(s) correct name and address, and the exact amount you are seeking. Describe the incident and a basis for the estimated loss. Include the last day you were billed and indicate the type of goods/services involved. If you are filing for an auto accident, indicate the year and make of the vehicle and the location and date of the accident. Reduce your statement to the area provided for on the form. Sign the form in front of a Notary Public or go to the court and sign it there in front of a clerk.

Remember, the defendant and court should each receive copies of your completed *Statement of Claim and Summons* form.

Other legal forms, for things such as removing your case or expunging a ruling, are available by contacting the county court you wish to file a claim in or online at www.courts.state.mn.us/forms.

The forms included in this section are the following:

[Statement of Claim and Summons \(page 13-14\)](#)

[Affidavit of Service Form 508.1 \(page 15-16\)](#)

by delivering a copy personally to him/her at _____
at _____ am/pm, on _____, 20 _____.

3. **[Service not completed; party not found.]**

I am over eighteen years of age.

After diligent search and inquiry, I was unable to locate _____
_____ (name of party to be served), or any residence
or business address for him/her at which service could be attempted.

Dated: _____

Signature of Server

(Sign only in front of notary public or court administrator.)

Sworn/affirmed before me this

_____ day of _____, 20 _____.

Telephone () _____

Notary Public \ Deputy Court Administrator



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