

No Lawyer?

You can speak for yourself in General Sessions Court

Part 1 – If you are sued

Part 2 – If you need to sue someone to get your money or things back

*This booklet is about lawsuits for money or property in General Sessions Civil Court. It doesn't talk about criminal cases in General Sessions Criminal Court. In the civil court, the judge does **NOT** give you a free lawyer. It is always better to have a lawyer when you go to court. This booklet tells about going to General Sessions Civil Court without a lawyer. This booklet does **NOT** talk about eviction lawsuits in General Sessions Court.*

The booklet has 2 parts. The 1st part is for people who are being sued for money or things. The 2nd part is for people who need to sue someone for money or property.

You don't have to have a lawyer

If you are sued, get a lawyer if you can. If you can't get a lawyer, you can still go to General Sessions Court. It's always better to have a lawyer, but you don't have to have one there. But, you must be able to explain your side of the case. Is your side of the case hard to explain? Then you need a lawyer.

Does the other side have a lawyer? Then you may need one, too.

If you need a lawyer, you have to find one on your own. The judge will not appoint a free lawyer for you. Some lawyers will meet with you one time for free. Some lawyers may charge a small fee to meet with you one time. If you talk to a lawyer, ask what they will charge you.

Part 1 – What if you are sued?

The sheriff or deputy must give you a copy of the warrant. This is so you can see who is suing you and what they say. It's also to make sure you know about the court date far enough ahead.

The deputy can't just call you on the phone and tell you to come to court. It's not good enough for the deputy to tell your family or friends.

*What if the deputy didn't give you the warrant in person? **Go to court anyway.***

Does the person who sued you owe you money? Or do they have your things?

You can also sue them. See "How to file a lawsuit" in this brochure.

*This is called a **counter suit**. It asks for money because they sued you when they had your money or things. The money you ask for is called **damages**. If you do a counter suit, the judge will hear both lawsuits at the same time.*

If you are sued, don't just forget about the warrant.

Go to court when you are supposed to.

What if you can't make it on the court date? *Call the clerk and **ask for a new date**. If you have a good reason, the judge may agree to a new date. What if you don't have a good reason? The judge may go ahead and decide against you. What if you don't show up at court? The judge may decide against you even if you are right.*

At the trial, bring your witnesses. Bring all the papers you have about the case to show the judge. Say exactly what happened.

*Do you think you can work something out with the person who sued you? Then ask the judge for **mediation**. Mediation means someone helps you try to agree. This person is called a mediator. The mediator listens to both sides. The mediator tries to find a way you can both agree. Then the judge won't need to decide.*

How to protect your things if you are sued and lose

If you lose and don't appeal, you can file court papers to protect your things. Everyone has a right to protect a certain amount of money and belongings. People you owe money to can't touch this. Things no one can take are call exempt property.

What things can you protect?

These things are always protected:

- Necessary clothes for you and your family
- Your family pictures
- A family Bible
- School books and
- Health care aids, such as wheelchairs or medical equipment

You also have a right to protect \$4,000 worth of personal property. Personal property means money, furniture, cars and every other kind of belonging except real estate. What if the car or furniture is mortgaged and you don't pay? The person or place who has the mortgage can take the property. But no one else can take it if it's part of your exempt property.

How do you protect \$4,000 worth of personal property? You **must file a paper in court** soon after you lose the lawsuit. The paper is called a **Claim of Exempt Property**. You can get this paper from Legal Aid. You have to file this paper **every** time you are taken to Court on a debt.

Some money you get is also exempt even after you put it in the bank. Exempt means it can't be taken because of what the judge decided. This is true for money that comes from:

- Social Security and/or
- Families First and/or
- Alimony and/or
- VA and/or
- State, federal or city pension checks
- SSI and/or
- Child support and/or
- Unemployment and/or
- Workers Comp, and/or

Did you lose the lawsuit? Then the court decided you owe the other side money. The judge's decision is called a **judgment** against you. The Court can take your money or sell your things to pay the debt. It doesn't have to tell you first. To protect your exempt bank accounts, you must file a **Claim of Exempt Property**. List those bank accounts on the paper. Be sure to only exempt money that is put into that bank account. To find out more, ask for our booklet "Have you been sued?"

