

APPEARANCE BY A SELF-REPRESENTED LITIGANT IN A CIVIL CASE

STATE OF INDIANA
DELAWARE COUNTY

SS:

IN THE DELAWARE CIRCUIT
COURT NO. _____

CAUSE NO. 18C0_____

Plaintiff

v.

Defendant

1. My Name: _____

2. My Address: _____

3. My telephone number: _____

4. My fax number: _____

5. My e-mail address: _____

6. I will accept service from other parties by:

FAX at the above noted number: Yes _____ No _____

Email at the above noted address: Yes _____ No _____

7. This case involves child support issues: Yes _____ No _____

*(If yes, supply Social Security Numbers for all family members on a separately Attached document filed as confidential information on **light green paper**. Use Form TCM-TR3.1-5.)*

8. There are related cases: Yes _____ No _____
(If yes, list in the space following #8.)

9. You MUST serve this Form and any other pleadings or documents you are filing or will file in this case on all other attorneys (or the other parties, if they are not represented by an attorney.) This form has been served on all other parties and Certificate of Service is attached:

Yes _____ No _____

Your Signature

Your Printed Name

CERTIFICATE OF SERVICE

I certify that on the _____ day of _____, 20____, I served copy of the foregoing Appearance on _____ [here insert Name of Person Served] at the following address: _____, by the following method of service: _____ [please specify as U.S. Mail, personal service, fax, email, etc.]

Your Signature

IN THE DELAWARE CIRCUIT COURT NO. ____ SMALL CLAIMS DIVISION
DELAWARE COUNTY JUSTICE CENTER
3100 S. TILLOTSON AVE., MUNCIE, IN 47302

CAUSE NO. 18C0____ - _____

NOTICE OF CLAIM

Plaintiff(s)

Address

City/State/Zip

Telephone No. & email
AGAINST

Defendant #1

Address

City/State/Zip

Telephone No.

Defendant #2

Address

City/State/Zip

Telephone No.

YOU ARE NOTIFIED THAT THE PLAINTIFF(S) HAS FILED A SMALL CLAIMS LAWSUIT AGAINST YOU IN THE AMOUNT OF \$ _____, TOGETHER WITH COURT COSTS IN THE AMOUNT OF \$ _____. A BRIEF STATEMENT OF THE PLAINTIFF'S CLAIM FOLLOWS:

Signature: _____ Printed Name _____

YOU ARE ADVISED THAT THE ABOVE CLAIM IS SCHEDULED FOR INITIAL TRIAL ON THE ____ DAY OF _____, 201__ AT _____ .M. IN THE DELAWARE CIRCUIT COURT NO. ____ AT THE ABOVE-LISTED ADDRESS. (See Additional Information Regarding the Initial Trial on the Reverse Side of this Form)**

Dated: _____ Clerk: _____

THE FOLLOWING MANNER OF SERVICE IS HEREBY DESIGNATED:

As to Defendant #1:	As to Defendant #2	Additional Defendants:
Certified mail: _____	Certified mail: _____	Certified mail: _____
Personal service: _____	Personal service: _____	Personal mail: _____

IT IS IMPORTANT THAT YOU READ THE REVERSE SIDE OF THIS FORM
PRIOR TO RESPONDING TO THIS CLAIM

IMPORTANT INFORMATION ABOUT THIS CLAIM

1. EFFECTIVE JULY 1, 2021, THE MAXIMUM AMOUNT THAT CAN BE CLAIMED UNDER A SMALL CLAIMS LAWSUIT IS \$10,000.00. IF THE DEFENDANT WISHES TO FILE A COUNTERCLAIM WHICH ARISES OUT OF THE SAME TRANSACTION AS THIS CLAIM, THIS MUST BE FILED WITH THE CLERK OF THE COURT 10 DAYS PRIOR TO THE INITIAL TRIAL DATE. IF A COUNTERCLAIM IS FILED, THE INITIAL DATE WILL BE VACATED AND A BENCH TRIAL WILL BE SET.

