

NOTICE OF SMALL CLAIMS

Monroe County Circuit Court

301 North College Avenue

Bloomington, IN 47404

(812) 349-2600 (Clerk's Office)

Case No 53C _____

PLAINTIFF(S)

DEFENDANT(S)

(NAME, ADDRESS, PHONE, EMAIL)

(NAME, ADDRESS, PHONE, EMAIL)

STATEMENT OF CLAIM

Plaintiff is claiming \$ _____ + Attorney Fees (if applicable) of \$ _____ + Court Costs. Plaintiff alleges:

- Defendant(s) did not pay for services as agreed (please attach the contract for services).
- Defendant(s) did not perform services as agreed and I'm seeking a refund (please attach the contract for services).
- Defendant(s) owe money on an account (please attach the account documents).

Defendant(s) moved out of a rental unit and owes damages.

Other (please describe below).

Description:

Attorney Signature /s/ _____

Plaintiff Signature /s/ _____

Attorney Number _____

NOTICE OF INITIAL HEARING BY ZOOM

An Initial Hearing, to determine whether this claim is contested, will be heard on the _____ at _____

The Initial Hearing will be by Zoom, as per the attached Order. The Court finds that because multiple initial hearings are held each day, due to the transportation issues involved in both plaintiffs and defendants having to miss work for attendance at a short initial hearing, due to the presence of volunteer mediators, due to the availability of private break-out rooms on Zoom, and due to the technology available to the Monroe Circuit Court, that Zoom is appropriate for Initial Small Claims Hearings.

PLAINTIFF'S NOTICE OF REPRESENTATION

Plaintiff is a:

Natural Person. Plaintiff may appear personally or with an attorney.

Sole Proprietorship or Partnership

- Claim is less than \$6,000.00 (or any amount over \$6,000.00 is waived) and Plaintiff will be represented in Court by a full-time employee, owner, or attorney for the business. If an employee, Plaintiff must file a Full-Time Employee Designation in every case, see Indiana Small Claim Rule 8(C)(5).
- Claim greater than \$6,000.00 and Plaintiff will be represented in Court by the owner or attorney for the business.

Corporate Entity (e.g., Inc., LLC, LLP, Trust)

- Claim is less than \$6,000.00 (or any amount over \$6,000.00 is waived) and Plaintiff will be represented in Court by a full-time employee, owner, or attorney for the business. If an employee, Plaintiff must file a Full-Time Employee Designation in every case, see Indiana Small Claim Rule 8(C)(5).
- Claim greater than \$6,000.00 and Plaintiff will be represented in Court by the attorney for the business.

GUARANTEED FUNDS ONLY

NO PERSONAL CHECKS WILL BE ACCEPTED

Date

Clerk, Monroe Circuit Court

INSTRUCTIONS TO PLAINTIFF

- **Small Claims Jurisdictional Limit.** Indiana limits Small Claims to cases where the amount sought is not more than \$10,000, cases of possession of a rental property where the amount of rent due at time of filing is \$10,000 or less, and/or cases with an emergency request for possession of a rental property. By filing in Small Claims, you waive anything over the limit.
 - **Unable to Appear.** If you are unable to appear, file a *Motion to Continue* and serve on all parties at least three days prior to the Initial Hearing. The Judge will consider your Motion and may move your hearing to another date.
 - **Failure to Appear.** If you do not appear at the Initial Hearing, the Court will Dismiss your case. See Indiana Small Claims Rule 10.
 - **No Exhibits or Witnesses.** You will not need exhibits or witnesses at the Initial Hearing.
 - **Appearance.** You may appear either yourself or by an attorney of your choosing, depending on whether the Plaintiff is a person or a business (See Indiana Small Claims Rule 8(C) and *Plaintiff's Notice of Representation*, above).
 - **Service.** You are responsible for providing a copy of (serving) this *Notice of Claim* to the Defendant and that the person serving the Defendant files a *Return of Service* with the Court to show service of process. See Indiana Small Claims Rule 3.
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INSTRUCTIONS TO BOTH PARTIES

- **Change of Judge.** If you wish to file for a change of judge, you must file that request within ten (10) days of service upon the Defendant.
 - **Indiana Small Claims Rules.** The *Indiana Small Claims Rules* are available online at <https://www.in.gov/judiciary/files/small-claims-manual.pdf>. The *Indiana Small Claims Manual* is available in Office of the Clerk, Room 201 of the Justice Building at 301 N. College Ave, Bloomington, IN 47404.
 - **Monroe County Small Claims Rules.** Monroe County's local rules are available online at www.co.monroe.in.us.
 - **Contested Hearing.** If this matter cannot be resolved at the Initial Hearing, the Court will schedule an In Person Contested Bench Trial where the Court has more time to hear this case and the parties may bring in their exhibits and witnesses.
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INSTRUCTIONS TO DEFENDANT

