

The following information comes from this web-site:

<http://welcomingolim.blogspot.co.il/2009/11/comprehensive-guide-to-small-claims.html>

Comprehensive Guide to Small Claims Court

The Defense

This Guest Post has been prepared for you by Tzvi Szajnbrum, Attorney at law

Introduction:

This document is a technical guide to the small claims court. Here you will learn the main **legal** rules when submitting a defense to the small claims court.

In a separate document, I will guide you in writing an effective claim or defense.

Small claims court in Israel is not similar to those in the United States or Europe. In order to understand how the system works, this short guide will be divided into sub-categories to make it easier to navigate.

This court (Tribunal) is incorporated in the Magistrate's Court (Inferior Court) and any decision, judgment or resolution can be appealed within 15 days of the final decision. The appeal takes place in a higher court ("*Beit Mishpat Mechozi*"). Please notice: Appealing in these kinds of cases is usually not worth it and will most likely cost you a large sum.

→ Anyone can be sued through the small claims court, but not everyone can sue through this court. Only private citizens can sue through the small claims court but not companies, municipalities, government ministries or any other kind of organizations.

Another issue concerns legal representation. In this court you cannot be represented (when being sued or suing) by a lawyer. You are on your own, except in cases when the plaintiff or the defendant has a specific problem, such as language. In this case, the judge may permit a relative to aid in the procedures (but you won't know until the hearing itself starts in court).

Unfortunately, when suing a company, government or any other entity (not a private individual), you may find yourself conducting the case against a lawyer who represents the other side.

How come? If the company or the entity has in its employ a lawyer, this employee may represent the company, but you cannot do this.

The “bad news” for new immigrants is that you can present your case only in Hebrew or Arabic, but not in English or any other language. If you need an interpreter you have to ask the judge’s permission when filing your defense.

It is strongly advised to use the services of a lawyer to write an effective complaint but never to write a **defense** without a lawyer.

The first step:

After receiving the complaint by registered mail or delivered personally, (In both cases it doesn’t matter if you agree or not to sign or even receive the papers. By law you’ve just received them in a legal way), shock usually follows and then the “outrageous phase”. Don't worry and stay calm. You have 15 days (including weekends and holidays) to present your written defense. If you need more time you must ask the court for it before the 15 days expired.

Second Step - the answers:

Start with a simple draft for yourself. For every one of the plaintiff’s arguments, plea or charge; you must have a specific answer. NOTE: For any non-answered charges, the plaintiff won’t need to “prove” his case on that issue. You will be considered as agreeing with him on that unanswered charge.

If you don’t present your defense the plaintiff will automatically “win” the case.

Third Step - the burden of proof:

The full burden of proof is always and only on the plaintiff’s shoulders and it is not on the defendant to prove these charges or claims. Be brief, clear, chronological and consistent in your answers.

Fourth Step:

It will be better if you present your defense personally to the court’s secretariat. There must be three complete copies. The secretariat hours are from 8:30 to 12:30 except Fridays, Saturdays or holidays. Keep a stamped copy.

Fifth Step - the audience day:

Your day in court has arrived. All sides must be present in the court room on time and it generally takes a long time to be heard.

It is advised to “visit” a court room before. Go to the nearest tribunal and “learn” how it works. All cases are open to the public and generally you can find a seat (don’t go before 9:30).

Forms used for plaintiffs and defendants:

You should use the form stipulated by the court; from these forms you can learn the outline of these documents. You are not obligated to type your legal documents but remember that the Judge is a human being and if you make the case clearer, you have a better chance of being understood.

In any case, if you decide to have your complaint or defense handwritten, it must be in clear handwriting, not very crowded and as short as possible (it should be brief in any case), but remember to answer any specific issue the plaintiff used in his complaint.

Below is a link for the forms for the defense:

<http://elyon1.court.gov.il/heb/forms/hagana1.htm>.

