

BOONE SUPERIOR COURT II

INSTRUCTIONS TO DEFENDANTS ON SMALL CLAIMS DOCKET

1. You have become a defendant in a lawsuit on the Small Claims docket of this Court. You may hire a lawyer, but it is not required since the procedure is informal and technical rules will not be followed.
2. The claim filed against you explains the basis for the action. If you do not understand the complaint you might want to contact an attorney or file a request with the Court to Order the plaintiff to make the claim more definite and certain.
3. When a trial date is fixed by the Court you should appear promptly, along with all your witnesses, and any written evidence. Reluctant witnesses may be subpoenaed if you so request. If you do not appear at the time set for trial, judgment will be awarded against you.
4. You may request jury trial, but such right is waived unless requested in writing within ten (10) days after receipt of the notice of claim. If you request a jury trial the case will then be transferred to the Civil Docket, and you will need a lawyer, since all technical and formal rules of evidence will apply. Additional fees will be required by the Clerk. An affidavit must be filed showing facts requiring a jury trial.
5. If you feel the plaintiff owes you money, arising out of the same transactions sued on by plaintiff, you may file a counterclaim against the plaintiff. If the amount you claim is less than \$3,000, both cases will be tried at the same time. If your counterclaim is for more than \$3,000, it must be tried separately in the Civil Docket where all formal and technical rules of procedure will apply. Additional fees will be required. Defendant may waive the excess of his claim over \$3,000 to bring it within the jurisdiction of small claims.
6. If either party has information that is necessary for his opponent to prosecute, or defend, the action, it will be ordered disclosed to the other party upon showing good cause. This is called "discovery" and will be limited to information necessary for that particular case.
7. You are entitled to a change of Judge, but cannot, as of right, take the case out of Boone County.
8. If the case is settled, by you agreeing to pay judgment over a period of time, such settlement must be reduced to writing and approved by the judge.
9. If the Court finds against you, he will order the manner in which the judgment is to be paid, including all court costs.

10. If you fail to pay the judgment as ordered, your wages or income may be garnisheed, or your property sold to satisfy the judgment.
11. An appeal from the judgment of this Court can be made to the Indiana Court of Appeals, but a lawyer will be necessary to take this step for you. Should an appeal be contemplated, contact a lawyer immediately!
12. Keep the Court advised at all times of your correct address and telephone number.
13. Special provisions apply to corporations that are parties to a small claims action. A corporation is required to comply with these requirements prior to trial. Instructions concerning these requirements can be obtained from the Court.