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West Tennessee Legal Services
Post Office Box 2066 - 210 West Main Street
Jackson, TN 38302-2066

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141 North Third Street - Selmer, TN 38375

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West Tennessee Legal Services
208 South Church Street - Dyersburg, TN 38024

Contact us at:

731.423.0616

or

1.800.372.8346

Email: wtls@wtls.org

Web address: www.wtls.org



WEST TENNESSEE LEGAL SERVICES

**REPRESENTING
YOURSELF IN
GENERAL
SESSIONS
COURT**



A GUIDE FOR THE NON-LAWYER

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This booklet was prepared by West Tennessee Legal Services. West Tennessee Legal Services provides free civil legal services to low-income and elderly people.

This booklet is not a substitute for legal advice and is not intended to cover all circumstances that might occur in a case before General Sessions Court. If you need advice, contact a private attorney or your local legal services office.

This booklet is mainly written for people who want to use General Sessions Court to get back money or property. However; this advice will also be helpful if you are being sued.



WHAT IS GENERAL SESSIONS COURT?

This booklet tells you what you need to do if you need to go into General Sessions Court on a civil case.

If you are charged in a criminal case and cannot afford a lawyer, the court should appoint one for you in most cases. However, if someone sues you or you want to sue someone else, you have to hire a lawyer or handle the case yourself. The court will not appoint a lawyer in a civil case (a non-criminal case).

Each county in Tennessee has a General Sessions Court. They mainly handle small claims. With two exceptions explained later in this booklet, disputes over money or property worth less than \$10,000 can usually be handled in General Sessions court.

YOU DO NOT HAVE TO HAVE A LAWYER

General Sessions Courts were set up to be a place where small disputes could be settled simply, without a lawyer. Most cases in General Sessions Court do not require a lawyer. However, if the other side has a lawyer, you may be at a disadvantage. This depends on how complicated your case is. It also depends on your own ability to explain your case to the judge.

If you need advice before going to your hearing, you can talk to a private attorney. He or she may charge a small fee. Some attorneys may not charge anything for a first visit.

GENERAL TIPS FOR THE COURTROOM

Show your respect to the court by wearing your "Sunday best." Never wear a hat, shorts or a sleeveless shirt to court. Stand when you speak to the judge. Use "sir" or "madam" when speaking to the lawyers. Use "your honor" when speaking to the judge. Do not lose your temper.

Do not bring your children to court. Speak loudly and clearly. Be on time. Bring all papers.

JURISDICTION

The General Sessions Court cannot decide a case if the amount of money or property involved is over a certain amount. Also the people or property involved must have some contact with the county where the case is brought. In other words, the General Sessions Court you choose must have “jurisdiction” over the case.

MONEY LIMITS

WHAT KIND OF CASE CAN YOU TAKE TO GENERAL SESSIONS COURT?

The upper limit for most cases is \$15,000. For example, you could take a complaint about a contract to General Sessions Court if the amount involved was not over \$15,000. If your case involves over \$15,000, you should talk with a lawyer to decide what to do.

AREA LIMITS

HOW TO CHOOSE WHICH COUNTY YOU SHOULD SUE IN?

You cannot sue in any county you choose. The county you sue in must be determined by the facts of your case and where the parties live. You can sue in:

- a) The county where the goods or money or any part of them is located;
 - b) The county where the contract was made, if the case involves a contract;
 - c) The county where the person you want to sue lives;
 - d) The county where the contract was agreed upon;
- or
- e) The county where an accident or other event occurred.

Sometimes the contract itself will say where the suit must be brought if there is a dispute.

BRINGING A CASE TO COURT

THE FIRST STEP

Of course, before you take court action you should write the person holding your property or money and ask that it be returned. Keep a copy of any letters you send. It is a good idea to send the letter by certified mail and to ask for a return receipt. The letter and return receipt will help you show the court you tried to get your property back. If the person still refuses to return the property or pay your money, you will need to bring a lawsuit. If you are 18 years of age or older, you may file suit yourself. If you are under 18, you must have a parent or guardian file a suit for you.

HOW TO GET INTO COURT

You start an action in General Sessions Court by filling out a civil warrant. You can get blank civil warrants in the county court clerk’s office when you are ready to file suit.

The warrant must list:

1. Your name and address, naming you as the “plaintiff” in the case.
2. The name and address of the person holding your property or money, naming the person as the “defendant.”
3. A description of your property or the amount of money involved. Make the description as clear and detailed as possible. For example, put the brand name or serial number on the warrant.
4. If your case involves property, put down the market value of the property. The market value is the amount for which the item could be sold as it is now, not when it was new.

You must have all of this information before you can begin a lawsuit. If you have any papers which show your right or title to the property, you should attach a copy of those papers to the warrant. (Most libraries have copy machines.) Save the originals for your own records and to show the judge at your trial.

If you have problems, the court clerk will help you fill out the proper form. A docket number (case number) will be given to your case. Any time you have questions about the status of your case you should call the court clerk and tell them your name, the defendant's name and the docket number

HOW MUCH WILL YOU HAVE TO PAY?

Filing Fee You will be charged a filing fee by the court. This fee is different from county to county. If more than one defendant is involved, the fee will be higher you can call the court clerk to find out the cost.

If you do not have the money to pay for a warrant, you should ask the clerk to allow you to sign a pauper's oath. This is a statement you sign which says that you cannot afford the costs of bringing the lawsuit now. If the judge approves this statement, you can delay payment of the fees and still have your case heard, but you may have to pay the costs in the future.

Each defendant must be served with a copy of the warrant (told he or she is being sued) before the hearing is set. If your defendant is out of state, but the property you are trying to get back is in Tennessee, you can publish notice of the lawsuit in a local newspaper. The court clerk usually arranges for publication, but you have to pay the costs.

