

Information about Conciliation Court

The information contained in this document is not intended as legal advice but as a general guide to you to explain the legal process. **If you do not understand** any of these procedures, consult an attorney. **This office cannot give legal advice.**

What is conciliation court?

Minnesota statute 491A.01 created the conciliation court - also called small claims court. This court allows citizens to bring their legal claims to court without expensive costs or complicated legal procedures.

Do you have a claim to file in conciliation court?

You can file a claim in conciliation court for an amount up to \$7,500.00. This is the limit set by law. You cannot file a claim involving title to real estate, libel, slander, class actions or medical malpractice in conciliation court.

Conciliation court will not accept a claim that exceeds \$7,500.00. 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.

In deciding whether to file your claim, be aware that obtaining a judgment in conciliation court does not guarantee payment. As you attempt to collect the judgment, you will have out of pocket expenses for filing fees, transcription costs and other costs of collecting a judgment.

Where do you file a claim in conciliation court?

The person against whom you are making a claim is called the defendant and you must file your complaint in the county where the defendant lives. You may, however, seek recovery for dishonored checks in the county where the check was issued. You may make a claim for unpaid rent or return of a security deposit in the county where the rental property is located. You may sue corporations in the county where their business office or branch office is located. **IT IS YOUR RESPONSIBILITY TO DETERMINE THE CORRECT COUNTY FOR FILING YOUR CLAIM.**

How do you file a claim in conciliation court?

If you are filing the claim, you are the plaintiff in the action. The person you file against is the defendant. The form for filing your claim is available from any court administrator's office or on-line at www.mncourts.gov/forms. If you have difficulty completing the form, you may contact court administration for assistance. You must have the following information:

- Your name and address
- The name and address of the defendant
- Home address if the defendant is an individual
- The amount of your claim
- The reason for the claim and the date your claim arose

You must sign the claim before a notary public or court clerk and pay the current filing fee. The amount of the filing fee will be added to your claim.

After you have filed your claim, it must be served on the defendant. For cases under and up to \$2,500.00, the court administrator's office will serve the claim on the defendant by first class mail stating the date and time that the case will be heard. You will also receive a notice from the court as to the date and time of the hearing. For claims over \$2,500.00 or if service cannot be made by first class mail, the court administrator's office will give you instructions as to how service must be performed. Many cases settle when the defendant receives notice of the hearing. It is your responsibility to inform the court administrator in writing if you and the defendant settle your case.

What happens if a defendant files a claim against you?

The defendant may file a claim against you. This is called a counterclaim. The defendant must file the claim at least 5 days before the date set for a hearing (Saturday, Sunday, and holidays are not included).

The defendant will pay a filing fee and the court administrator will notify you if a counterclaim is filed. The counterclaim will be heard at the same date and time as your claim.

If the counterclaim is more than \$7,500.00, your claim will be transferred to district court and you will be notified if a transfer is needed. If the defendant then fails to file the counterclaim in district court after giving notice of intent to do that, you may have your claim reinstated in conciliation court. You may do this anytime after thirty (30) days and before three (3) years expire by filing an **affidavit** with conciliation court. The **affidavit** must say that the defendant has not served you with a district court **summons stating his counterclaim**.

How do you prepare for the hearing?

Conciliation court hearings are informal, but you must be prepared to present your case. Attorneys are only allowed to represent parties in conciliation court with permission of the court. All parties and witnesses who appear will testify under oath. The witnesses should be present and ready to testify. If a witness is reluctant to appear, you may get a **subpoena** to compel them to appear. You can get a **subpoena** from the court administrator's office. You will need one subpoena for each witness you want to testify. There is a fee for each subpoena requested. Written statements and affidavits of persons not present in court have very little value.

If you plan to submit any documents, photos, etc. to the judge for consideration, YOU MUST BRING 2 EXTRA COPIES TO THE HEARING. If you request court administration to make your copies when you arrive for the hearing, you will be charged for copies. You should also bring to court all other evidence, such as receipts, repair bills, estimates, and other items to help prove your claim. If the defendant or some other person has documents relating to your claim that they will not give to you, you can get a subpoena to require the person to provide the documents.