What if your wages are being garnished? A creditor has to go to court first to get an order saying you owe the money. You can stop the garnishment by working out a payment plan with the creditor. The plan should be signed by you and the creditor. Then it should be filed with the court.

*What if you and the creditor cannot agree on a plan? You can file a paper called a **Stay of Garnishment and Slow-Pay Motion** in court. It asks the judge to let you make payments. The judge may stop the garnishment and set up a payment plan. The Clerk's Office at the Court will help you fill out a Slow-Pay Motion. Also see our brochure "How to keep your paycheck from being garnished."*

Part 2 – How to sue someone in General Sessions Civil Court

General Sessions Court handles cases where the money or property is worth **\$25,000 or less**. Is this an eviction or a case where you are trying to get your property back? Then the amount can be more than this.

Where can I file the lawsuit?

It depends on your case and where the person you are suing lives. Each county in Tennessee has a General Sessions Court. You can sue in:

- The county where the person you want to sue lives; or
- The county where the property of money is; or
- If there is a contract, in the county where you made the contract; or
- If there was a car wreck, in the county where the wreck was.

How to file the lawsuit

Go to the office of the General Sessions Court Clerk. Ask for a paper called a **civil warrant**. Fill out the paper, give it to the clerk and pay the fees. If you are 18 or older, you may do it yourself. If you are under 18, a parent or guardian must sue for you.

Do you need to get your money or things back from someone?

To get your things back, you have to fill out a special paper called a Warrant to Recover Personal Property. On the warrant you must put:

1. Your name and address. You are called the **plaintiff**. This means you are the person suing.
2. The name and address of the person who has your property or money. This person is called the **defendant**.
3. What property or money are you suing for.

Are you suing for money? Then write down why the other person should pay you the money.

Are you suing for property? Write down each thing you want returned. Put down as much information as you know. If you know the name

brand or serial number, write it down. Say how much the market value is for each item. **Market value** is how much the property would sell for now, not what it cost new. Do you have papers that show you bought or own the property? Make copies of those papers. Take them to court. Give them to the clerk with the warrant. You will have to swear that what you put down is true. It is against the law to lie about this.

The court clerk may help you fill out the warrant. The clerk will give you a docket number to your case. Keep this number. You will need this number to ask the clerk about your case.

How much will it cost to file a lawsuit?

You have to pay a filing fee. This fee is different from county to county. It is usually \$70 to \$150. If you sue more than one person, you must pay more. Call the court clerk to find out the cost.

What if you have little income and can't pay the filing fee? Ask the clerk to let you fill out an **Affidavit of Indigency**. This is a paper that says why you can't pay the fees right now. If the judge OKs it, he will decide who pays the fees.

In some cases, you have to fill out a **bond**. A bond says you promise not to drop the case before it is decided. The bond says you will pay any court costs the judge says you owe. You must sign the bond. You must also get someone else to sign with you. The other person who signs is called your **surety**.

What happens if you drop the case? You have to pay a fee. If you don't pay the fee, the person who signed with you must pay it.

Before the hearing

Each person you sue must get a copy of the warrant. They must get it before the court sets a date for a hearing. Usually, the Sheriff gives them a copy of the civil warrant. This is called **serving the warrant**. After the warrant is served, the clerk or sheriff calls to tell you the court date.

In some counties, you help pick the court date. Are you helping to pick the date? Then give enough time for the warrant to be served before the hearing.

Call the **clerk the day before the hearing**. Make sure the hearing date has not been changed.

What if you can't go to court on the court date? Call the court clerk and ask if you can get a later date. This is called **getting a continuance**. The judge can give you a new date. Or the judge can throw out (dismiss) the case.

Before the hearing, get together all the papers that back up your side. Write down all the facts that you want the judge to know. Decide if you have any witnesses and what you will ask them. Write down the questions for each witness so you won't forget.

What if you change your mind about bringing the case? You can drop it but you will have to pay the court fees. What if you change your mind again? You can file it again later. But you can only file the lawsuit **2 times**. After that, you can't file the same case again in General Sessions Court.

Witnesses

You may want to call witnesses. A good witness is someone who saw or heard what happened.

Do you think your witness might not show up? Do you want to make sure the witness is there for the hearing? Then you may want to ask the court to order the witnesses to be there. This court order is called a subpoena [suh pea nuh] .

