

Information about Debt Claims Cases

A Debt Claim Case is a lawsuit brought to recover a debt by:

- (i) an assignee of a claim;
- (ii) a debt collector or collection agency;
- (iii) a financial institution; or
- (iv) a person or entity primarily engaged in the business of lending money at interest.

The claim can be for no more than \$10,000, including attorney fees, if any, but excluding statutory interest and court costs.

Debt Claim Cases in the Justice Court are governed by Rules 500 – 507, and Rules 508.1 – 508.3 of the Rules of Practice in Justice Courts

Filing the Debt Claims Case

Petition

To begin an action to recover a debt brought by an assignee of a claim, a financial institution, a debt collector or collection agency, or a person or entity primarily engaged in the business of lending money at interest, the plaintiff must file a Petition in writing stating the following:

- (1) the name of the plaintiff;
- (2) the name, address, telephone number, and fax number, if any, of the plaintiff's attorney, if applicable, or the address, telephone number, and fax number, if any, of the plaintiff;
- (3) the name, address, and telephone number, if known, of the defendant;
- (4) the amount of money, if any, the plaintiff seeks;
- (5) a description and claimed value of any personal property the plaintiff seeks;
- (6) a description of any other relief requested;
- (7) the basis for the plaintiff's claim against the defendant; and
- (8) if the plaintiff consents to email service of the answer and any other motions or pleadings, a statement consenting to email service and email contact information.

In addition, the petition must contain the following information:

- (1) Credit Accounts. In a claim based upon a credit card, revolving credit, or open account, the petition must state:
 - (A) the account name or credit card name;
 - (B) the account number (which may be masked);
 - (C) the date of issue or origination of the account, if known;
 - (D) the date of charge-off or breach of the account, if known;
 - (E) the amount owed as of a date certain; and
 - (F) whether the plaintiff seeks ongoing interest.

(2) **Personal and Business Loans.** In a claim based upon a promissory note or other promise to pay a specific amount as of a date certain, the petition must state:

- (A) the date and amount of the original loan;
- (B) whether the repayment of the debt was accelerated, if known;
- (C) the date final payment was due;
- (D) the amount due as of the final payment date;
- (E) the amount owed as of a date certain; and
- (F) whether plaintiff seeks ongoing interest.

(3) **Ongoing Interest.** If a plaintiff seeks ongoing interest, the petition must state:

- (A) the effective interest rate claimed;
- (B) whether the interest rate is based upon contract or statute; and
- (C) the dollar amount of interest claimed as of a date certain.

(4) **Assigned Debt.** If the debt that is the subject of the claim has been assigned or transferred, the petition must state:

- (A) that the debt claim has been transferred or assigned;
- (B) the date of the transfer or assignment;
- (C) the name of any prior holders of the debt; and
- (D) the name or a description of the original creditor.

It is recommended that a plaintiff also include in the petition information showing (i) the defendant's usual place of business or residence, or (ii) other place where the defendant can probably be found.

The plaintiff must provide to the Court enough copies of the petition to be served on each defendant. The clerk may make copies of the petition for the allowable copying cost.

Justice Court Civil Case Information Sheet

A [Justice Court Civil Case Information Sheet](#) form must be filed with the petition.

Default Judgment

If the defendant does not timely file an answer to the petition filed in a Debt Claim Case, the judge will render a default judgment on the plaintiff's proof of damages.

Evidence of plaintiff's damages may be offered in a sworn statement or orally under oath. Evidence of damages may be attached to the petition and served on the defendant, or may be submitted to the court after defendant's failure to answer.

The amount of damages is established by evidence:

- (A) that the account or loan was issued to the defendant and the defendant is obligated to pay it;
- (B) that the account was closed or the defendant breached the terms of the account or loan agreement;
- (C) of the amount due on the account or loan as of a date certain after all payment credits and offsets have been applied; and
- (D) that the plaintiff owns the account or loan and, if applicable, how the plaintiff acquired the account or loan.

The judge may enter a default judgment without a hearing if the plaintiff submits sufficient written evidence of damages. Otherwise, the plaintiff may request a hearing at which the plaintiff must prove damages.