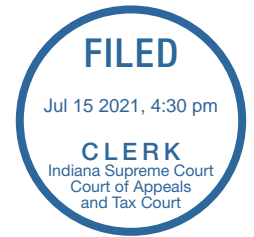


# In the Indiana Supreme Court

Cause No. 21S-MS-19



## Order Amending Rules for Small Claims

Under the authority vested in this Court to provide by rule for the procedure employed in all courts of this state and this Court's inherent authority to supervise the administration of all courts of this state, the Rules for Small Claims are amended as follows (deletions shown by ~~striking~~ and new text shown by underlining):

...

### **Rule 2. Commencement of Action**

#### **(A) In General.**

(1) An action under these rules shall be commenced by the filing of an unverified notice of claim in a court of competent jurisdiction and by payment of the prescribed filing fee or filing an order waiving the filing fee.

(2) A plaintiff filing an action under these rules waives the excess of the plaintiff's claim over the jurisdictional maximum of the small claims court or docket in which the case is decided, and the plaintiff may not later bring a separate action for the remainder of such claim.

#### **(B) Form of Notice of Claim.** The notice of claim shall contain:

...

(2) The name, mailing address, email address, or filing a petition for an order granting an exemption as to the e-mail address, and telephone number of the plaintiff ~~claimant~~ and the name, mailing address, and if available, telephone number of the defendant(s);

...

(4) A brief statement of the nature and amount of the claim; and

...

(c) in addition to the requirements set forth above in subsection 4(a) and (b), if the plaintiff is not the original creditor, and the claim arises from a debt that is primarily for personal, family, or household purposes, the plaintiff shall provide an Affidavit of Debt that shall have attached as one or more Exhibits which shall include:

i. 1)—a copy of the contract or other writing evidencing the original debt, which shall contain a signature of the defendant. If a claim is based on credit card or other debt and no such signed writing evidencing the original debt ever existed, then copies of documents generated when

the debt was incurred or the credit card was actually used shall be attached; and

~~ii. 2)~~—a chronological listing of the names of all prior owners of the debt and the date of each transfer of ownership of the debt, beginning with the name of the original creditor; and

~~iii. 3)~~—a certified or other properly authenticated copy of the bill of sale or other document that transferred ownership of the debt to the plaintiff.

(5) A statement that ~~the parties may appear either in person or by an attorney~~ S.C. 8(C) governs who may represent the parties; and a statement that before an employee who is designated pursuant to that rule to represent a corporate entity, sole proprietorship, partnership, LLC, LLP, or a trustee who is designated to represent a Trust may act on behalf of a party in a small claims case, the designated employee or trustee must file in each case the certificate of compliance and affidavit required by S.C. 8(C);

...

(10) Notice of the defendant's right to a jury trial and that such right is waived unless a jury trial is requested within ten (10) days after receipt of the notice of claim; that once a jury trial request has been granted, it may not be withdrawn without the consent of the other party or parties; and within ten (10) days after the jury trial request has been granted, the party requesting a jury trial shall pay the clerk the additional amount required by statute to transfer the claim to the plenary docket or, in the Marion Small Claims Court, the filing fee necessary to file a case in the appropriate court of the county; otherwise, the party requesting a jury trial shall be deemed to have waived the request; ~~and~~

(11) A statement that a court may sanction a designated employee or trustee and the entity the employee or trustee represents for failure to comply with these rules or local rules of court. Sanctions may include assessment of costs or reasonable attorney's fees, the entry of a default judgment, the dismissal of a claim with or without prejudice, fines, and/or incarceration; and

~~(12)~~ Any additional information which may facilitate proper service.

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#### **Rule 4. Responsive pleadings**

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**(B) Entry of Appearance.** For the purpose of administrative convenience the court may request that the defendant enter an appearance prior to trial. Such appearance may be made in person, by telephone or by mail but the fact that no appearance is entered by the defendant shall not be grounds for default judgment. Whether or not an appearance is required, a party that wishes to be represented by a designated employee or trustee must file a certificate of compliance and affidavit required by S.C. 8(C)(5).

...

