

Law For Laypersons

Small Claims court, Part II

(Written by Charles C. Lewis, Assistant Professor of Law, Campbell College School of Law for the North Carolina Academy of Trial Lawyers and distributed as a public service)

The North Carolina General Assembly originally provided in G. S. No. 7A-210 that the amount in controversy in a small claim action could not exceed three hundred dollars. Subsequently, the amount in controversy was increased to a maximum of five hundred dollars and finally to the present maximum of eight hundred dollars. In addition, the object of the claim must be to recover no more than eight hundred dollars or to recover specific personal property worth no more than eight hundred dollars or to force a person to move out of or off of real property owned by the person making the claim. If the claim is made for something else or involves a greater amount of money, it will not be heard as a small claim before a magistrate but as an ordinary claim in the District Court or the Superior Court, depending on the amount in controversy and the particular remedy requested.

It is fine to know that there is a court specifically set up to consider just small claims as ordinary people have from time to time, but if a person is not a lawyer, what does he do to get such a claim going? After all, lawyers seem to use several pages of legal-size paper to state a claim, and everything looks so official when handled by a lawyer. Since non-lawyers should be able to make use of the small claims action without worrying whether they do everything just like a lawyer, the General Assembly has made the beginning of the suit fairly easy. G. S. No. 7A-216 states that the complaint should simply be put in writing and signed by the party making the complaint. It need not be in any particular form, but it should, of course, be plain enough so that a person of common understanding can read it and know exactly what is being said. Naturally, you would expect that the person against whom the complaint is being made should, in all fairness, be able to read the complaint and know exactly what the controversy is about.

Just to make sure that

everybody understood how simple the complaint could be, the General Assembly then set out in G. S. No. 7A-232 various forms which a person can follow in making out a complaint to be filed as a small claim action. For example, if you loaned someone eight hundred dollars, and he does not pay the money back, Form 7 in G. S. No. 7A-232 shows you exactly how your complaint should look. The form gives you an example of the caption to be used, tells you that you must state the residence of the parties, and provides a simple statement as an example to show how you state your claim for money loaned but not paid back. Other forms include those for a suit on a promissory note, a suit on an open account, a suit for goods sold and delivered, a suit for injury to personal property, and a suit to recover personal property.

If it should happen that your complaint is not written so that a person of common understanding can know what is meant, the District Court Judge, who will review the complaint, can order that it be done again to make it clearer. If you need extra time in which to make the complaint clearer, the judge may postpone the date of the trial until you have revised your complaint.

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Garden Clinic

N. C. State University Answers Timely Gardening Questions

Q. What advice can you give me on ripening green tomatoes remaining on the vine when the first frost arrives? (W. F., Pittsboro)

A. One suggestion is to cut the entire vine and hang it in a warm (60 to 70 degrees) shelter or basement. Another suggestion is to pick the tomatoes, wrap them in newspaper and store them at 50 to 60 degrees. If you have only a few tomatoes, you might place them on a shelf or window sill to ripen. You can extend the storage life of tomatoes by trying to save only those that are insect and disease free. (Larry Bass, extension horticulturist)

Q. I saw a recommendation which said apply 1,000 pounds of fertilizer per acre. How would a gardener translate this? (R. M., Greensboro)

A. 1,000 pounds per acre is the same as two and one-thirds pounds per 100 feet of row. (George Hughes, extension horticulturist)

Q. It has been at least five years since I added lime to my garden soil. How much lime do you think I should add this fall? (N. S., Timberlake)

A. None until you have had your soil tested. Garden soils that are in a high state of fertility do not require the addition of lime. But to make certain about your

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liming needs contact your county extension office for soil test boxes and information sheets. Soil testing is a free service of the N. C. Department of Agriculture. (Larry Bass, extension horticulturist)

Q. My fig bush has gotten so tall it is difficult to reach the figs. Can I cut back the canes without reducing the next crop of figs? If so, when is the best time to do so? (W. E., Kenansville)

A. Figs are produced on the current season's growth. However, you are likely to get about a 50 percent reduction in yield if you cut the entire bush back to the ground. One suggestion is to cut one large branch back to the soil line each year. New shoots will develop. Eventually, you will have only new growth while maintaining good yields. Of course, you can also "head back" each cane, and you should remove droopy canes. Prune in late winter, just before new growth starts. (Mel Kolbe, extension horticulturist)

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