Before you go to court, prepare a list of facts you wish to present. Organize your presentation as clearly and completely as possible so you will not forget important facts and details.

On your assigned court date and time, prior to calling your case and hearing testimony, the judge may ask you to speak to the other parties in your case to determine if you can reach any agreements.

If you have exhibits or informational items related to your case which fall within the hazardous exhibit policy, you are required to properly secure those items before offering it to the judge for inspection. Check with court administration for the complete policy regarding hazardous exhibits. If you have exhibits which are bulky, you may not be allowed to enter through the security system and should consider other options which can include taking photographs of that exhibit for the judge to review.

What happens if you do not appear for the hearing?

All parties must appear. 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. If the defendant does not appear, the court may award a default judgment in your favor.

What happens after the hearing?

The court usually does not rule on your claim at the time of the hearing. The court administrator will mail notice of the court's decision to all parties. The judgment will not become effective until twenty three (23) days after mailing the notice. This twenty three (23) day period allows you to appeal or make a motion to vacate the judgment. The court may vacate the judgment and order a new hearing if a party that did not appear has 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.

Paying, Collecting, And Appealing a Conciliation Court Judgment

How do I pay the judgment?

You must make arrangements to pay the judgment directly to the creditor (the party you owe money to). Remember judgment records are public and credit bureaus routinely take information from them. If your judgment is not paid before it becomes final, it may have an adverse affect on your credit rating. If you make good faith efforts to pay the judgment and are not successful or the creditor refuses to accept your payment, you may bring a motion to allow payment to be made to the court administrator. You may pay all or any part of the judgment to the court administrator instead of paying the creditor directly **only** if the court issues an order that allows you to make payments to the court administrator.

When you pay the creditor, obtain a statement of payment called a [Satisfaction of Judgment](#) from the party you paid and file it with the court. If this is not done, your record will show an unsatisfied judgment, which may affect your credit rating.

How do I collect a conciliation court judgment?

Although a case was decided in your favor, it is not always easy to collect a judgment. You cannot collect assets that a person or business does not have. The collection process will be worthwhile only if you can locate collectable assets. Once a judgment is entered, the judgment is enforceable for 10 years from the date of entry.

Conciliation court is not a collection agency and cannot assist you in locating assets of the other party. You can, however, try to collect the judgment yourself if it has not been paid by the date indicated on the judgment notice, and if an appeal has not been filed. Here are a few tips on how you can locate the debtor and/or their assets:

- You may be able to locate the debtor's bank by looking at any canceled checks that you might have written to the debtor.

- You can find out whether the debtor has a motor vehicle registered under his/her name, or the name of the lender that the debtor is doing business with, by submitting a record request form to the Minnesota Driver and Vehicle Services. The form is available at DVS offices or on the web at: <http://www.dps.state.mn.us/dvs/PDFForms/DVSFormFrame.htm>.

When your judgment is final, the appeal time has expired, and the judgment debtor has not paid you, you may choose to have the judgment enforced by following these steps:

1. Request a transcript of your judgment from conciliation court. File the transcript of judgment with district court. To docket your judgment, which will allow you to have the judgment enforced, you must file an [Affidavit of Identification](#). Ask court administration for an [Affidavit of Identification](#) form, or go to www.mncourts.gov/forms. Be prepared to pay any statutory fee for transcribing the judgment. These fees will be added to the judgment and will be collected from the judgment debtor if assets are found. Checks should be made out to the "Court Administrator." Your judgment will then be entered and docketed in district court. This creates a lien against abstract real estate owned by the debtor in this county. You may wish to file a lien against torrens real estate that the

judgment debtor owns by contacting the county recorder of the county where the real estate is located. A docketed judgment also affects the judgment debtor's credit rating.

2. You may request court administration to issue a Writ of Execution if you know where the debtor banks or where the debtor works. There will be a fee charged for the writ. If you do not know either of these you are not ready for an execution. The execution must be issued to the county where the bank or the employer is located. The court administrator's office will mail the execution to you and you are to take it to the sheriff of that county for service. The sheriff will charge a fee.
3. If you do not know where the debtor works or banks, you may file a [Request for Order for Disclosure](#). There is a filing fee for each involved debtor's name. The court administrator's office will issue an Order for Disclosure and mail it to the debtor along with a Financial Disclosure form. This order requires the debtor to disclose all non-exempt property and financial information to you within ten (10) days from receipt of the order. If the Financial Disclosure form is served upon you by mail, three (3) days are added to the ten (10) days to complete service. It is your responsibility to supply the court with a current address for the debtor.

