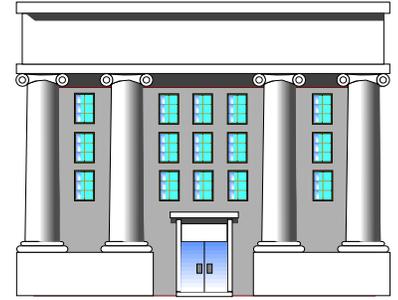


No lawyer?

You can defend yourself in General Sessions Court



This booklet is about being sued 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. If you are being evicted, read our booklet on Renter's Rights.

The booklet is for people who are being sued for money or things.

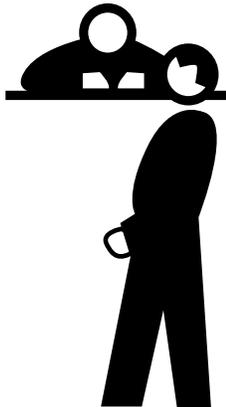
You don't have to have a lawyer

If you are sued, get a lawyer if you can. If you can't get a lawyer, you should 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? That is even more reason for you to have one too.

If you need a lawyer, you have to find one on your own. The judge will **not** give you a free lawyer. Some lawyers will meet with you one time for free. Some lawyers may charge a small fee for meeting one time. If you talk to a lawyer, ask what they will charge you to go to court. If you need help finding a lawyer, call the Lawyers Referral Service.

- In East Tennessee call (865) 522-7501
- In Middle Tennessee call (615) 242-6546
- In Southeast Tennessee call (423) 756-3222



If you are sued

A sheriff or deputy will give you a copy of the warrant. This is **NOT** a warrant for your arrest. This warrant is the paper that tells you why you are being sued. The important things you should know from the warrant are:

- Who is suing you
- How much money you are being sued for
- When you need to go to court

The deputy must give you the warrant in person. The deputy can't just call on the phone and tell you to come to court. If your landlord is evicting you, the deputy can tape the warrant to your door.



What if the deputy **didn't** give you the warrant in person? **Go to court anyway.** Tell the judge that nobody gave you a copy of the warrant in person.

Don't just forget about the warrant. **Go to court** when you are supposed to. What if you don't show up at court? The judge may decide against you even if you are right.

Does the person who sued you owe you money? Or do they have your things? You can also sue them. If so, try to find a lawyer to help you. If you can't find a lawyer, you can file a lawsuit against the person. This is called a **counter claim**. 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 claim, the judge will hear both lawsuits at the same time.

To file a counter claim, you need to fill out your own warrant. Make sure to check the box that says "counter claim." You will file this at the Clerk's office.

Some counter claims may have fees. The Court Clerk can tell you if there is a fee and how much. What if you can't pay the fee? Ask if you can sign an **Affidavit**

of **Indigency** paper that says you can't pay. If it is OK'd, you won't have to pay up front.

Are you being sued by a company? Then **DON'T** do a counter claim unless you have a lawyer. If the company wins, you could end up paying for their lawyer and fees.

What if you can't make it on the court date?

First, call the lawyer for the person suing you. If the person suing you doesn't have a lawyer, then call him or her. Say why you need a new court date. Can you agree on a new date? If yes, send a letter to the person suing you. If they have a lawyer, send the letter to their lawyer. This letter is your proof you both agreed on a new date.



In the letter say what new date you have agreed to. Send a copy of the letter to the court clerk. Wait until 1 or 2 days after the old court date. Then call the court clerk and make sure your hearing is set for the **new date**.

What if you and the person who sued you can't agree on a new date? Write a letter to the judge asking for a new date. You must tell the judge what day you want to come to court. Be sure to say why you need the date changed. It is up to the judge if you get a new date. What if you don't show up at court? The judge may decide against you even if you are right. Wait until 1 or 2 days after the old court date. Then call the court clerk and make sure your hearing is set for the **new date**.