- **Unable to Appear.** If you are unable to appear, file a *Motion to Continue* and serve on all parties at least three days prior to the Initial Hearing. The Judge will consider your Motion and may move your hearing to another date.
- **Failure to Appear.** If you fail to appear at the Initial Hearing, the Plaintiff may win the case by Default. Whether you believe this claim to be true or untrue, you should appear in Court to protect your interests both in the amount owing and in whether you have the ability to make payments.
- **Uncontested Claims.** If you do not wish to dispute the claim, you may still wish to come to court to establish how the judgment shall be paid.
- **No Exhibits or Witnesses.** You will not need exhibits or witnesses at the Initial Hearing.
- **Appearance.** You may appear either yourself or by an attorney of your choosing (If the Defendant is a business or other entity, see Indiana Small Claims Rule 8(C) and *Plaintiff's Notice of Representation*, above).
- **Counterclaim.** If you have a claim against the Plaintiff, which arises from the same circumstances as Plaintiff's claim against you, you should file your own *Notice of Claim* immediately. Failure to file your *Notice of Claim* and have it served upon Plaintiff at least seven (7) days prior to the Initial Hearing may result in you losing your counterclaim.
- **Right to a Jury.** You have the right to a jury trial and such right is waived unless you request a jury trial within ten (10) days after receipt of the notice of claim; that once a jury trial request has been granted, it may not be withdrawn without the consent of the other parties; and within ten (10) days after the jury trial request has been granted, the party requesting a jury trial shall pay the clerk the additional amount required by statute to transfer the claim to the plenary docket, otherwise, the party requesting a jury trial shall be deemed to have waived the request.

NOTICE OF EXEMPTION RIGHTS

If the Court determines that you owe a sum of money, the Court will enter a judgment against you. You may or may not be ordered to pay on that judgment depending on your income and its sources.

The Creditor can try to collect the judgment through voluntary payment (a payment plan), from your wages (garnishment), from your bank accounts (bank holds), and/or from some of your assets.

Some of your income and assets may be protected from collection by state or federal law. When property or income is so protected, we refer to it as "exempt." Some exemptions are automatically applied. For example, an Order to take your wages (garnishment) will include limitations required by state and federal laws. For all other exemptions, you should notify the Court in writing that you "claim" a specific exemption. Some of those exemptions are explained below.

It is the policy of the Monroe County Small Claims Courts to disapprove settlements which would result in the debtor losing exempt property or income.

Below is a list of frequently used exemptions:

A. **Weekly disposable earnings.** You cannot be forced to pay if your wages are too low, as defined in either of these two ways:

1. Thirty (30) times the federal minimum wage (Indiana law: $30 \times \$7.25 = \217.50) per week, or
2. One-fourth ($1/4$) of your disposable earnings, whichever is less. (*15 U.S.C. § 1673(a)*).

Example: Let's assume you earn \$300 per week and your disposable earnings are \$250 after all required deductions. Thirty (30) times the current federal hourly minimum wage (\$7.25) is \$217.50. This means that your wages can be garnished up to \$62.50 (25% of \$250) or \$32.50 (\$250 minus \$217.50) per week, whichever is less. As a result, your wages may only be garnished up to \$32.50 per week because you don't make enough money for creditors to be able to garnish 25% of your disposable earnings.

Note: A higher percentage of disposable income may be garnished when a judgment is for child support.

B. **Social Security benefits.** You cannot be forced to pay from Social Security Benefits. (*Social Security Pensions, Social Security Disability, SSI, etc.*) (*42 U.S.C. § 407*).

C. **Veterans' Administration benefits.** You cannot be forced to pay from Veteran's Administration Benefits (*38 U.S.C. § 5301*).

- D. **Homestead exemption up to \$15,000** (Ind. Code § 34-55-10-2(c)(1)). If you own a home jointly with a spouse, a creditor may not be able to force a sale if the debt is in only one spouse's name. (*Ind. Code § 34-55-10-2(c)(5) This may not be applicable for child or spousal support or maintenance*).
- E. **Tangible personal property up to \$8,000.** You cannot be forced to turn over personal property, such as a vehicle or furniture, unless the value is more than \$8,000. (*Ind. Code § 34-55-10-2(c)(2)*).
- F. **Intangible personal property up to \$300** (Ind. Code § 34-55-10-2(c)(3)).
- G. **Unemployment compensation.** You cannot be forced to pay from Unemployment (*Ind. Code § 22-4-33-3. May not be applicable for child or spousal support or maintenance*).
- H. **Workers' compensation** You cannot be forced to pay from Worker's Compensation (*Ind. Code § 22-3-2-17. May not be applicable for child support orders*).
- I. **Benefits for victims of crime.** You cannot be forced to pay from any money you receive due to being a victim of a crime (*Ind. Code § 5-2-6.1-38*).
- J. **Certain retirement benefits.** You cannot be forced to pay from some retirement benefits, but not all benefits are exempt (*5 U.S.C. § 8346, 29 U.S.C. § 1056(d)(1), Ind. Code §§ 36-8 et seq., 5-10.3-8-9, 34-55-10-2(c)(6), 5-10.4-5-14*).
- K. **Other.** Other exemptions under Indiana or federal law may apply to your income or property.

You may wish to seek legal advice from attorneys in your local area. Resources for finding legal help are available on-line at: <https://indianalegalhelp.org/>.

By signing this Notice of Exemptions form, I acknowledge that I was made aware of my exemption rights under state and federal law.

Date: _____ Signature of Judgment Debtor /s/ _____