

SMALL CLAIMS GLOSSARY

(INFORMAL, UNOFFICIAL, AND JUST FOR MAGISTRATES NEW TO SMALL CLAIMS)

Action (sometimes “legal action,” “civil action,” “lawsuit,” “suit,” “claim” or “case”)

The formal procedure for seeking resolution of a dispute by the court system.

“In this _____, plaintiff seeks to recover damages in the amount of \$5,000 from defendant.”

Amount in controversy.

The dollar value of the remedy plaintiff seeks. When plaintiff is asking for money, the amount in controversy is the amount of money s/he’s seeking. When plaintiff is asking for the return of property, the value of the property is the amount in controversy.

Answer

A written response by defendant to the plaintiff’s claims. Required in most courts, but unusual in small claims court.

Complaint

The legal document that begins a lawsuit. It states the facts and explains what action the court is asked to take.

“I see by the complaint that plaintiff is seeking \$5000 as damages resulting from the defendant’s breach of contract.”

Damages (sometimes “money damages”)

May refer either to the injury plaintiff is complaining about or the monetary sum plaintiff is asking for. Money damages are the most common remedy sought by plaintiffs.

“Plaintiff suffered damages as a result of Def’s negligence,” or “Plaintiff seeks \$5,000 in damages.”

Defendant

The person being sued.

Ex parte

This term is Latin and means “by one party.” Magistrates commonly hear this term in two contexts. *Ex parte communication* refers to the unethical practice of discussing a case outside of court with one party. An *ex parte DVPO* is a temporary emergency protective order issued in domestic violence cases without notice to the other party, having the purpose of protecting the plaintiff from domestic violence during the interval until a full hearing can be scheduled.

Judgment

A final decision made by the judge after hearing and considering all the evidence.

Order

A formal ruling by the judge that is not a final decision on the case based on the evidence. The most important thing to understand about an order is that it is different from a judgment.

“The judge ordered a continuance.” “The judge ordered the action discontinued because of bankruptcy.” “The judge ordered the case dismissed when plaintiff failed to appear.”

Party

Refers to both plaintiff and defendant

"Both parties are present and the court is ready to proceed."

Plaintiff

The person who filed the lawsuit.

Pleadings

The complaint and, if there is one, the answer.

"I see by the pleadings that plaintiff says he was injured by defendant's negligence," means the same thing as

"I see by the complaint that plaintiff says . . . "

Pro Se

A party is *pro se* when she represents herself, rather than being represented by an attorney. Also referred to as an *SRL*—self-represented litigant.

Process

A term that includes both the complaint and the summons given the Def

Remedy (also "**relief**," sometimes "**prayer for relief**")

What the plaintiff is asking for.

Service of process (sometimes just "**service**")

The formal legal procedure for giving a Def notice that s/he is being sued.

"It appears that Def has not yet been served."

Summons

The legal document that notifies a defendant that s/he is being sued and informs the defendant when and where the trial will be held.