What if you aren't ready on the day you are supposed to go to court? Then you can go and ask the judge for a **continuance**. This asks the judge to set a new date for you to come to court. The judge will decide if you get a new court date. Most of the time, a judge will only let you do this one time.

Before you go to court

Have a disability or need an interpreter?

- Talk to the court clerk's office **before** your court date.
- Say if you need an interpreter for another language or sign language.
- Say if you need help because of your disability or safety problems.

Can you work things 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.

What if you don't get mediation or can't agree? Then you can still go and talk to the judge.

Does the other side have a lawyer? Then most of the time the judge will not let you mediate. The other side's lawyer may ask you to agree to move out or pay them money. If you don't agree with them, tell them you want to speak to the judge. Do **NOT** let them make you sign anything.

Be ready for court

Think about what you want to tell the judge in court. Write it down. You can use your notes when you go to court. The judge and the other side can look at anything you take to the witness stand. So only write down things you want them to see or read. Keep what you say simple and clear. Help the judge understand what happened and what you want him to do.



Don't write down or say mean or ugly things about the person suing you. Just say what happened. Is there someone else who knows what happened? If so, you may want to ask them to be a witness for you.

Witnesses

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

Think about what questions to ask your witnesses. Ask questions that let them tell what they saw or heard. Write the questions down so you can use them at court. Talk to your witnesses ahead of time. Be sure you know what they will say. Don't bring witnesses that will hurt your case.

Give your witnesses a copy of our booklet "**Have to testify in court? Here are some tips.**" This will tell them things they need to know about going to court. 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** [say "suh pea nuh"].

You should subpoena a witness **as soon 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 for the subpoena. What if you can't pay the fee? Ask if you can sign an **Affidavit of Indigency** paper 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

What to Wear

- Wear clean, neat clothes.
- Dress like you are applying for a high-paying office job. **OR** like you are going to a funeral or formal church service.
- No shorts.
- No clothes with pictures or words on it.
- No clothes that show your underwear.
- Take out any piercings on your face.
- Cover your tattoos.
- Men: No hats and remember to tuck in your shirt.
- Ladies: No high heels, no very short skirts and no low cut tops.
- Wear very little jewelry or none.
- Wear very little makeup.

What to Bring

- Anything listed on the paper you got saying when to go to court.
- Some courts do not let anyone bring in a cell phone. Find out before you go.
- Bringing a cell phone? Turn the ringer **OFF** as soon as you get to the courthouse. If it rings in the court room, the court officer may take it.
- You may wait a long time to testify. Bring any medicine you may need to take before you get home. You may bring something to read. Or leave snacks in the car to have during breaks.
- Only bring your children **IF** the hearing is about them **OR** they are testifying.

Court Security

- Each court is different. Some courts will search you and your bags. Many will make you go through a metal detector. **Go to court early**. There may be long lines at the metal detector.
- Only take what you really need. If you can, leave your purse and other bags in your car. Some courts will not let you bring in purses or bags. They will make you put them in your car. This may make you late for court.
- Do not bring any pepper spray, mace, sharp objects or weapons with you. The security guard will take them.



When your case is called

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 person who sued you will tell their side first. Are they calling witnesses? Then you will get to ask those people questions, too. Be polite to everyone, even if you don't like them.

You will tell your side of the story second. Call your witnesses and ask them the questions you wrote down. The person who sued you can ask your witnesses questions, too. Give the judge any papers or pictures showing what happened. Tell why the money or property belongs to you.

What to do when you testify

- Always, always tell the truth.
- Be polite to everyone.
- Call the judge "Your Honor."
- Call the lawyers and others "sir" and "Mr. ___" or "ma'am" and "Ms. ___."
- Keep your hands away from your mouth and face when you talk.
- Don't just nod or shake your head when you answer questions. Talk. The court reporter and/or the voice recorders must hear your answer.
- Talk loudly enough for everyone to hear you.
- What if a lawyer objects to a question? Stop talking.



