

## FILING SMALL CLAIMS:

### REQUIREMENTS TO FILE IN WHITLEY COUNTY:

Defendant must live in Whitley County OR Action has taken place in Whitley County

Notice of Claim forms are available from the clerk's office or on line at [www.whitleygov.com](http://www.whitleygov.com) without charge.

### SERVICE:

You must fill out several copies of a Notice of Claim form by briefly and clearly stating in writing the nature and amount of your claim against the Defendant.

- Sheriff Service \* – 1 copy of Notice of Claim form with **affidavits**.  
(If there is more than one defendant being served separately or at different addresses, we will need to have a separate set of Notice of Claim form for each defendant) \***Additional \$28.00**
- Confirm Delivery – 1 copy of Notice of Claim Form with **affidavits**. (If there is more than one defendant being served separately or at different addresses, we will need to have a separate set of Notice of Claim form for each defendant)

If your suit is based upon a written contract, lease or account, you must provide to the court one (1) copy of the contract, lease or account statement for the court records and one (1) copy for each defendant. This written document is an **Affidavit**. You **MUST** provide an affidavit at the time of filing. The Judge will dismiss a Notice of Claim filed without an **Affidavit**.

You must give the clerk the correct name, address, and telephone number of the Defendant. Be sure the named Defendant is the real party of interest. For example, following an automobile accident, you should sue the driver of the other vehicle, not his or her insurance company.

You must pay the cost of filing the suit regardless of whether you choose to have the Notice of Claim delivered by Confirm Delivery, or by sheriff delivery to the Defendant. If you win your suit, the Defendant may be ordered to repay this money to you. You will not be repaid if you lose.

**COSTS:** Filing Fee - \$97.00 for one (1) defendant plus \$10.00 for each additional defendants named on the case.

**SERVICE BY:** \*Sheriff - \$28.00 service of process fee. For post judgment service, an additional one-time fee of \$28.00 shall be collected.

Confirm Delivery – The mailing sent out for service is paid out of the court costs.

### SUIT LIMITS:

**Individual \$8,000.00**

**Corporation \$1,500.00**

(Corporations, Sole Proprietorships or Partnerships require a corporate resolution to be on file with the clerk designating a full-time employee authorized to represent the business. Each designated employee must complete a resolution.)

STATE OF INDIANA )  
 ) SS:  
COUNTY OF WHITLEY )

IN THE WHITLEY SUPERIOR COURT  
101 W Van Buren Street, Third Floor, Courthouse  
Columbia City, IN 46725-2051  
Telephone (260) 248-3119

Cause No. 92D01-

Name \_\_\_\_\_  
Name \_\_\_\_\_  
Street Address \_\_\_\_\_  
City, State, Zip \_\_\_\_\_  
Phone and Email \_\_\_\_\_

Name \_\_\_\_\_  
Name \_\_\_\_\_  
Street Address \_\_\_\_\_  
City, State, Zip \_\_\_\_\_  
Phone \_\_\_\_\_

VS

Plaintiff

Defendant

### NOTICE OF CLAIM

Comes now the Plaintiff and states that the Defendant owes the Plaintiff the sum of \$ \_\_\_\_\_

for \_\_\_\_\_  
Attached to this Notice is a copy of this written agreement or open account, if claim is based on said agreement or account.

You must appear in Court for hearing on this claim on \_\_\_\_\_, at \_\_\_\_\_.  
If you do not appear, judgment by default for the amount claimed and the court costs may be entered against you.

**Amount of Claim** \$ \_\_\_\_\_  
(\$6,000 Max. Individual/\$1,500 Business)  
**\$10.00 per Add'l Defendant** + \$ \_\_\_\_\_  
**\$28.00 for Sheriff Service** + \$ \_\_\_\_\_  
**Court Costs** + \$ 97.00  
**Total** = \$ \_\_\_\_\_

\_\_\_\_\_  
Plaintiff  
\_\_\_\_\_  
Plaintiff  
\_\_\_\_\_  
Attorney for Plaintiff  
\_\_\_\_\_  
Attorney Number

You may pay the claim and court costs to the Plaintiff at any time before the hearing date. If the claim and court costs are not paid in full, judgment may be taken for the amount still owed.

Individuals may appear in person or by an attorney. All corporations must be represented by an attorney or by an employee of a corporation in specific circumstances only. All litigants must read the Indiana Small Claims Rules before their hearing.

You should bring to the hearing all documents in your possession concerning the claim. If your defense is supported by witnesses, they must be present at the hearing.

If you are unable to appear on the hearing date, you must contact the Court in writing not less than 7 days before the hearing date. The Court will grant only one continuance to each side.

You have 10 days from receipt of this notice to file an affidavit requesting a jury trial and to pay the costs to transfer the case. Otherwise, you waive your right to trial by jury.

If you have a counterclaim arising from the same transaction or occurrence which is the subject matter of the Plaintiff's claim, you may file a statement of the claim with the Clerk and send a copy to the Plaintiff at least 11 days before the hearing date.

If you intend to contest this claim, notify the Court in writing at least 7 days before the hearing date.

\*\*\*NO CELL PHONES ALLOWED IN THE COURTROOM\*\*\*

**SHERIFF'S RETURN OF SERVICE**

I hereby certify that I served the within Notice of Small Claims as follows:

**NO. 1** (\_\_\_\_) By delivering on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a copy of the Notice at \_\_\_\_\_ PERSONALLY.

**NO. 2** (\_\_\_\_) By leaving on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a copy of the Notice at \_\_\_\_\_ which is the dwelling house or usual place of abode of the Defendant \_\_\_\_\_

\_\_\_\_\_ with \_\_\_\_\_

a person of suitable age and discretion residing therein, and by mailing a copy of the Notice by first class mail on said date to said Defendant at his last known address which is: \_\_\_\_\_

\_\_\_\_\_

Other \_\_\_\_\_

All done in \_\_\_\_\_ County, Indiana

Dated \_\_\_\_\_ Sheriff of \_\_\_\_\_ County, Indiana

By \_\_\_\_\_ Deputy

**SHERIFF'S RETURN OF NON-SERVICE**

I hereby certify that service of the Notice of Claim was not made because:

**NO. 1** The Defendant \_\_\_\_\_ was not found in person in my bailiwick.

**NO. 2** The Defendant \_\_\_\_\_ does not have a dwelling house or usual place of abode with some person of suitable age and discretion residing therein with whom a copy of the Notice of Claim could be left, in my bailiwick.

**NO. 3** \_\_\_\_\_

Sheriff of \_\_\_\_\_ County, Indiana

By \_\_\_\_\_ Deputy