

# **SMALL CLAIMS EVICTION GUIDE FOR PRO SE LITIGANTS MIAMI SUPERIOR COURT II**

**EFFECTIVE JANUARY 1, 2023**

Small Claims Evictions are for landlord and tenant disputes where the rent due at the time of filing is Ten Thousand dollars (\$10,000.00) or less.

Small Claims Evictions are for Emergency possessory actions between a landlord and tenant under I.C. 32-31-6.

The Plaintiff must be the person or business to whom the money is owing. For example: an apartment building manager cannot sue a tenant because the manager is just an employee. It must be the landlord who brings the lawsuit.

# **Effective January 1, 2023 all Small Claims Eviction cases are filed in Miami Superior Court II and heard by The Honorable Jacob D. Winkler, Judge.**

New small claims eviction forms specific to Superior Court II must be used by all pro se litigants for new eviction filings.

Forms can be found on the Miami County Clerk's website at:

<https://www.miamicountyin.gov/447/Small-Claims-Information>

Forms can also be found on Miami Superior Court II's website at:

<https://www.miamicountyin.gov/224/Superior-Court-II> .

Please review What All Landlords and Tenants Should Know found on pages 32-42 in the Small Claims Manual for 2022 published by the Indiana Office of Court Services.

The manual can be found at: <https://www.in.gov/courts/files/small-claims-manual.pdf>

Eviction Initial Hearings will be held in Miami Superior Court II on **FRIDAYS as per the Court's schedule and heard at 10:00 A.M. or 10:30 A.M.**

Damages hearings will be held in Miami Superior Court II on **FRIDAYS as per the Court's schedule and heard at 11:00 A.M.**

## **MIAMI SUPERIOR COURT II SMALL CLAIMS EVICTION DIRECTIONS AND PRO SE PLAINTIFF'S RESPONSIBILITIES:**

1. **Superior Court II forms must be used by pro se litigants.** (Small Claims Eviction Notice of Claim, Motion to Continue, Motion to Dismiss and Proceedings Supplemental together with any corresponding Orders). Please do not use old Superior Court I forms as they will not be accepted by the Court and potentially cause a delay in the case as correct forms would need to be completed and submitted and the defendant(s) would have to be re-served the documents before an Initial Hearing could take place. Forms can be found on the Clerk's Website or the Miami Superior Court II Website.
2. In order to file a Small Claims Eviction case, the clerk must be provided with the correct name, address and telephone number of the Defendant(s). No general "All Occupants" may be used.
3. Upon filing of a Small Claims Eviction, an Initial Hearing court date will be assigned by the Clerk as per the Court's schedule and will be no less than twenty-eight (28) days from the filing of the case and as time allows on the Court's calendar.
4. Notice of the Small Claims Eviction must be served upon the named Defendant(s) at least ten (10) days before the initial hearing court date. If there is no service on the Defendant(s) within the ten (10) days, the Plaintiff may either dismiss the suit or request a continuance in writing prior to the court date in order to have more time to notify/serve the Defendant(s). The Plaintiff must then fill out an "Alias

Notice of Claim” for the eviction to serve the Defendant(s) and notify the Defendant(s) of the new court date. The Plaintiff may be required to obtain a more current address for the Defendant.

5. Continuances (postponements) will only be granted if good cause is shown. Except in unusual circumstances, no party shall be allowed more than one (1) continuance in any case and each continuance must be specifically approved by the judge. Notice of the continuance and the new date and time of the hearing will be provided to all parties at the address on file in the case by way of paper notice sent by 1<sup>st</sup> class mail or by e-notice (email if any of the parties have their email address on file) via the Court’s case management system.
6. The plaintiff in an eviction shall file a Motion to Dismiss the action if the case is resolved between the parties at any time before final adjudication of the action, unless the plaintiff is seeking damages, including the retention of the tenant’s security deposit.
7. If no action is taken by the plaintiff to further prosecute the case for a period of at least 180 days, the court will send written notice to the parties giving the parties the most recent action taken by the plaintiff in the case. The notice will direct the plaintiff to further prosecute the case or dismiss the case no later than ten (10) business days after the date of the notice. If the plaintiff fails to prosecute the action or dismiss the case, then the tenant in the eviction action may petition the court to dismiss the case or the court, on its own motion, may dismiss the case. If the court dismisses the case because of lack of prosecution, the court will issue its order of dismissal and an order banning the disclosure of the records in the eviction action (seal the eviction court record from the general public.) The court may also assess an administrative fee of Ten dollars (\$10.00), payable by the plaintiff for any order of dismissal entered by the court due to the plaintiff’s failure to prosecute or dismiss within 180 days without activity on the case.