2. THE PARTIES MAY APPEAR EITHER IN PERSON OR BY AN ATTORNEY. IT IS NOT MANDATORY THAT EITHER PARTY BE REPRESENTED BY AN ATTORNEY EXCEPT CORPORATIONS IN CERTAIN CASES. EFFECTIVE JANUARY 1, 2022, CORPORATIONS MUST APPEAR BY COUNSEL, OR IN UNASSIGNED CLAIMS NOT EXCEEDING SIX THOUSAND DOLLARS (\$6,000.00), BY FULL TIME EMPLOYEE OF THE CORPORATION DESIGNATED BY THE BOARD OF DIRECTORS. BEFORE A DESIGNATED EMPLOYEE IS ALLOWED TO APPEAR, THE CORPORATION MUST HAVE ON FILE WITH THE COURT A CERTIFICATE OF COMPLIANCE WITH PROVISIONS OF SMALL CLAIMS RULE 8 (C).

3. THE PURPOSE OF THE INITIAL TRIAL IS TO ALLOW YOU TO ADMIT OR DENY THE CLAIM OF PLAINTIFF. IF YOU DO NOT INTEND TO DISPUTE THE CLAIM, YOU MAY CHOOSE NOT TO APPEAR FOR THE INITIAL TRIAL; HOWEVER, FAILURE TO APPEAR WILL LIKELY RESULT IN JUDGMENT BEING ENTERED AGAINST YOU IN THE AMOUNT DEMANDED BY THE PLAINTIFF'S CLAIM. IN THE EVENT YOU DENY THIS CLAIM, YOU MAY REQUEST A BENCH TRIAL DATE BY TELEPHONE PRIOR TO THE INITIAL DATE BY CALLING THE COURT DIRECTLY. AT THE TIME OF BENCH TRIAL, YOU MUST BRING WITH YOU THE WITNESSES TESTIFYING ON YOUR BEHALF AS WELL AS ANY RELEVANT DOCUMENTS. CONTACT WITH THE COURT MAY BE MADE AS FOLLOWS: FROM 8:30 A.M. TO 12:00 PM AND 1:00 P.M. TO 4:00 P.M. CIRCUIT COURT NO. 4 - 765-747-7770, CIRCUIT COURT NO. 5 - 765-747-7772.

4. IF A SETTLEMENT OF THIS CLAIM IS MADE OUT OF COURT, THE PARTIES MUST SUBMIT AN AGREED JUDGMENT OR A MOTION TO DISMISS.

5. THE DEFENDANT MAY REQUEST A TRIAL BY JURY; HOWEVER, THE RIGHT TO A JURY TRIAL WILL BE WAIVED BY THE DEFENDANT UNLESS A JURY TRIAL IS REQUESTED WITHIN 10 DAYS AFTER RECEIPT OF THIS NOTICE OF CLAIM. DEFENDANTS WHO WANT TO HAVE A JURY TRIAL ARE ADVISED TO CONTACT AN ATTORNEY. (SEE INDIANA CODE 33-28-3-7(b))

6. INFORMATION CONCERNING SMALL CLAIMS PROCEDURES IS AVAILABLE THROUGH THE WEBSITE MAINTAINED BY THE DELAWARE COUNTY CLERK. THE WEBSITE ADDRESS IS: www.co.delaware.in.us/clerk. IN ADDITION TO THE WEBSITE, OUR COURT AND CLERK PERSONNEL WILL ANSWER PROCEDURAL QUESTIONS FOR YOU BY PHONE OR IN PERSON. PLEASE BE ADVISED THAT ONLY LICENSED ATTORNEYS MAY DISPENSE LEGAL ADVICE.

7. IF YOU HAVE APPEARED FOR A TRIAL AND NO ONE HAS CALLED YOUR NAME WITHIN ONE HOUR OF THE SCHEDULED TIME, CHECK WITH A DEPUTY CLERK AT THE FRONT WINDOW CONCERNING THE STATUS OF YOUR CASE. LEAVING THE PREMISES WITHOUT CHECKING WITH COURT PERSONNEL COULD RESULT IN DEFAULT.

RETURN OF SUMMONS BY SHERIFF:

AFFIDAVIT OF DEBT

Comes now affiant, and states:

I _____ am _____ Plaintiff
(Name of Affiant) OR
_____ a designated full-time employee of _____ (Plaintiff).
(Name of Plaintiff)

I am of adult age and am fully authorized by Plaintiff to make the following representations. I am familiar with the record keeping practices of Plaintiff. The following representations are true according to documents kept in the normal course of Plaintiff's business and/or my personal knowledge:

Plaintiff:

_____ is the original owner of this debt.

OR

_____ has obtained this debt from _____ and the original owner of this debt was _____.

_____, Defendant, has unpaid balance of \$ _____ on account _____.
(Name of Defendant) (last 4 digits of acct. number or id only)

That amount is due and owing to Plaintiff. This account was opened on _____. The last payment from Defendant was received on _____ in the amount of \$ _____.

