

## IC 33-34-3

### Chapter 3. Jurisdiction, Rules, and Procedure

#### IC 33-34-3-1

##### Venue in township small claims court within county

Sec. 1. (a) Except for a claim between landlord and tenant, a case within the jurisdiction of a small claims court may be:

- (1) venued;
- (2) commenced; and
- (3) decided;

in any township small claims court within the county. However, upon a motion for change of venue filed by the defendant within ten (10) days of service of the summons, the township small claims court shall determine in accordance with subsection (b) whether required venue lies with the court or with another small claims court in the county in which the small claims court action was filed.

(b) The venue determination to be made under subsection (a) must be made in the following order:

- (1) In an action upon a debt or account, venue is in the township where any defendant has consented to venue in a writing signed by the defendant.
- (2) Venue is in the township where a transaction or occurrence giving rise to any part of the claim took place.
- (3) Venue is in the township (in a county of the small claims court) where the greater percentage of individual defendants included in the complaint resides, or, if there is not a greater percentage, the place where any individual named as a defendant:
  - (A) resides;
  - (B) owns real estate; or
  - (C) rents an apartment or real estate or where the principal office or place of business of any defendant is located.
- (4) Venue is in the township where the claim was filed if there is no other township in the county in which the small claims court sits in which required venue lies.

(c) Venue of any claim between landlord and tenant must be in the township where the real estate is located.

(d) If a written motion challenging venue is received by the small claims court, the court shall rule whether required venue lies in the township of filing.

*As added by P.L.98-2004, SEC.13.*

#### IC 33-34-3-2

##### Contract and tort jurisdiction

Sec. 2. The court has original and concurrent jurisdiction with the circuit and superior courts in all civil cases founded on contract or tort in which the debt or damage claimed does not exceed eight thousand dollars (\$8,000), not including interest or attorney's fees.

*As added by P.L.98-2004, SEC.13. Amended by P.L.170-2015, SEC.7.*

### **IC 33-34-3-3**

#### **Possessory actions**

Sec. 3. The court has original and concurrent jurisdiction with the circuit and superior courts in possessory actions between landlord and tenant in which the past due rent at the time of filing does not exceed eight thousand dollars (\$8,000). The court also has original and concurrent jurisdiction with the circuit and superior courts in actions for the possession of property where the value of the property sought to be recovered does not exceed eight thousand dollars (\$8,000). These jurisdictional limitations are not affected by interest and attorney's fees.

*As added by P.L.98-2004, SEC.13. Amended by P.L.170-2015, SEC.8.*

### **IC 33-34-3-4**

#### **Emergency possessory actions**

Sec. 4. The court has original and concurrent jurisdiction with the circuit and superior court in emergency possessory actions between a landlord and tenant under IC 32-31-6.

*As added by P.L.98-2004, SEC.13.*

### **IC 33-34-3-5**

#### **Jurisdiction denied**

Sec. 5. The small claims court has no jurisdiction:

- (1) in actions seeking injunctive relief or involving partition of real estate;
- (2) in actions to declare or enforce any lien except as provided in section 14 of this chapter;
- (3) in actions in which the appointment of a receiver is asked;
- or
- (4) in suits for dissolution or annulment of marriage.

*As added by P.L.98-2004, SEC.13.*

### **IC 33-34-3-6**

#### **Adoption of rules**

Sec. 6. (a) The judge of the circuit court, assisted by the judges of the small claims court, shall make and adopt uniform rules for conducting the business of the small claims court:

- (1) according to a simplified procedure; and
- (2) in the spirit of sections 7 and 9 of this chapter.

(b) The judge of the circuit court, assisted by the judges of the small claims court, shall make and adopt uniform rules for practice and procedure in the small claims courts.

*As added by P.L.98-2004, SEC.13. Amended by P.L.170-2015, SEC.9.*

### **IC 33-34-3-7**

#### **Rules of practice**

Sec. 7. A simplified procedure shall be established by rule to enable any person, including the state, to:

- (1) file the necessary papers; and
- (2) present the person's case in court;

either to seek or to defend against a small claim without consulting or being represented by an attorney.

