

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

SMALL CLAIMS COMPLAINT

Delaware County Small Claims Division

Delaware County Circuit Court No. _____ Case Number: 18C0 _____

Plaintiff requests service by: Sheriff of _____ County

Certified Mail

Clerks telephone number 765-747-7857

Plaintiff	Defendant 1
Plaintiff 2	Address
Address	Address
Address	City
City	State Zip
State Zip	Telephone
Telephone	Email
Email	

If Plaintiff is represented by an attorney:

Attorney	Defendant 2
Attorney number	Address
Address	Address
Address	City
City	State Zip
State Zip	Telephone
Telephone	Email
Email	

The Plaintiff(s) ask(s) the court to enter a judgment against the Defendant(s) for \$ _____ plus court costs and to issue an order for eviction because Defendant rented the property located at:

_____ (if there is a written rental agreement/lease it is attached) and
rent is past due in the amount of \$ _____; and or
the rental agreement/lease was violated as follows

Date: _____
_____ Plaintiff or Plaintiff's attorney signature

CLERK'S NOTICE OF CLAIM FOR POSSESSION, RENT DUE AND DAMAGES

You (the defendant) have been sued by the Plaintiff. You must go to a court hearing on the following day(s) and time(s):

1. You must appear for an immediate possession (eviction) hearing on:
Date: _____ Time: _____
Location: 3100 S. Tillotson Ave., Muncie, IN 47302
2. A trial on damages and money owed may be scheduled following the immediate possession (eviction) hearing.

You have a right to a jury trial. To demand a jury trial, a person must file a written request to the court within ten (10) days of receiving this notice. If the request for a jury trial is granted, you must pay the fee within ten (10) days. If you do not make a request or do not pay the fee on time, you no longer have a right to a jury trial. If the court grants a jury trial, it cannot be withdrawn unless the other party agrees.

Clerk

IMPORTANT INFORMATION ABOUT THIS CLAIM

1. Delaware County/State of Indiana have free Landlord/Tenant Settlement Programs. Landlords and Tenants can request to use the settlement programs.
Delaware County's program - <https://delawarecourts.com/eviction-mediation/> ;
State's program - <https://www.in.gov/courts/selfservice/facilitate/> or contact the Court Administrator's Office at 765-747-7734 for more information regarding these programs.
If a settlement is made out of court, it should be in writing and signed by the Plaintiff and Defendant. The written settlement needs to be given to the court and it will have the same effect as a judgment given by the court.
2. Effective July 1, 2021, the maximum amount that can be claimed under a small claims lawsuit is Ten Thousand Dollars (\$10,000.00).
3. You can represent yourself in court, or you can have an attorney represent you.
4. 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. The corporate entity, sole proprietorship, partnership, LLC, or LLP must file a certificate of compliance and affidavit in each case as required by S.C. 8(C). The court may sanction a designated employee, or trustee, and the entity the employee or trustee represents for failure to comply with these rules or local rules of court. Sanctions may include assessment of costs or reasonable attorney's fees, the entry of a default judgment, the dismissal of a claim with or without prejudice, fines, and/or incarceration.
5. A small claims manual and court rules can be found at <https://delawarecourts.com/documents/>. The clerk/court personnel will answer procedural questions for you. Please be advised that only licensed attorneys can provide legal advice.
6. The purpose of the initial hearing is to allow the Defendant to admit or deny the claim. In the event the Defendant denies the claim, the Defendant may request a bench trial date by telephone prior to the initial hearing date by calling the court directly. Contact the court at the following numbers; Circuit 4 – 765-747-7770; Circuit 5 – 765-747-7772.
7. Bring all documents and witnesses that you want the court to see to the hearing with you.
8. If a settlement of this claim is made out of court, the parties must submit an agreed judgment or a motion to dismiss.
9. If the Defendant does not show up for a court date, a decision may be made against them (default judgment). If a Petitioner does not show up, the case may be dismissed. However, the Petitioner may be able to file it again.
10. Even if a Defendant agrees that what the Petitioner has said is true, a Defendant may still want to show up for hearing to help decide on how payment will be made.
11. If you cannot go to court on a hearing date you will need to ask the court for a new date by filing a Motion to Continue. You should file this *as soon as possible*. The court may or may not grant the motion.
12. If the Defendant has a claim against the Plaintiff, the Defendant may want to file a counterclaim. It has to be filed with the court early enough so that the Plaintiff receives it at least seven (7) days before the trial on damages and money owed.
13. If you appear for a hearing and your name has not been called within one (1) hour of the scheduled time, check with the Clerk's office concerning the status of your case. Leaving the premises without checking with court/clerk personnel could result in default.