The type of account is:

_____ Credit card account (i.e. Visa, MasterCard, Department Store, etc.)

List the name of the Company/Store issuing credit card: _____

_____ Account for utilities (i.e. telephone, electric, sewer, etc.)

_____ Medical bill account (i.e. doctor, dentist, hospital, etc.)

_____ Account for services (i.e. attorney fees, mechanic fees, etc.)

_____ Judgment issued by a court (a copy of the judgment is required to be attached)

_____ Other: (Please explain) _____

This account balance includes:

_____ Late fees in the amount of \$ _____ as of _____.
(Month, Day, Year)

_____ Other (Explain) _____

_____ Interest at a rate of _____ % beginning on _____.
(Month, Day, Year)

Plaintiff:

_____ is seeking attorney's fees and additional evidence will be presented to the court prior to entry of judgment on attorney's fees.

OR

_____ is not seeking attorney's fees.

Plaintiff believes that defendant is not a minor or an incompetent individual.

If the defendant is an individual, plaintiff states and declares that:

____ Defendant is not on active military service. Plaintiff's statement that Defendant is not on active military Service is based on the following facts:

_____.

OR

____ Plaintiff is unable to determine whether or not Defendant is not on active military service.

("Active military service" includes fulltime duty in the military-including National Guard and reserves-and, for members of the National Guard, service under a call to active service authorized by the President or the Secretary of Defense. For further information, see the definition of "military service" in the Servicemembers Civil Relief Act, as amended, 50 U.S.C.A. Appx. § 521.)

I swear or affirm under the penalties of perjury that the foregoing representations are true.

Dated: _____ Signature of Affiant: _____

RESOLUTION

(Name of Corporation)

WHEREAS, this corporation is duly organized and existing under the laws of the State of _____, and admitted to do business in Indiana, and

WHEREAS, the corporation anticipates or does have matters which are the subject of litigation in the Small Claims Division, Delaware County, City of Muncie, State of Indiana, and

WHEREAS, Indiana Trial Rule SC-8, permits this corporation to appear without legal counsel under certain conditions, it is therefore

RESOLVED BY THE BOARD OF DIRECTORS:

In any unassigned claim not exceeding Six Thousand Dollars (\$6,000.00) filed in the Small Claims Division of the County of Delaware, City of Muncie, State of Indiana, this corporation designates and authorizes _____, a full-time employee to appear on its behalf and it shall be bound by any and all agreements relating to the small claim proceeding entered into by said designated employee and shall be liable for any and all costs, including those assessed by reason of contempt, levied by a Court against said designated employee.

I hereby certify that the above Resolution was duly passed at a Board of Directors meeting of the above Corporation on the _____ day of _____.

SECRETARY OF CORPORATION

DATED: _____

(Signature)

(Printed Name)

**AFFIDAVIT OF CORPORATE EMPLOYEE
TO APPEAR IN COURT UNDER INDIANA TRIAL RULE SC-8**

The undersigned affirms under penalty and perjury that he/she has not been suspended or disbarred from the practice in law in the State of Indiana or any other jurisdiction and is a full-time employee of _____, a corporation for which he/she has been designated to appear in the Small Claims Division of the County of Delaware, City of Muncie, State of Indiana, in proceedings as set forth herein above.

DATED: _____

(Signature)

(Printed Name)

CERTIFICATE OF COMPLIANCE UNDER INDIANA TRIAL RULE SC-8

It is certified that the foregoing **RESOLUTION** and **AFFIDAVIT OF CORPORATE EMPLOYEE** have been received for filing with the Small Claims Division, County of Delaware, City of Muncie, State of Indiana, on behalf of the within-named corporation.