- The judge may **over-rule** the objection. That means it is OK for you to finish your answer.
- The judge may **sustain** the objection. That means the question will be dropped **OR** asked another way. Wait to see what you are asked.
- What if you feel upset or sick during your testimony? Tell the judge you need a moment or a break.
- Don't answer a question unless you are sure you correctly heard and understood it.
 - o If you don't hear a question, ask for it to be repeated.
 - o What if you don't understand a question? Say you don't understand. Say you need it to be asked a different way.
- What if you don't know the answer to a question? Say you don't know. Don't guess.
- What if you don't remember the answer to a question? Say you don't remember. Don't guess.
- What if you are not exactly sure about a date, time, distance or number? Say you don't know exactly and this is an estimate. **Estimate** means you think it was "around that time" or "about that much."
- Do you need to explain an answer? Say you need to explain and then do it.
- Stop talking after you answer a question. Wait for the next question. Don't tell anything unless they ask.



- Don't show anger or get upset or be rude while testifying.
- Don't butt in when the lawyers or judge are talking.
- Don't say "he," "she," or "they." Use people's names so it is clear who you mean.
- Don't expect the lawyers to object. **Example: Hear-say** means someone told you something but you didn't see or hear it yourself. In court you can only testify about what you saw or heard. What if they ask you about something you did not see or hear? Say, "I can't answer that because it'd be hear-say."
- Don't chew gum while testifying.
- Don't wear sunglasses while testifying.

What the judge will do

The judge will listen to both sides. The judge listens to the witnesses and looks at the papers both sides give him. Then the judge decides. Most of the time, the judge will say right then what he decided.



But 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**. Most of the time, the judge tells you when you will know what he decided.

If you lose the case, here's how to protect your things

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 other side can take your money or sell your things to pay the debt. They don't have to tell you first. But if you **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 what is protected. Things no one can take are called **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

DON'T do this in court

- Don't lie.
- Don't talk to other witnesses about the case.
- Don't learn your testimony by heart.
- Are you in the court room or sitting at the lawyer's table? Don't nod, shake your head or make faces or noises no matter what someone says.
- The judge and lawyers can look at anything you take to the witness stand. Don't take anything you don't want them to see or read.
- Don't try to trick the judge and lawyers. Don't try to make them think you mean something that isn't true.
- Don't tell anything unless they ask.
- Don't guess while testifying.
- Don't make jokes while testifying.
- Don't smart off while testifying.

- Health care aids, such as wheelchairs or medical equipment

You also have a right to protect \$10,000 worth of personal property. Personal property means money, furniture, cars and every other kind of belonging except real estate. What if you owe money for a car or furniture and you don't pay? The person or place you owe can take the property. But no one else can take it if it's part of your exempt property.

How do you protect \$10,000 worth of personal property? You should **file a paper in court soon** after you lose the lawsuit. Has it been 10 days since you lost in court? Then the person who won can try to take your things to pay what you owe. The paper you need to file is called a **Claim of Exempt Property**. You can get this paper from the court clerk. 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
- SSI and/or
- Families First and/or
- Child support and/or
- Alimony and/or
- Unemployment and/or
- VA and/or
- Workers Comp and/or
- State, federal or city pension checks and/or
- Federally guaranteed student loans and/or grant funds



To find out more, ask for our booklet **“Have you been sued?”**

Are your wages 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. You and the creditor should sign the plan. 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 booklet **“How to keep your paycheck from being garnished.”**

If you win your case

- If your landlord was trying to evict you and you win, you get to stay.
- If you were being sued for money, then the person that sued you can't try to collect.
- If you countersued and won, you will still need to figure out how to collect the money. Collecting judgments is VERY hard.
- If the other side won their lawsuit and your countersuit, then the judge will probably add any costs to the original lawsuit filed against you.

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.** 9/16



Legal Aid Society
of Middle Tennessee & the Cumberland

Working Together. Doing Justice. Restoring Hope.

1-800-238-1443

It's a free call.

On the internet at www.las.org