You should subpoena a witness **as soon as the court date is set**. If you wait until just before the hearing date, it may be too late.

The clerk can help you fill out the subpoena. You must pay a fee before the court will send a subpoena. What if you can't pay the fee? Ask if you can sign an **Affidavit of Indigency** that says you can't pay. If it is OK'd, you won't have to pay up front. The sheriff or deputy will give the subpoena to the witness.

When you go to court

Don't wear t-shirts that say things. Don't wear low-cut tops or short shorts.

The court will have many cases on the same day. **Get there early**. Wait in the courtroom until the judge or clerk calls your case. When you hear your name, stand up and let the judge know you are there.

The judge will listen to both sides. Witnesses will get a chance to talk. Both sides can ask the witnesses questions.

The judge decides how much you get. It may be all you asked for in the lawsuit. Or it could be some of what you asked for. Sometimes the judge will decide you don't get anything.

*Will you get more if you and the person you are suing can agree? If you think you can agree, ask the judge for **mediation**. Mediation means someone helps you try to agree. This person is called a mediator. The mediator listens to both sides. The mediator tries to find a way you can both agree. Then the judge won't need to decide.*

What if you don't get mediation or can't agree? Then you talk to the judge. You tell your side first. Tell the judge what property or money you are trying to get back. Tell the judge what happened to make the other person owe you. Call your witnesses and ask them the questions you wrote down. Give the judge any papers showing what happened. Tell why the money or property belongs to you.

If the person you sued comes, he tells his side of the case. What if he does not come? You may still have to tell your side of the case. Ask the judge to decide in your favor.

The judge listens to the witnesses and looks at the papers you give him. The judge decides. Sometimes the judge will wait to decide. The judge may want to think about the case more or look up something in the law. This is called taking the case under advisement.

If you win

You get an order that says you can try to collect the property or money. What if the person you sued disagrees? They have 10 days to appeal to Circuit Court.

What if the person you sued doesn't appeal? They may just give you the property or money.

Getting your property back

*What if they don't just give back the property? You can ask the court to give you a paper called a **writ of possession**. This paper says they must give you the property. A sheriff's deputy will take this paper and pick up the property. The Deputy will return it to the court for you.*

What if the court tells the person to pay you for the property? Then you have a judgment against them. You must try to collect it.

Collecting a judgment

What if you win the lawsuit and the court orders them to give you money? This is called a **judgment**. The court may also order them to pay you back for the court costs. **You** must get the money from the person you sued. The court **won't** get the money for you.

What you can do to try to collect the money:

1. Do you know where the person you sued works? You can ask the Clerk's office to take the money out of his paycheck. This is called **garnishment**.
2. Do you know which bank the person you sued uses? You will need to know the bank name and address. Ask the Clerk to take the money out of the account. This is called an **attachment or garnishment**.
3. You might get the court to take property from the person you sued. You must tell the Clerk where the property is. The deputy of the court sells the property at an auction. The court gives you the money from the sale.

Do you have questions about this? Ask the court clerk. They can explain how things work. But the clerk **can't** give you legal advice.

If you lose

You don't get an order to get your property or money. You will have to pay the court costs.

If you still want to try and get the money or property, you can appeal. You must file an appeal within 10 days from the time the judge decides. You will get a new hearing in the Circuit Court. The Court will treat the case as if your first trial did not happen.

You will have to pay an appeal bond. You may not have to pay if you can get an **Affidavit of Indigency**. This is a paper that says you can't pay the bond. If the judge OKs it, you won't have to pay.

You should have a lawyer to appeal. Suing in Circuit Court is harder and it costs more than General Sessions Court. You will have to pay the costs if you lose.

Legal Aid Society

Of East Tennessee

1-865-637-0484

Knoxville

Branch Offices:

Cleveland

(423) 479-8577 *F: (423) 339-3282

Chattanooga

(423) 756-4013 *F: (423) 265-4164

Johnson City

(423) 928-8311 *F: (423) 928-9488

Maryville

(423) 981-1818 *F: (423) 981-1816

Morristown

(423) 587-4850 *F: (423) 587-4857

NOTE: This booklet cannot take the place of legal advice. It does not cover everything that might happen in a court case. If you need legal advice, talk to a lawyer. Are you using this booklet to get ready to go to General Sessions Court? Then read the whole booklet first.