RETURN OF SUMMONS BY SHERRIF AND/OR CERTIFIED MAIL:

STATE OF INDIANA)
)SS:
COUNTY OF DELAWARE)

THE DELAWARE CIRCUIT COURT NO. _____
CAUSE NO: _____

**AFFIDAVIT FOR IMMEDIATE
POSSESSION**

Plaintiff

VS

Defendant

Defendant

Comes now _____ and files with the Clerk of the Delaware Circuit Court # _____, this affidavit and swears that he/she is the sole owner of the property situated at _____, now occupied by the defendant, _____, who is wholly occupying said property without right after having received due notice to vacate said premises. That said premises has a reasonable rental value of \$ _____, per _____ and an estimated value of \$ _____, and that the defendant is delinquent in his/her rent in the amount of \$ _____, having wholly failed and refused to pay rent for the months or weeks of _____.

The undersigned swears that he/she is entitled to possession of the property herein above described and that the defendant has unlawfully retained possession thereof.

The undersigned swears that unless the defendant is restrained and unless the court holds an immediate hearing that the defendant will do irreparable damage to the property in the form of waste and that it is necessary that an immediate hearing be had in order to protect said premises from irreparable damage.

Date: _____

Plaintiff Signature

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: _____

STATE OF INDIANA)
) SS:
COUNTY OF DELAWARE)

IN THE DELAWARE CIRCUIT COURT
NO. _____

Cause No: _____

Plaintiff

VS

Defendant

Defendant

The Court having received and examined the evidence on plaintiff's affidavit for possession in the above captioned matter now directs the defendant, _____ to appear for the purpose of controverting plaintiff's affidavit or to otherwise show cause why he / she should not be taken from the property and plaintiff put in possession.

The Court now sets for the date, time, and place for the hearing as follows: _____ day of _____, 20____, Delaware County Justice Center, 3100 S. Tillotson Avenue, Muncie, Indiana. Time: _____ o'clock _____.M.

The Court hereby directs the defendant that he/she may file affidavits on his/her behalf with the Court: he/she may appear and present testimony on his/her behalf at the time of such hearing:

The defendant may file with the Court a written undertaking to stay the delivery of the property.

The Court hereby notifies defendant that if he/she fails to appear, the plaintiff may be granted a judgment of possession.

All of which is ordered this _____ day of _____, 20_____.

JUDGE, DELAWARE CIRCUIT COURT # _____

STATE OF INDIANA)
) SS:
COUNTY OF DELAWARE)

IN THE DELAWARE CIRCUIT COURT NO. _____

CASE NUMBER: _____

Plaintiff(s)

vs.

Defendant(s)

PROPERTY STATUS CERTIFICATION AFFIDAVIT

I _____ as the owner/property manager of the real estate commonly known as

(Address)

which is the subject matter of this case affirms the property is a:

Covered property

- a. I have reviewed the CARES Act on evictions for non-payment of rent from federally-subsidized housing and federally-backed mortgages.
- b. I am not filing this claim prior to the expiration of the 30-day notice sent to the tenant.
- c. I have received funds under the Act and sent a 30-day notice to vacate that is attached to this Notice of Claim for Possession of Real Estate.

OR

Non-covered property

- a. The property associated with Notice of Claim for Possession of Real Estate is a not a federally-subsidized apartment, and is not supported by HUD, USDA or the Treasury (Low Income Housing Tax Credit). Further, if the home is a single-family dwelling, I verify that the property is not backed by a federally financed mortgage through FHA, Fannie Mae, and Freddie Mac mortgage.

I affirm, under the penalties for perjury, that the foregoing representation is true to the best of my knowledge and belief.

Date

Landlord/Attorney for Landlord Signature

Certificate of Service

I hereby certify that a copy of this document was sent to the parties or their counsel by _____
(US Mail, E-Service, Sheriff, other manner allowed by IN Trial Rules).

Date

Landlord/Attorney for Landlord Signature

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: _____

Corporations-Representation in Small Claims Court

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