

Is Small Claims Court For You?

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The Benefits Of Small Claims Court

Johnny B. Good walked into the photo store with seven rolls of film to develop. "I'd like my honeymoon photos developed as soon as possible. We were in Italy and I took the most amazing pictures in my life," he said. "No problem," answered the clerk at the photo store. "We'll have them ready by the end of the day," she replied. After work, Johnny returned to the photo store to claim his developed pictures. "Uh, are you sure you brought them in?" asked a different clerk. She looked everywhere, they couldn't be found. The next day the clerk who took the film learned that the cleaning person inadvertently threw 10 rolls of undeveloped film in the trash. Furious, Johnny demanded justice. "These are irreplaceable memories. Memories of a lifetime! What am I going to do?"

Q: Does Johnny need a lawyer? Can he handle it himself in small claims court?

A: Johnny doesn't need a lawyer. Small claims court is the perfect place for this claim.

Johnny needs to file a claim in his local small claims court. There's a small fee to start the case, and they give you forms telling you what to do. Make sure that you keep all documents and on the day you are scheduled to appear in Court, make sure you arrive with all of your witnesses to support your claim. There's only a Judge, no jury in small claims court, and make sure you are dressed neatly and cleanly.

The rules of evidence are the same in small claims court, but there is a tendency to be less formal since the litigants are not lawyers. Do not forget that the Court is still entitled to respect and the proceedings are recorded either by tape recorder or by court stenographer. After all witnesses tell the Judge their version of what happened, the Judge will usually put his decision in writing and mail it to the litigants. (They do this so that the losing party doesn't start screaming, yelling, and disrupting the courtroom immediately after a decision.)

IS IT WORTH IT TO GO TO SMALL CLAIMS COURT?

The short answer is yes. The long answer may be no. In small claims court in New York, you will get to present your case to the Judge rather quickly after you've filed your claim.

But if there are adjournments by either side, then you will have appeared multiple times, lost time from work on each occasion, and waited endlessly in the courtroom, simply to be told that you must come back on another day.

Remember, there are hundreds of small claims filed every week. On any given day, the Judge might have 20-40 cases to dispose of. Not each case requires a trial, and many cases get put off for another day. Some cases may be resolved in a binding mediation with a lawyer appointed by the Court.

You must determine whether the time you are going to spend waiting around a courtroom for justice is worth missing at least partial days off from work. If you choose to have your case heard in the evening session because you can't get off from work, just keep in mind that you're not alone. Lots of other folks will also be there waiting to have their case heard.

While in the courtroom, you can expect to hear cases that are very trivial. You might even wonder why someone would bother to bring a claim for such nonsense, or why they'd spend any of their valuable time pursuing such a ridiculous claim.

The answer to the question stems from the right every citizen of this State has- the right to bring suit if they feel they've been wronged by someone else. That's the price of freedom. Democratic countries allow its' citizens the right to seek compensation for damages, whether it's personal injury or a contract that was broken. A promise is a promise. People should be held accountable for their actions.

Are there cases that even in small claims court don't belong there? Probably yes. But we, as spectators, don't have the right to criticize the claim, only the process. Does it make for interesting viewing? You bet. Even better than daytime TV or the latest reality show! Why? Because this is real life. This is reality.

So, to answer the question 'Is it worth it to go?' Yes. Everyone should go at least once, if only to observe the small matters that are important to people. Attorney Oginski has been in practice for 17 years as a trial lawyer practicing exclusively in the State of New York. Having his own law firm, he is able to provide the utmost in personalized, individualized attention to each and every client. In our office, a client is not a file number. Client's are always treated with the respect they deserve and expect from a professional. Mr. Oginski is always aware of every aspect of a client's case from start to finish.

Gerry represents injured people in injury cases and medical malpractice matters in Brooklyn, Queens, New York City, the Bronx, Staten Island, Nassau and Suffolk Counties. You can reach him at <http://www.oginski-law.com>, or 516-487-8207. All inquiries are free and totally confidential.