If a completed Financial Disclosure form is received from the debtor, you can then decide what options are available for collection.

If no answer is received, you can complete an [Affidavit in Support of an Order to Show Cause](#), and schedule a court hearing before a judge. When the hearing is scheduled, this office will then issue an Order to Show Cause. A judicial officer may not issue an Order to Show Cause if service of the Financial Disclosure was undeliverable upon the judgment debtor. It is your responsibility to have the debtor served with the Order to Show Cause. The sheriff or any party who has no financial interest in the judgment can serve this order. It must be served on the debtor personally. **It cannot be left at his/her residence with anyone else.**

The Order to Show Cause requires the debtor as well as the creditor to appear at the court hearing. At the hearing, the debtor will be instructed to complete the Financial Disclosure form or give the judge a valid reason for not doing so. If the debtor fails to appear at this hearing, the judge may issue an order for a Writ of Attachment. When the Writ of Attachment is issued, you will be required to furnish a physical description of the debtor.

4. If you wish to have the cost of collection added to your judgment after an unsuccessful attempt to collect, you may need to file a notarized affidavit stating the costs and requesting those costs be added to your judgment. Please attach a copy of your receipt from the sheriff to your affidavit.
5. If the debtor pays the judgment in full it is your obligation to provide the debtor with a [Satisfaction of Judgment](#). This form can be obtained through this office or at any legal stationery store. A Satisfaction of Judgment must be filed with the court and a filing fee must be paid. This must be done within 10 days if paid in cash or within 30 days for another type of payment.

6. If the judgment is for property damage sustained in an auto accident with an uninsured driver, you may wish to ask the Commissioner of Public Safety to suspend the driving privileges of the driver. Conciliation court staff can help you do this after your judgment becomes final. There is a fee for the certified copy that must be sent to DPS to suspend driving privileges.

If the sheriff or attorney is unable to collect, or if you have determined that there are no assets on which you can collect, it does not mean you will never collect your judgment. A judgment in conciliation court is valid for 10 years and may be executed on at any time during those 10 years. This is important because the debtor may, at some future time, have collectable assets. The fact that an unpaid judgment may affect the debtor's credit rating could result in voluntary payment at a later time.

How do you appeal a judgment of the conciliation court?

Appeal procedures are more complex than conciliation court rules. Although it is not required, it is suggested that the appealing party be represented by an attorney. Court administration staff are not attorneys and cannot practice law. Therefore, they cannot assist you in preparing your appeal. Some forms are available at the court administrator's office or online at www.mncourts.gov/forms.

Any party who appeared at the conciliation court hearing and is dissatisfied with the conciliation court judgment may appeal to the district court. To do this, you must file a **Demand for Removal**, an **Affidavit of Good Faith**, and an **Affidavit of Service** with the court administrator within twenty (20) days of the date the judgment was mailed. The appealing party must pay an additional fee. The district court is more formal than conciliation court and its proceedings are governed by the Minnesota Rules of Civil Procedure.

If you did not appear and a default judgment was entered, you will have to get the judgment vacated. Read your judgment notice carefully.

What happens upon an appeal?

Filing an appeal (removal) means a completely new trial will take place. You may file a **Jury Trial Demand** if you wish the appeal be heard before a jury. An additional fee is required for a jury trial demand. Attorneys may represent both parties. If the appealing party is a corporation, the Demand for Removal must be signed by the party's attorney. You should not rely on anything that was said or that happened at the conciliation court trial. Again, you should prepare to present your case, have your witnesses ready to testify, and have all your other evidence available.

If you appeal and do not win, you may have to pay costs to the other party.

Helpful materials may be found at your public county law library. For a directory, see <http://www.lawlibrary.state.mn.us/cllppubdir.rtf> . For more information, contact your court administrator or call the Minnesota State Law Library at 651-296-2775.