

The
Do's & Don'ts
of
Small Claims
Cases



dreamstime.
&



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Do

***provide the
litigants with
legal
information,
but . . .***



Do's

Don't

***give the
litigants legal
advice.***



Don'ts

Do

***accept
papers for
filing, but . . .***



Do's

Don't

***automatically reject
papers that do not
fall within the
parameters of a
small claims case.***



Don'ts

Do

***direct the litigants
to refer to the small
claims booklet to
learn who may
bring a small claims
action, but . . .***



Do's

Don't

***investigate
what type of
entity a
claimant might
be.***



Don'ts

Do

direct the litigants to refer to the small claims booklet to learn that a small claims judgment may not exceed \$3,000, but . . .



Do's

Don't

***Refuse to accept a
small claims
complaint seeking
more than \$3,000.***



Don'ts

Do

***direct the litigants
to refer to the small
claims booklet to
learn that a small
claims judgment
may be for money
only, but . . .***



Do's

Don't

***refuse to accept a
small claims
complaint seeking
equitable relief.***



Don'ts

Do

direct the litigants to refer to the small claims booklet to determine whether the court can obtain personal jurisdiction over the defendant; tell them that a Post Office Box is insufficient for conferring jurisdiction, but . . .



Do's

Don't

investigate whether the defendant resides in the municipality, has an office for the transaction of business in the municipality, or is regularly employed in the municipality. UJCA 1801.



Don'ts

Do

***collect \$10 for
claims of \$0 to
\$1,000, but . . .***



Do's

Don't

***forget that claims
of \$1,001 to \$3,000
require a \$15 filing
fee.***



Don'ts

Do

***accept a statement
by the claimant for
filing and reduce the
same to a concise
statement of claim if
necessary, but . . .***



Do's

Don't

embellish the statement or set forth a theory of substantive law on behalf of the claimant.



Don'ts

Do

allow claimant to commence the proceeding, even if they do not know the true legal name of the defendant, but . . .



Do's

Don't

***allow a child
under 18 to file
a claim on their
own.***



Don'ts

Do

mail a statement of claim and Small Claims Handbook to the defendant via regular mail, but . . .



Do's

Don't

***forget to mail a
second copy via
certified mail,
return receipt
requested.***



Don'ts

Do

check for returned mail within 21 days of mailing, if not received, presumed delivered, but . . .



Do's

Don't

***send the
mailings to a
P.O. Box.***



Don'ts

Do

***accept a
counterclaim from
the defendant within
5 days of receiving
the claim, but . . .***



Do's

Don't

***forget to collect the \$3
counterclaim fee plus
the cost of sending the
counterclaim by first
class mail to claimant.***



Don'ts

Do

***allow the
defendant to
assert a
counterclaim orally
at the hearing,
but . . .***



Do's

Don't

***allow a defendant
to obtain an
adjournment for
more than 20
days.***



Don'ts

Do

schedule a hearing date at least 22 days from the date the claim was filed, but . . .



Do's

Don't

schedule the hearing more than 45 days after the claim is filed.



Don'ts

Do

have at least one evening session every other week for small claims, but . . .



Do's

Don't

***forget to turn on
the recorder
before you start.***



Don'ts

Do

***allow the
litigants to hire
a stenographer
if they wish,
but . . .***



Do's

Don't

***use the digital recorder
if all parties are in
agreement that the
stenographer minutes
will be the official
record.***



Don'ts

Do

allow defendant to file a jury demand with an affidavit specifying issues, a \$10 jury fee, and \$50 undertaking, but . . .



Do's

Don't

***allow the claimant
a jury trial unless
the case is
transferred to the
regular civil part.***



Don'ts

Do

***make sure to
administer the
oath or affirmation
for anyone who
will testify, but . . .***



Do's

Don't

***forget to wait at
least an hour before
the Judge grants a
default judgment and
holds an inquest.***



Don'ts

Do

***allow an itemized
bill or invoice,
receipted or marked
paid, as prima facie
evidence of
damages, but . . .***



Do's

Don't

***accept less than two
itemized estimates
for services or
repairs for the same
purpose.***



Don'ts

Do

***encourage the
Judge to issue a
decision within
30 days from the
hearing, but . . .***



Do's

Don't

***insist that the
Judge issues
the decision in
writing.***



Don'ts

Do

insure that the Judge's decision does substantial justice in accordance with the rules and principles of substantive law, but . . .



Do's

Don't

***prevent the litigants
from filing an appeal
upon the grounds that
substantial justice
was not done.***



Don'ts

Do

***send copies of
a written
decision to all
parties, but . . .***



Do's

Don't

***forget to include
notice of
enforcement
procedures***



Don'ts

Do

provide the winning party a transcript of judgment or Information Subpoena upon payment of a \$2 filing fee, but . . .



Do's

Don't

***provide legal advice
or assistance to the
winning party to
enforce the
judgment.***



Don'ts

Questions

???



dreams &.



THANK YOU

<http://www.nycourts.gov/courthelp/diy>

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- Guardianship ▶
- When Someone Dies ▶
- After the Case is Over ▶

DIY Forms

[English](#) | [Español](#)

These computer programs ask you questions. The program then uses your answers to make a form for your case or to make an information sheet to help you in court. These programs are not e-fileable. Your paper must be printed, then filed at the Court.

Available DIY Forms

NYS DIY Forms are only for court users who don't have a lawyer and legal services and pro bono attorneys and staff helping clients who cannot afford lawyers. Commercial use is prohibited and no one may charge for using these programs. When you begin the program, you will be asked to accept these terms of use.

Case type	Program	Court
Divorce	Uncontested Divorce	Supreme Court
Custody/Visitation	Custody/Visitation Enforcement Petition	Family Court
	Custody/Visitation Modification Petition	
Child Support	Support Modification and Enforcement/Violation	Family Court

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Small Claims

Small Claims Court is a special part of the court where you can sue for money without a lawyer. Depending on where you live, cases can only sue for either \$5,000 or less, or \$3,000 or less. The rules are more informal and the process is a lot easier. The links below can help you find information. Most courts also have small claims information on their websites. Use the court locator box to find your court. Search by City, Town, Village, District or Civil Court.

[Guide to Small Claims in the NYS City, Town and Village Courts](#)
This guide will tell you everything you need to know about Small Claims Court cases outside New York City, Nassau and Suffolk Counties.

[Your Guide to Small Claims & Commercial Small Claims in New York City, Nassau County and Suffolk County](#)
This guide will tell you everything you need to know about small claims and commercial small claims in New York City, Nassau and Suffolk Counties. Learn how to start a case, collect a judgment, find resources and more.

  

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