LAURA E. ROTH
CLERK OF THE CIRCUIT COURT

INFORMATION SHEET

JURISDICTION: The jurisdiction of the Small Claims Court is **$5,000.00**, exclusive of costs. If your claim is for more than this amount and you wish to bring suit in Small Claims Court, you should add the following statement to your claim**: (EXCEPT FOR COSTS, ALL SUMS DUE IN EXCESS OF $5000.00 ARE HEREBY WAIVED.)**

PREPARING CLAIM: In preparing your claim, be sure to state:

1. The full name of the person(s) involved;
   a. If you are suing an **INDIVIDUAL**, you need to obtain the proper name and address. If married, you must also obtain the proper name of the spouse if you feel that they are also responsible. First names must be used and any alias names, if known.

   b. If you are suing a **CORPORATION**, you also need to obtain the correct name and the state in which it is incorporated.

   You need to find out the name and address of an officer of the corporation. The president, vice president, etc. or in the absence of these, the name and address of any officer or business agent residing in the state, or if said corporation has none of the foregoing officers residing in this state, the name and address of the resident agent transacting business for the corporation in this state.

   c. If you are suing a **PARTNERSHIP**, you must know the name and address of all the partners.

NOTE: Many individuals, partnerships and corporations do business under a fictitious name such as:
a. John Jones d/b/a Book World.
b. John Jones, Bill Smith and Frank smith, a partnership, d/b/a Jones and Smith Plumbing.
c. ABC, Incorporated, a Florida Corporation, d/b/a Snack Shop.

FICTITIOUS NAME: You cannot sue a fictitious name because it is not an entity. You have the burden of investigating to determine if the fictitious name is owned by an individual, partnership or a corporation. In order to do this, you must check to see if the name is registered in Tallahassee.

If the name is not registered, you cannot sue the fictitious name, but you could sue the individual, partnership or corporation. It will be your duty to prove to the court that the person you are suing has not complied with the law requiring the registration of the name.

NOTE: Information regarding corporation, partnership, and fictitious names, and their status may be obtained by writing or calling the following office:

SECRETARY OF STATE - CORPORATION DIVISION
P.O. Box 6327 **Street Address: 409 East Gaines St.**
Tallahassee, FL. 32314
850-488-9000

Internet address: www.sunbiz.org

You may also attempt to secure information from the defendant's occupational license in the City or County where the principal place of business is located.

** Conversely, if **YOU ARE DOING BUSINESS UNDER A FICTITIOUS NAME,** you must **ALSO BE REGISTERED** before you can maintain a suit in any court in the state.

1. If the wife is a party also, use her name;
2. Avoid "Mr. and Mrs.";
3. What was done or not done that gives rise to the claim;
4. When it occurred (day, month and year);
5. Where it occurred (City, County and State);
6. How much money is due you;
7. If you are entitled to interest on money due you, you must state it separately showing the amount of interest due you to the date you filed the claim and also give the per diem interest rate.

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COPIES: If filing against two or more defendants, additional copies of the claim are required. Be sure to advise the clerk how many defendants you have when obtaining forms. If the clerk is required to make additional copies, a fee will be charged.

OTHER PAPERS: If your claim is founded on an instrument of writing such as a sales contract, returned check, promissory note, written warranty, lease, etc., it will be necessary for you to furnish one copy of such instrument for attachment as an exhibit to EACH CLAIM FORM to be filed. The Clerk will make copies of such items at .15 cents per copy when insufficient copies are not furnished.

PERSONAL SERVICE: The defendant should be personally served by the Sheriff, Process Server or Constable of the appropriate County. Check with the sheriff's department to make sure what county the address listed is in. The fee (check with Clerk) for serving each defendant, shall be paid in advance and in addition to the filing.

CERTIFIED MAIL: Service on the defendant(s) who are Florida residents may be perfected by certified mail RETURN RECEIPT SIGNED BY THE DEFENDANT or SOMEONE AUTHORIZED TO RECEIVE MAIL AT DEFENDANT'S RESIDENCE OR PRINCIPAL PLACE OF BUSINESS, however, this service is not very effective and may cause the plaintiff to pay an additional fee for the sheriff to serve. Check with the Clerk for the fee.

ADDRESS: The address of each defendant must be given in sufficient detail for delivery of the summons by mail or by personal service.

NOTE: It is the plaintiff's responsibility to check with the clerk of the court and or the sheriff's department to ascertain if service has been made on the defendant prior to the pretrial conference. If the defendant was not served, an alias summons with new address must be requested, in writing. A new pretrial conference will be scheduled. It is not necessary to appear at the original scheduled pretrial conference if the defendant was not served. The case will not be tried at the pretrial conference. Do not bring witnesses.

COSTS: Where costs are to be awarded, they are added by the court at the time the judgment is entered. **DO NOT INCLUDE SUCH COSTS IN THE AMOUNT STATED BY YOU AS THE AMOUNT BEING CLAIMED IN THE COMPLAINT**.

TRIAL: All cases that are set for trial will be a Non Jury Trial unless a written demand for Jury Trial is made by the plaintiff at the commencement of the action, or by any defendant within five days after service of the summons, or at the pretrial conference. If the demand is not make, the right to trial by jury is waived. Bring all witnesses, documents and any other evidence you plan to use to the trial. **Be ready and on time.**

AFTER FINAL JUDGMENT IS AWARDED

NOTE: THE CLERK'S OFFICE CANNOT COLLECT YOUR FINAL JUDGMENT OR GIVE LEGAL ADVICE, however, the following procedures may help you to collect.

*1. Obtain a **CERTIFIED COPY OF JUDGMENT** from the Clerk's office where your suit was filed.

*2. R**ECORD** the certified copy in the county where the defendant resides and any county where he may have real property.

3. After recording the judgment, it becomes a lien against any real property then owned or thereafter acquired by the defendant in his/her name. The lien is good for twenty years and must be recorded to be effective**. (SUBJECT TO RESTRICTIONS - SEE CHAPTER 55 FLORIDA STATUTES)** Currently, the Final Judgment must be re-recorded every ten (10) years.

4. If you can locate and describe any property owned by the defendant, real or personal, you can secure a **WRIT OF EXECUTION**, from the Clerk's office after the 10 day period has elapsed. However, prior to sending an **INSTRUCTION FOR LEVY** to the Sheriff's Department with Writ of Execution, the judgment lien must be recorded with the Department of State. For additional information, check with the clerk's office or contact the **Department of State at: Div. of Corp., Judgment Liens, P.O. Box 6250, Tallahassee, FL 32314 or 850-245-6039 or WWW.SUNBIZ.ORG**

There are other procedures available for obtaining information to help you in the collection of your judgment, however, the Clerk's office is unable to assist you any further. If you do not have an attorney, you may contact the **LAWYERS REFERRAL SERVICE** for assistance. Tel. No. 800-342-8011

* A fee is charged for issuing a certified copy of the final Judgment and recording it in the public records.

FOR YOUR INFORMATION

DELAND:
P.O. Box 6043
101 N. Alabama Ave.
DeLand, FL 32721-6043
(386) 736-5907

DAYTONA BEACH:
P.O.Box 2401
125 E. Orange Avenue
Daytona Beach, FL 32114
(386) 257-6081

NEW SMYRNA BEACH
124 N. Riverside Drive
New Smyrna Beach, FL 32168
(386) 423-3304