

STATE OF INDIANA

IN THE WAYNE SUPERIOR COURT NO. 3

COUNTY OF WAYNE

CAUSE NO. 89D03-_____

NOTICE OF SMALL CLAIM – POSSESSION/EVICTION

Plaintiff 1 _____ vs. **Defendant 1** _____

Plaintiff 2 _____ **Defendant 2** _____

Address _____ Address _____

City _____ State _____ Zip _____ City _____ State _____ Zip _____

Telephone _____ Telephone _____

Email Address _____

The plaintiff(s) is the owner(s) of the property located at: _____, now occupied by you, the defendant(s). The plaintiff(s) seek possession of that property, and requests your eviction from that property. You must appear in Wayne Superior Court No. 3, Magistrate’s Courtroom, First Floor, 301 East Main Street, Richmond, Indiana 47374, in person or by your attorney, on _____ at _____ for your hearing. The Court’s staff may be reached at 765-973-9269. If you cannot appear at that date and time, you may file a written Motion for Continuance requesting a different court date, which may or may not be granted by the Court. If you fail to appear, the Court may enter a default judgment against you.

The plaintiff claims that your rent is past due in the sum of \$ _____ and/or that you have violated the lease agreement, rental agreement, or other agreement as follows:

_____.

- There is a lease or rental agreement attached, OR
- There was no written lease or rental agreement.
- This complaint does **NOT** involve a land contract.

- Plaintiff has served the defendant(s) with a 10-Day Notice to Quit (attach copy), OR
- a 10-Day Notice to Quit was not required, pursuant to I.C. 32-31-1-8.

The plaintiff(s) demands possession of the property, court costs, plus damages, attorney’s fees, court costs, post-judgment interest, post-judgment sheriff service fee, and other costs, if applicable, such as an e-filing fee, certified mail, private process server, out-of-state sheriff’s service, etc., if applicable, to be determined at a Damages Hearing.

I/we swear or affirm under the penalties of perjury, that what is contained in this document is true.

Signature of Plaintiff 1 or attorney Date

Signature of Plaintiff 2 Date

SEE IMPORTANT INFORMATION ON OTHER SIDE.

IMPORTANT INFORMATION CONCERNING THIS SMALL CLAIM

1. **The Small Claims Office** – The Wayne County Clerk’s, Small Claims Office (“Small Claims Office”) is located at Wayne County Courthouse, 301 East Main Street, second floor, Richmond, Indiana 47374 or by telephone at 765-973-9230. All pleadings (motions, requests, notices, etc.) are filed through the Small Claims Office. Sample forms are available on the Wayne County Clerk’s website (<http://www.co.wayne.in.us/clerk/>). The Clerk’s staff is not allowed to give legal advice.
2. **mycase.in.gov** – You may check the status of your case, including your hearing dates, at mycase.in.gov.
3. **Right to Jury Trial** – By filing this Notice of Small Claim, the plaintiff waives or gives up the right to a jury trial. The defendant’s right to a jury trial is waived or given up unless the defendant files a Request for Jury Trial that complies with Indiana Code § 33-29-2-7 within ten (10) days of the receipt of the Notice of Small Claim, pursuant to Ind. Small Claims Rule 4(C). The defendant must pay \$70.00 at the Small Claims Office within ten (10) days after the Request for Jury Trial has been granted, plus any additional money required by statute, or the defendant waives or gives up the right to jury trial.
4. **Representing Yourself** – Most plaintiffs and defendants may represent themselves in court or be represented by an attorney. A copy of the Indiana Small Claims Manual (“Manual”) is available at the Small Claims Office. The Manual, the Indiana Small Claims Rules, and a video, “Representing Yourself in Small Claims Court,” are also available at: <http://www.in.gov/judiciary/2710.htm>. Sole proprietors, partnerships, limited liability companies (LLC’s), and corporations may appear by a designated full-time employee, if the requested judgment amount does not exceed \$1,500.00 and a Resolution has been filed at the Small Claims Office.
5. **Notice by email** – You may receive all notices and orders from the Court by email, instead of by the U.S. Postal Service, by providing an email address or filing an Appearance by Self-Represented Person in a Civil Case. If you provide an email address, you will no longer receive paper copies of the notices and orders from the Court. You may file a petition for an order granting an exemption as to the email address.
6. **Failure to Appear** – If the defendant fails to appear for any hearing or trial, the Court may enter a default judgment against the defendant pursuant to Ind. Small Claims Rule 10(B). If the plaintiff fails to appear for any hearing or trial, the case will be dismissed pursuant to Ind. Small Claims Rule 10(A).
7. **Motions for Continuance** – Either party may be granted no more than one (1) continuance pursuant to Ind. Small Claims Rule 9(A). The Court will decide if any Motion for Continuance will be granted.
8. **Plaintiff May Request a Dismissal** – The plaintiff(s) may file a Motion to Dismiss the case at any time.
9. **If the Defendant Does Not Dispute the Claim** (agrees that he/she owes the requested judgment):
 - a. the defendant may pay the full amount of the judgment at the Small Claims Office at any time prior to the first hearing; OR
 - b. the plaintiff and defendant may make a payment agreement by completing and filing a Pretrial Settlement Agreement signed by both the plaintiff and the defendant; OR
 - c. the defendant must attend the first hearing to allow the Court to enter judgment and determine payment options.
10. **Counterclaims** – If the defendant has a claim against the plaintiff from the same transaction or occurrence, the counterclaim must be filed at the Small Claims Office at least ten (10) days prior to the trial to allow the plaintiff to receive the Counterclaim at least seven (7) days prior to the hearing, pursuant to Ind. Small Claim Rule 5(A).