



SMALL CLAIMS COURT CLINIC

A Joint Project of Legal Services of Greater Miami, Inc. and Put Something Back

Attorney Orientation

Thank you for volunteering at the Small Claims Court Clinic at Legal Services of Greater Miami. This clinic is designed to assist low-income individuals who cannot afford an attorney with initiating their own Small Claims case or advising them why their civil dispute is not appropriate for Small Claims Court. Occasionally, clients may also seek advice on responding to a Small Claims case in which they are the defendant. Regardless of the client's legal issue, your pro bono commitment does not extend beyond the clinic, and clients are told you do not represent them and will not appear in court with them.

Legal Services of Greater Miami, Inc. (LSGMI) and Dade County Legal Aid Society's Put Something Back (PSB) program work together to schedule client appointments and attorney volunteers for each clinic. After the clinic, your information will be provided to PSB for issuance of pro bono credit.

At the clinic, you will be given an office with internet access and printing capabilities and will meet with one client at a time regarding their particular Small Claims issue. Spanish and Creole interpreters are present at each clinic. As a general guideline, try to limit client meetings to approximately twenty minutes, but in some cases, more time may be needed. Below are information, brochures, and forms that will be used during Small Claims client consultations.

Overview of Small Claims Rules

- Florida's Small Claims Court is a division of County Court and is restricted to cases with no more than \$5,000 at issue. Florida's Small Claims Rules of Procedure apply.
- "Notice to Appear" is the "summons" which must be personally served, together with the initial pleading, on the Defendant pursuant to Florida's service rules. However, service by certified mail is permitted in Small Claims cases.
- "Statement of Claim" is the initial pleading. Unlike in other Florida civil court cases, notice pleading, as opposed to fact pleading, applies—only a very brief statement of the dispute is required.
- The Defendant is not required to file an answer. In order to avoid a default, the Defendant must attend the pre-trial conference which is the first appearance in the case.
- If a pro se party does not issue discovery, the opposing party cannot engage in discovery except with leave of court.

Small Claims Court Clinic: Consultation with Client

- Begin by asking client for the facts underlying the dispute for which they came to the Clinic.
- Determine whether matter is appropriate for filing Small Claims case (amount of money in dispute—is it more than \$5,000, or less than the filing fee? does the claim have legal merit? does the Defendant have a clearly prevailing defense?)
- Give client an overview of:
 - How and where to file
 - File Notice to Appear and notarized Statement of Claim.
 - File at downtown courthouse or any branch courthouse. Addresses are provided in “General Information” handout, and you should ask the client which address is best for them.
 - Payment of filing fee or indigency waiver
 - Filing fees are graduated according to amount of damages claimed.
 - Client can apply to the clerk for fee waiver using Application for Determination of Civil Indigency Status (explained below).
 - Initial appearance
 - The pretrial conference is the first appearance in the case.
 - At the time of filing, the Clerk will issue the date and time for the pre-trial conference.
 - The plaintiff must attend the pre-trial conference or the case will be dismissed.
 - Mediation
 - Explain the process of mediation: the plaintiff will likely be asked to mediate the case at the pre-trial conference—the Court provides the mediator.
 - If the case does not settle at mediation, the parties will be required to return to court for trial.
 - The trial
 - Explain what testimony and facts will help prove and win the client’s case and any witnesses, documents, or photographs the client should bring to Court for trial.
 - Final judgment
 - If the client wins, he should ask the court to use the Final Judgment form which includes a fact information sheet to help the client collect the judgment.
 - Explain that getting a judgment in the client’s favor does not mean automatic recovery; if the Defendant does not willingly pay, the client will still have to take extra steps to try to collect.
- **Security Deposit cases:** This is the most common case seen in the Small Claims Clinic; improper withholding of security deposits is extremely common among our client population. **(1)** Enter client’s address into Miami-Dade Property Appraiser’s property search feature to obtain name of owner. **(2)** Enter name of owner, if a business organization, into Sunbiz.org to obtain name and address of Registered Agent (fill in Notice to Appear accordingly). **(3)** Explain that landlord can counterclaim for unpaid rent. **(4)** Certified letter pre-suit demanding return of deposit is optional.
- **Unpaid wages claims:** Tell client to first contact the Miami-Dade County Wage Theft Ordinance Department for possible administrative resolution of the claim (no filing fee). Assist client with Statement of Claim, Notice to Appear and normal Small Claims Court instructions for use in the event the case is not resolved through the Department.

- **Fill out the appropriate forms (included for your review)**
 - **Intake Sheet:** This is the carbon copy “instruction sheet” the client takes home. Include basic facts, name of defendant and registered agent’s name and address, if applicable, and instructions for proving case.
 - **Statement of Claim:** The “complaint” in a Small Claims case. Optional to fill this out for the client. This is a useful service for many clients, particularly those who do not speak English or read or write proficiently. Write "prepared with assistance of counsel" at the bottom. Statement of Claim must be notarized in order to file, and Clerk will not notarize it for the client. Notary on staff at the clinic must notarize it before the client leaves!
 - **Notice to Appear:** The “summons” in a Small Claims case. Fill in names of parties and address for service. Clerk will provide date and time of pre-trial conference at time of filing.
 - There are two different Notice to Appear Forms: one for filing at the downtown courthouse, and one for the branch courthouses; use the appropriate form according to where client intends to file the case.
 - **Indigency Application:** Explain form and give to client, but do not fill out during consultation. At time of filing, client provides filled-out application to clerk who determines whether client qualifies for fee waiver.
 - **General Information on Small Claims:** Provide this brochure to client. Contains information on filing fees, courthouse locations, and Small Claims procedures.
 - **Final Judgment Form:** Give blank copy to client, and instruct client to give it to the Judge if client prevails.
- Provide file for review to one of the LSGMI attorneys at the clinic before the client leaves.
- Give client original copy of the “Intake Sheet” completed with case information, advice, and instructions.

Thank you again for your work with the Clinic. We will briefly review this information at the beginning of each clinic. There are also two LSGMI attorneys available each clinic for consultation or questions. See you then! If you have any additional questions, please contact kladis@dadelegalaid.org, or mmills@lsqmi.org.