Bond You also may have to fill out a bond form. This is a statement saying you will go through with the suit once you file a warrant. You will have to sign the bond and have someone else (your "surety") sign it also. If you do not go through with the suit, you may have to pay a penalty. If you do not pay, your surety will have to pay for you.

WITNESSES

See "A Word About Hearsay," page 10, for very important information on the use of witnesses.

You may want to call witnesses at the hearing. If someone saw you make the agreement with the defendant or knows the facts of the case because they saw them happen, their testimony may help your case. If you are very sure that your witness will show up, you may only have to tell them the date of the hearing. If you are not sure they will show up or if you don't want the hearing to go on unless the witness is there to testify, you may want to have your witness "subpoenaed." A subpoena is a court order telling the person to come to court on a certain day and testify. A subpoenaed witness who does not come to the hearing can be punished by the court. Sometimes a witness may have to be subpoenaed in order to be excused from work.

You can get witness subpoenas from the court clerk. The court clerk should help you fill out the form. There is a fee for the subpoena, and it must be paid before the subpoena is issued. You may be able to avoid paying this fee by signing the pauper's oath. The subpoena will be delivered to the witness by an officer of the court.

BEFORE THE HEARING

Once the warrant is completed and you have made arrangements for the fees, the warrant will be served on the defendant by a deputy of the court with a date for the court hearing already set. The court may not notify you of the court date. You should call the court clerk and find out the date. Sometimes hearings are postponed, so you should be wise to call the court clerk the day before the trial is set to be sure the date of your hearing has not been changed.

Get everything ready before you go to your hearing. Gather all the papers supporting your side of the case. Decide who you want to call as a witness and what you will ask them. Remember if you don't understand what you want to say, neither will the judge.

If for some reason you change your mind about bringing the suit you can dismiss it (end it) without hurting your chances to bring it up again later. You will need to ask for a "voluntary nonsuit."

You can only do this twice, however, and certain time limits apply. After that, the court will decide you have lost the case, and you cannot bring suit on that case again.

THE HEARING

There will probably be many other cases scheduled on the same day as your hearing. Wait until you hear your case called by the judge or the court clerk. You will present your side of the case first. Once your case has been called, explain to the judge the papers showing your right to ownership or money. Be polite, but speak up. You have a right to speak for yourself in the court. Present your case and answer the

The defendant may or may not show up. If the defendant does show up, the defendant has a chance to explain his or her side of the case. If the defendant does not show up, you will still have to present your side of the case. The judge will make a decision after hearing all the testimony. Sometimes, he or she will "take the case under advisement." This means they will think about it awhile, or research some law. If you win, the judge will either say you can have your property back or will give you a judgment for a certain amount.

If the judge says you can get your property back, the defendant may agree to let you pick it up. If the defendant does not agree to let you have the property, the defendant has 10 days to appeal. If the defendant does not appeal within 10 days, you can go back to the court clerk and get an order issued by the court, so that a sheriff's deputy will assist you in getting your property.

APPEALS

If you lose the case, but want to go further on your claim, you have an automatic right to appeal. You must file an appeal within 10 days from the time the court gives its decision.

If you appeal, the case will be heard over again, usually in the Circuit Court. That court will hold a new hearing and treat the case as if your first trial did not happen.

To appeal to Circuit Court, you probably need a lawyer. You will have to pay new filing fees and arrange for witnesses again. A case in the Circuit Court is more complicated and more expensive than a case in General Sessions Court.

COLLECTING A JUDGMENT

If you win the lawsuit but the defendant no longer has the property, the court may award you a money judgment equal to the value of the property plus any court costs you have paid. Or you may have a judgment that says the defendant owes you money, **You** will have to try and collect the money from the defendant. The court is not a collection agency; it will not get the money for you.

However, you can fill out papers at the court clerk's office which will help you collect on the judgment. If you know where the defendant works, you may try to garnish his or her wages. Or you may be able to have some of the defendant's property seized and sold at auction held by the deputy of the court. The money from the sale would then be paid to you to satisfy the judgment. The court clerk can explain these procedures to you.

WHAT TO DO IF YOU ARE SUED

Most of the advice in this booklet is good for people who are being sued as well as people who want to get back property. If you are being sued, you should first decide whether you need a lawyer. Again, this depends on the kind of case, your ability to explain your case in court, and whether the other side has a lawyer. If you are sued, you should not ignore the warrant. You should be in court when you are supposed to, or call the clerk and say why you cannot be there. You should be able to get the trial date changed for a good reason. At the trial, you should bring your witnesses, be prepared to show the judge all of the papers you have about the case, and be prepared to explain exactly what happened. If you do not show up, the judge may rule against you even though you have a good defense.

PAMPHLETS

HOW TO PREVENT GARNISHMENT

tells how to stop or prevent garnishment, where and how to request an installment order and how much of your wages, according to the law, are subject to garnishment.

HOW TO PROTECT YOUR BELONGINGS AFTER YOU HAVE BEEN SUED

explains how to claim up to \$4,000 in personal property which cannot be taken by your judgment-creditor and gives how, where, and when to file an itemized list in court and what property needs to be listed.

CHAPTER 13 BANKRUPTCY: QUESTION AND ANSWER

explains how a Chapter 13 Plan might help to keep property and still pay creditors.

CHAPTER 7 BANKRUPTCY: QUESTIONS AND ANSWERS

answers questions about Chapter 7 Bankruptcy, what it is, who should file, and when.

OTHER PAMPHLETS OR FACT SHEETS AVAILABLE ON SUCH SUBJECTS AS:

Your Rights and Duties as a Renter
Driver License Revocation

Please check with the Legal Services Office nearest you.
See the list on the back.