*As added by P.L.98-2004, SEC.13.*

### **IC 33-34-3-8**

#### **Service of process**

Sec. 8. (a) Upon the filing of a complaint, service of original process shall be attempted by personal service of the summons and complaint on the defendant, which may include leaving a copy of the service at the last known place of residence of the party if the process server properly describes on the return the residence, noting any of its unique features, and mailing by first class a copy of the service without charge to the party at the same last known place of residence.

(b) If service cannot be made in this manner, service of process shall be made in an alternate manner as provided by the Indiana Rules of Civil Procedure.

(c) Subsequent service of process, other than that originally served upon filing of the complaint, may be made by registered or certified mail or another manner authorized by the Indiana Rules of Civil Procedure.

*As added by P.L.98-2004, SEC.13.*

### **IC 33-34-3-9**

#### **Trial**

Sec. 9. A trial:

- (1) must be informal, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law; and
- (2) may not be bound by the statutory provisions or rules of practice, procedure, pleadings, or evidence, except the provisions relating to privileged communications and offers of compromise.

*As added by P.L.98-2004, SEC.13.*

### **IC 33-34-3-10**

#### **No trial by jury**

Sec. 10. There may not be a trial by jury in the small claims court.

*As added by P.L.98-2004, SEC.13.*

### **IC 33-34-3-11**

#### **Waiver of trial by jury; transfer of claim**

Sec. 11. (a) A filing of a civil claim in the small claims court

constitutes a waiver of trial by jury by the plaintiff.

(b) A defendant in a small claims case waives the right to trial by jury unless the defendant requests a jury trial at least three (3) calendar days before the trial date that appears on the complaint. Upon the filing of a jury trial request, the small claims court shall transfer the claim to the superior court of the county. The defendant shall pay all costs necessary for filing the claim in the superior court as if the cause had been filed initially in that court.

(c) A notice of claim filed in the small claims court must include a statement that reflects the provisions of subsection (b).

*As added by P.L.98-2004, SEC.13.*

### **IC 33-34-3-12**

#### **Judicial notice**

Sec. 12. The small claims court shall take judicial notice of municipal, city, and town ordinances.

*As added by P.L.98-2004, SEC.13.*

### **IC 33-34-3-13**

#### **Satisfaction of judgment**

Sec. 13. (a) If the judgment or order is against the defendant, the defendant shall pay the judgment at any time and upon terms and conditions as the judge orders.

(b) If the judge orders that the judgment be paid in specified installments, the judge may stay the issuance of execution and other supplementary process during the period of compliance with the order.

(c) A stay ordered under subsection (b) may be modified or vacated by the court.

*As added by P.L.98-2004, SEC.13.*

### **IC 33-34-3-14**

#### **Judgments; lien on real estate**

Sec. 14. (a) All judgments rendered in civil actions may be recorded in the judgment docket book of the proper division of the small claims court.

(b) A judgment entered by a small claims court is a lien on real estate when entered in the circuit court judgment docket in the same manner as a judgment in a court of general jurisdiction becomes a lien on real estate under IC 34-55-9.

(c) The clerk of the small claims court shall keep a docket in which judgments shall be entered and properly indexed in the name of the judgment defendant as judgments of circuit courts are entered and indexed.

*As added by P.L.98-2004, SEC.13.*

### **IC 33-34-3-15**

#### **Appeals**

Sec. 15. (a) This section applies only to a judgment of the small claims court entered before July 1, 2018.

(b) All appeals from judgments of the small claims court shall be taken to the circuit court or superior court of the county and tried de novo.

(c) The rules of procedure for appeals must be in accordance with the rules established by the circuit court and superior court.

(d) The appellant shall pay all costs necessary for the filing of the case in the circuit court or superior court, as if the appeal were a case that had been filed initially in that court.

*As added by P.L.98-2004, SEC.13. Amended by P.L.201-2011, SEC.99; P.L.170-2015, SEC.10.*

### **IC 33-34-3-15.1**

#### **Appeals**

Sec. 15.1. (a) This section applies only to a judgment of the small claims court entered after June 30, 2018.

(b) All appeals from judgments of the small claims court shall be taken to the court of appeals in the same manner as a judgment from a circuit or superior court.

*As added by P.L.170-2015, SEC.11.*