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The following information comes from this web-site:

<https://lawinisrael.wordpress.com/2012/05/08/small-claims-in-israel-faq/>

Small Claims in Israel FAQ

Posted on 8 May 2012 | 1 Comment

What is a small claim?

This is a quicker, simpler, lawyer-less procedure in the Israeli courts for small claims. Any individual can sue anybody in this court as long as the sum of the claim is less than 32,700 sheqel (see <http://elyon1.court.gov.il/heb/agrot/ktanot.htm>).

How much will it cost me?

You will have to pay an official fee of 1% (rounded up to the nearest 5 sheqel) of the sum of the claim, but there is a minimum fee of 50 sheqel (see <http://elyon1.court.gov.il/heb/agrot/ktanot.htm>).

Who can take a claim to the Small Claims Court?

Only individuals. That is, anyone who is not a company (including a partnership or Amutah).

Who can be sued in the Small Claims Court?

Anyone, including the government, local government, a company, any business etc.

I am a tourist, can I sue an Israeli person or company in the small claims court in Israel?

Defendants in Israeli courts including the small claims court are normally an Israeli person or company but plaintiffs can be Israeli or foreign. If the plaintiff is not in Israel this creates logistical problems. An Israeli lawyer could help by drafting the statement of claim and lodging the claim in the small claims court. Anyone with a power of attorney (lawyer or layperson) could appear in court on behalf of the foreign plaintiff. But – and this is the crunch – testimony, the actual evidence, must be given in person and not through a proxy or attorney. I have wondered if a judge would allow testimony by video conference or such like. I doubt it, at least not without the permission of the defendant, who is not likely to give it! So a foreign plaintiff would have to come to Israel and be in court on the set day for the hearing of the evidence before a judge.

What is the maximum I can sue for in the Small Claims Court?

31,900 sheqel. Be careful this figure changes periodically. Note that if you have a claim of more than 32,000 sheqel it still may be worth your while suing in the Small Claims Court and limiting yourself to the maximum sum. So if you have a claim of say 40,000, take the case to the Small Claims Court, and sue for just 31,900 sheqel as you will get your money, quicker and more cheaply in this court.

THIS IS
US\$ 8,395.00

Where is the Small Claims Court?

The Small Claims Court is part of most Shalom Courts.

Which court should I go to?

You should not go to your **local** court. You must sue the defendant in a court that has jurisdiction in the area where the defendant lives, or where the activity you are suing for (eg the transfer of goods) was or should have been. This gives you great lee way and as a rule keep clear of the courts in Tel Aviv (Haifa is second worse).

Do I need a lawyer?

The Small Claims Court was intended to be lawyer-less but I would strongly advice you to use a lawyer at least to draft the claim. Especially if your Hebrew is not 100%. You cannot take a lawyer to the court hearing (some judges are lenient about this for people with difficulties).

What is the procedure in small claims court?

Procedure is fairly informal here. The judge will always try and get the parties to compromise, to make an out of court settlement. Some judges are very persuasive (coercive) about this, so if you do not want a compromise (because the judge or the other side have made you an offer you do not think is acceptable) you will need to be quite strong minded.

But do things happen here like in other courts?

More or less yes. Each side will make an opening statement or answer questions put by the judge. The plaintiff will give evidence or call witnesses and the other side will have the right to cross-examine them. Then the defendant will do the same and the plaintiff will have the right to cross-examine. After the witnesses, each side will be asked to summarise their case orally.

So what should I do?

Get the form from your local court or from the web site. Fill it in. But leave the details blank. The full details of your case (the story of your claim) should be typed in Hebrew on a separate sheet. I think that it is very important to type (remember the judge may not have patience to read scribbles) and must be in Hebrew (this is Israel, Arabic would be good too). Take 3 copies of the form and the typed sheet back to the court and after you have paid the official fee you have a small claim. Now just wait for the defendant's defence and a trial date.

Where can I get more information?

Try court.gov.il/heb/info/choveret/hesb_ktanot (sorry it's in Hebrew). And the forms are here court.gov.il/heb/forms/ktanot.htm.

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