

GARNISHMENT PROCEDURES

Effective July 1, 2017

Once you receive a judgment in your favor, contact the Clerk of Court or go to the Iowa Courts.gov website to print off a copy of the General Execution. The Clerk of Court phone number is 319-833-3331.

The Sheriff's Office requires an \$80.00 advance fee for service of the garnishment. If the Garnishee ie: Employer or Bank/Credit Union is in Black Hawk County, you will need to make the check payable to the Black Hawk County Sheriff. If the Garnishee is in another county, you will need to check with the appropriate county sheriff on their requirements. If any money is collected from the garnishment, we will collect our sheriff's fees from these funds. If no money is collected, the sheriff's office will use the advance fee for these charges.

The required paperwork to forward to the Sheriff's Office is:

- 1) Copy of the General Execution, **not the request for General Execution**
- 2) Dictation to Sheriff – (This must include the Garnishee's address, the last known address of the defendant and the name, address and phone number of the party requesting the garnishment.)
- 3) Two copies of the Notice of Garnishment per defendant being garnished

If any objections are filed by the defendant, then the judge can either:

- 1) Make a decision, based on the papers that are filed, or:
- 2) Set the case for a hearing at which time each side will be allowed to present its evidence and then the judge will make a decision.

The Garnishment/Execution will be active in the Sheriff's Office for up to 120 days. If during this time you wish to inquire about the progress of your Garnishment, you may contact the Sheriff's Office at 319-291-2587.

Once the Garnishment has been returned to the Clerk of Court, the Clerk's Office will file the Application and Order Condemning Funds to the order hour Judge for signature. Once this has been done, the Clerk will disburse the funds to you.

If the full amount of the Garnishment is not collected, then you would repeat the procedure until the judgment is satisfied.

Also see Iowa Code Chapter 642 for further information and law changes regarding Garnishments effective July 1, 2015.

Small Claims Information

What is a small claims case?

Small claims court was created to provide citizens with a low-cost, simple process for resolving civil disputes involving small amounts of money. The applicable Iowa laws may be found in Iowa Code chapter 631.

A small claims case is a civil action for a money judgment in which the amount in controversy is \$5000 or less. An action for forcible entry and detainer arising out of a landlord tenant dispute can be brought in small claims court. In small claims court, cases are tried before a judge, not a jury, and without strict regard to technicalities of rules of procedure. There are easy to complete forms for small claims available on this website, with links to the forms and instructions at the top of this page.

Start a Small Claims Case

To begin a small claims case, review the "Instructions for Pro Se Users" available through the link in the menu to the left. You will then be able to choose and download the appropriate small claims Original Notice form available on this website. Complete the form and give it to the clerk of court to file with an eighty-five dollar filing fee. There may be an additional cost for having the petition served on the other party.

Defending a Small Claims Case

If you have received an Original Notice naming you as a defendant, review the Instructions for a Defendant Responding to a Small Claims Action available through the "Instructions" under "Small Claims Forms" in the menu to the left. Download a small claims Appearance and Answer form from this website. If you believe you also have a claim against the person suing you, you may file a small claims Counter Claim by using a form available on this website. Complete the appropriate forms and deliver them to the clerk of court for filing. There is no fee for filing an answer. If you do not file an answer, you risk the chance of having the court enter a default judgment against you.

Court Hearing

If the other party has entered a timely answer or defaulted (not answered), the clerk will assign a case to the court calendar for hearing. The clerk shall transmit the case file to the judge assigned to hear the case. A magistrate, district associate judge, or district court judge may hear the case.

Judicial magistrates hear most small claims cases. Small claims hearings shall be simple and informal. Follow the Tips for Representing Yourself on this website.

Hearings are not recorded by a certified court reporter unless the party provides the reporter at the party's own expense. At the magistrate's discretion the hearing may be electronically recorded by other means.

Failure to Appear at Hearing

Unless good cause to the contrary is shown, if parties fail to appear at the time of the hearing the claim shall be dismissed without prejudice. If the plaintiff fails to appear, but the defendant appears, the claim shall be dismissed with prejudice. If the plaintiff appears, but the defendant does not, judgment shall be rendered against the defendant.

Using an Attorney for Small Claims

Some litigants in small claims court choose to have an attorney, though it is not required. If you do not want to have an attorney represent you in court, but want some assistance preparing your case you might consider retaining an attorney for an hour or so to look over your case, and point out strong and weak points.

Default Judgment

If a defendant fails to appear and the clerk of court determines proper notice was given, judgment shall be rendered against the defendant by the clerk of court if the relief is readily ascertainable. If the relief is not readily ascertainable, a judge shall render judgment.

Setting Aside a Default Judgment

A defendant may ask the court to set aside a default judgment for good cause, including mistake, inadvertence, surprise, excusable neglect, or unavoidable casualty. A motion to set aside a default judgment must be filed promptly after the discovery of the grounds, but not more than sixty days after entry of the judgment.

Appeal

If you are unhappy with the decision in the case, you may appeal. To appeal you must:

- Either tell the judge at the conclusion of the hearing that you want to appeal, or file a written notice of appeal with the clerk within twenty days after the decision is rendered.
- Pay the docket fee to the clerk of court within twenty days after the decision is rendered.

If a magistrate decided the original action, a district associate or district court judge will hear the appeal. If a district associate judge heard the original action, a district court judge shall decide the appeal. And if a district court judge heard the original action, another district court judge shall decide the appeal.

The appeal shall be heard upon the record without taking additional evidence. If the original action was recorded electronically, the tape recording or other medium shall be the record on appeal.

If you are not pleased with the outcome of the appeal, you may ask the Iowa Supreme Court to review the case. In small claims cases, however, the supreme court has discretion to decide if it will review the case—review is not a matter of right.

Prohibited Practices

The court, after notice and hearing, may bar you from appearing on your own behalf in a small claims action if you do any of the following:

- Falsely hold yourself out as an attorney.
- Repeatedly file claims for costs that the court has found to be exaggerated or without merit.
- Repeatedly violate debt-collection practices prohibited by the consumer credit code.