DATED: _____

CLERK, DELAWARE CIRCUIT COURT NO. _____

By: _____

Printed Name: _____

Corporations-Representation in Small Claims Court

As a general rule, a corporation must appear by counsel. Small Claims Rule 8 provides a limited exception for certain claims. A corporation, whether as a Plaintiff or a Defendant, may be represented by an employee who is not an attorney if the following conditions exist:

- 1) The Claim (for or against the corporation) is not more than the prescribed limit set by Small Claims Rule 8(c) (\$6,000.00); and
- 2) The claim is not an assignment (such as a claim that has been assigned to a collection agency); and
- 3) There is a corporate resolution and employee affidavit on file with the clerk authorizing a full-time employee to represent the corporation. (Most small claims courts provide forms for this purpose.)

Sole Proprietors and Partnerships (Unincorporated Businesses)

As a general rule, an unincorporated business must be represented by the owner of the business or an attorney. Small Claims Rule 8 provides a limited exception for certain claims. A business, operated as a sole proprietorship or partnership, may (whether as a Plaintiff or Defendant) be represented by an employee who is not an attorney if the following conditions exist:

- 1) The claim (for or against the business) is not more than the prescribed limit set by Small Claims Rule 8 (c) (\$6,000.00); and
- 2) The claim is not an assignment (such as a claim that has been assigned to a collection agency); and
- 3) The business has on file with the clerk an employee affidavit and certificate of compliance designating a full-time employee to represent the business. (The Small Claims Court may have forms available for this purpose.)

The following situations are **NOT** permissible:

- 1) If the claim involves a corporation and it is less than the prescribed limit, an employee NOT authorized by resolution attempts to represent the corporation.
- 2) If the claim involves a business operated as a sole proprietorship or partnership and it is less than the prescribed limit, an employee NOT authorized by the certificate of compliance attempts to represent the business entity.
- 3) If the claim involves a corporation and it is greater than the prescribed limit, a non-attorney attempts to represent the corporation.
- 4) If the claim involves a business operated as sole proprietorship or partnership and it is greater than the prescribed limit, an employee who is NOT an owner attempts to represent the business. (In such cases, the owner or an attorney must represent the business.)
- 5) A person with only a power of attorney to act on behalf of any individual, business, or corporation, attempts to represent the individual, business, or corporation in court.

NOTE: Assigned claims (collection agencies) must have an attorney regardless of the amount of the claim.

AFFIDAVIT

(Name of Business, Sole Proprietorship or Partnership)

THE above Business, Sole Proprietorship or Partnership, anticipates or does have matters which are the subject of litigation in the Small Claims Division, Delaware County, City of Muncie, State of Indiana, and

THE Indiana Trial Rule SC-8, permits this Business, Sole Proprietorship or Partnership to appear without legal counsel under certain conditions.

In any unassigned claim not exceeding Six Thousand Dollars (\$6,000.00) filed in the Small Claims Division of the County of Delaware, City of Muncie, State of Indiana, this Business, Sole Proprietorship or Partnership, I/We designate and authorize _____, a full-time employee to appear on its behalf and it shall be bound by any and all agreements relating to the small claim proceeding entered into by the designated employee and I/We shall be liable for any and all costs, including those assessed by reason of contempt, levied by a Court against the designated employee.

DATED: _____

OWNER(S) OF ABOVE BUSINESS, SOLE PROPRIETORSHIP OR PARTNERSHIP

Signature(s)

Printed Name(s)

**AFFIDAVIT OF BUSINESS, SOLE PROPRIETORSHIP OR PARTNERSHIP
EMPLOYEE TO APPEAR IN COURT UNDER INDIANA TRIAL RULE SC-8**

The undersigned affirms under penalty and perjury that he/she has not been suspended or disbarred from the practice in law in the State of Indiana or any other jurisdiction and is a full-time employee of _____, a Business, Sole Proprietorship or Partnership for which he/she has been designated to appear in the Small Claims Division of the County of Delaware, City of Muncie, State of Indiana, in proceedings as set forth herein above.

DATED: _____

(Signature)

(Printed Name)

CERTIFICATE OF COMPLIANCE UNDER INDIANA TRIAL RULE SC-8

It is certified that the foregoing **AFFIDAVIT** and **AFFIDAVIT OF FULL TIME EMPLOYEE** have been received for filing with the Small Claims Division, County of Delaware, City of Muncie, State of Indiana, on behalf of the within-named business.

DATED: _____

CLERK, DELAWARE CIRCUIT COURT NO. _____

By: _____

Printed Name: _____

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