## Rule 8. Informality of Hearing

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- (C) **Party Representation Appearance.** Any assigned or purchased claim, or any debt acquired from the real party in interest by a third party cannot be presented or defended by said third party unless this third party is represented by counsel. In all other cases, the following rules shall apply:
- (1) *Natural Persons.* A natural person may represent him/herself appear pro se or may be represented by counsel in any small claims proceeding.
  - (2) *Sole Proprietorship and Partnerships.* A sole proprietorship or partnership may be represented appear by the sole proprietor or partner, owner, counsel, or by a designated full-time employee of the business in the presentation or defense of claims arising out of the business, if the claim does not exceed six thousand one thousand five hundred dollars ~~(\$6,000) (\$1,500.00)~~. However, claims exceeding six thousand one thousand five hundred dollars ~~(\$6,000)(\$1,500.00)~~ must either be defended or presented by counsel or *pro se* by the sole proprietor, ~~or a partner, or owner~~.
  - (3) *Corporate Entities, Limited Liability Companies (LLC's), Limited Liability Partnerships (LLP's), Trusts.* All corporate entities, Limited Liability Companies (LLC's), and Limited Liability Partnerships (LLP's), and Trusts may be represented by counsel, owner, or appear by a designated full-time employee of the corporate entity, or, in the case of a trust by a trustee, in the presentation or defense of claims arising out of the business if the claim does not exceed six thousand one thousand five hundred dollars ~~(\$6,000)(\$1,500.00)~~. However, claims exceeding six thousand one thousand five hundred dollars ~~(\$6,000)(\$1,500.00)~~ must be defended or presented by counsel.
  - (4) *Full-Time Employee Designations--Binding Effect of Designations and Requirements.*
    - (a) ~~In the event~~ If a corporate entity, sole proprietorship, partnership, LLC, LLP, or trust designates a full-time employee or trustee to represent it appear in its stead, the corporate entity, sole proprietorship, partnership, LLC, LLP, or trust will be bound by any and all agreements and acts relating to the small claims proceedings entered into by the designated employee or trustee and will be liable for any and all costs, including those assessed by reason of contempt, levied by a court against the designated employee.
    - (b) By authorizing a designated full-time employee or trustee to appear under this Rule, the corporate entity, sole proprietorship, partnership, LLC, LLP, or trust waives any present or future claim in this or any other forum in excess of six thousand one thousand five hundred dollars ~~(\$6,000)(\$1,500.00)~~.
    - (c) No person who is disbarred or suspended from the practice of law in Indiana or any other jurisdiction may appear as counsel for a corporate entity or on behalf of a sole proprietorship, partnership, LLC, LLP, or trust under this rule, but may appear as a designated full-time employee of a corporate entity, LLC, or LLP, if employed in a non-legal capacity, or as sole proprietor, partner, trustee, or owner.
  - (5) *Full-Time Employee or Trustee Designations--Contents.* ~~Before a designated employee or trustee is allowed to appear in a small claims proceeding, the corporate entity, sole proprietorship, partnership, LLC, LLP, or trust must have on file with the~~

~~court exercising jurisdiction of the proceedings, a certificate of compliance with the provisions of this rule, wherein the~~ A corporate entity, sole proprietorship, partnership, LLC, LLP, or trust that wishes to designate an employee or trustee to represent it must execute a certificate of compliance in each case expressly ~~accept,~~ appointing the person as its representative and must state by a duly adopted resolution in the case of a corporate entity, LLC or LLP; or a document signed under oath by the sole proprietor or managing partner of a partnership, or trustee that the entity shall be bound by the binding character of the designated employee's or trustee's acts and agreements relating to the small claims proceeding, and shall be liable the liability of the corporate entity, sole proprietorship, partnership, LLC, LLP, or trust for assessments and costs levied by a court relating to the small claims proceeding, and that the corporate entity, sole proprietorship, partnership, LLC, LLP, or trust waives any claim for damages in excess of ~~six thousand~~ one thousand five hundred dollars ~~(\$6,000)~~(\$1,500.00) associated with the facts and circumstances alleged in the notice of claim.

Additionally, the designated employee or trustee must file in each case ~~have on file with the court exercising jurisdiction of the proceedings~~ an affidavit stating that he/she is not disbarred or suspended from the practice of law in Indiana or any other jurisdiction.

(6) Any party represented by a designated employee or trustee who fails to comply with these rules or local rules of court may be ordered by the court to appear by counsel and subject to sanctions, including the assessment of costs or reasonable attorney's fees, the entry of a default judgment, and the dismissal of a claim with or without prejudice. Anyone who engages in conduct that is uncivil or disruptive to the proceeding may be found in contempt of court, which is punishable by a fine, incarceration, or both.

## Rule 9. Continuances

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**(B) Court Designating Employee.** The court may, by a duly executed order recorded in the Record of Judgments and Orders, designate a specifically named employee to be responsible for scheduling hearings under specific directions ~~spelled out by~~ of the court in said order.

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This amendment is effective January 1, 2022.

Done at Indianapolis, Indiana, on 7/15/2021.



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Loretta H. Rush  
Chief Justice of Indiana

All Justices concur.