

## Research Guide

### CIVIL LITIGATION

The procedures for filing a civil action in Florida courts are basically the same regardless of the *jurisdiction*. However, the rules of court are a little less formal and rigid in Small Claims Court.

Before filing a civil action the *value* of the suit should be determined. Once that has been established, which court the action is filed in (*Jurisdiction*) may be decided.

The *differences* in *jurisdiction* are outlined below -

#### A. SMALL CLAIMS COURT –

- The *jurisdiction* of the court in a *Small Claims* action goes up to \$5,000.00. Small claims court is usually used to collect small sums of money, to obtain the return of property valued less than \$5,000.00, or to enforce a contractual agreement where the value of the contract is less than \$5,000.00.
- VCLL has a self-help resource on litigating actions in Small Claims Court. The title is How to Win in Small Claims Court in Florida. This resource is written by an attorney and includes forms for the filing of most actions in Small Claims Court as well as some forms for proceedings after the case has been decided (*collecting a judgment, etc.*).

See the list of resources at the end of this topic.

#### B. COUNTY COURT –

- Patrons should be encouraged to consult with an attorney prior to proceeding with any civil action in either *county* or *circuit* court.
- The *jurisdiction* of the *County Court* goes from \$5,000.00 to \$15,000.00.
- The first step in any civil litigation will be to determine the parties - *Plaintiff/Petitioner & Respondent/Defendant*).
- Next, *jurisdiction* should be decided. Jurisdiction refers to the level of the appropriate Court.
- Once jurisdiction has been determined the next step will be to select the *venue* (in which county should the case be filed?). Venue refers to the geographic location of the appropriate Court.

- After that, *Service of Process* must be done – this means that a *Summons* and copy of the Pleading (*Complaint*) must be served on each Defendant.
- In County Court cases *Discovery* may some times be appropriate. For a discussion on the *Discovery* process please see the ‘Circuit Court’ section below.
- VCLL has several excellent print and electronic resources that explain the procedures for filing civil actions. Some of these also provide formats for the creation of forms.

See the list of resources at the end of this topic.

### C. CIRCUIT COURT -

- Patrons should be encouraged to consult with an attorney prior to proceeding with any civil action in either *county* or *circuit* court.
- The first step in any civil litigation will be to determine the parties - (*Plaintiff/Petitioner & Respondent/Defendant*).
- Next, *jurisdiction* should be decided. The *jurisdiction* of the Circuit Court is any action for \$15,000.00 *or more*. The procedures for this action are similar to a County Court action.
- Once *jurisdiction* has been determined the next step will be to *select the venue* (in which county or court circuit should the case be filed?).
- Next, *Service of Process* must be completed – this means that a *Summons* and copy of the Pleading (*Complaint*) must be served on each Defendant. The *Summons* must be issued by the Clerk of the Court or, in the alternative, an officer of the court (Attorney).
- The next consideration is whether to use *Discovery*. This is a process where information maybe gathered from other parties, or non-parties, to the action. There are several ways that a party to an action may ‘*discover*’ information (*Depositions, Interrogatories, Subpoenas, etc.*). See the resources listed below.
- Usually in large cases there are numerous other considerations or procedures such as case management and/or pretrial conferences, summary judgment motions, etc.
- VCLL has excellent resources in both print and electronic formats that will outline steps and in some instances give sample pleadings, but again, especially in cases of this nature (Circuit Court cases), law library patrons (Plaintiff or Defendant) should seriously consider seeking legal counsel.

## VCLL Resources:

These are just a few of the resources available; please feel free to browse the shelves or ask a Librarian for assistance

1. Causes of Action – Thomson West
2. Florida Causes of Action – James Publishing
3. Florida Civil Litigation Handbook – Lexis Publishing
4. Florida Civil Procedure Set (5 Volumes) – Lexis Publishing
5. Florida Civil Trial Practice before Trial – Lexis Publishing
6. Florida Civil Trial Practice – Lexis Publishing
7. How to Win in Small Claims Court – Sphinx Publishing

**NOTICE:** This research guide is based on information gathered from the resources cited above. For more information on this or other legal topics visit the nearest branch of the Volusia County Law Library.

**IF YOU ARE ACTING AS YOUR OWN ATTORNEY YOU ARE RESPONSIBLE FOR EVERYTHING THAT INVOLVES YOUR CASE. Remember:** Court and Clerk Filing & Service fees vary. Check with the Clerk of the Court for exact fees and court costs.