



# How Philadelphia Municipal Court's Civil Division Works

Small claims cases can have a big impact on city residents' lives



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# The Pew Charitable Trusts

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## About this report

This report was researched and written by senior associate Jennifer Clendening and senior manager Katie Martin of The Pew Charitable Trusts' Philadelphia research and policy initiative. It was edited by Larry Eichel, senior adviser with the initiative, along with Sophie Bryan, Seth Budick, Erika Compart, Bernard Ohanian, and Tricia Olszewski.

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This report does not necessarily reflect the views of these individuals or their institutions.

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*Editor's note: This report was updated on April 6, 2022, to clarify the headline on Table 3.*

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**The Pew Charitable Trusts** is driven by the power of knowledge to solve today's most challenging problems. Pew applies a rigorous, analytical approach to improve public policy, inform the public, and invigorate civic life.

## Overview

In Philadelphia, the Municipal Court is the lowest rung of the judicial system, with a civil division that heard roughly 91,000 cases in 2018, the latest year for which full data is available. These cases included landlord-tenant disputes, which typically involve eviction proceedings; code enforcement cases brought by the city; and small claims and debt collection cases of up to \$12,000, mostly individuals being sued by creditors or debt collectors. Although the dollar amounts tend to be relatively small, these cases can have a significant impact on the lives and long-term economic stability of the people involved.

Municipal Court often provides the only interaction that Philadelphians have with the judicial system. And it is meant to be a “people’s court”; attorneys are permitted, but the idea is that individuals should be able to navigate civil cases without them. In 2019, however, after research showed that a lack of legal representation put tenants at a disadvantage, City Council enacted an ordinance aimed at ensuring that income-eligible tenants have access to attorneys in eviction cases.<sup>1</sup> Less attention has been paid to other types of civil cases, such as small claims involving debt collection—a category that has been increasing in volume over the past several years.

Consequently, The Pew Charitable Trusts set out to understand and explain the workings of the court’s civil division, with an emphasis on debt collection cases. As part of this research, Pew analyzed available Municipal Court civil case data from 2013 to 2018, interviewed court leadership and attorneys who regularly represent plaintiffs and defendants, and conducted a May 2020 survey of defendants who had cases in small claims court in 2018. The Philadelphia Civil Legal Survey polled 308 defendants and had a margin of error of plus or minus 6 percentage points. This report discusses how the system works for litigants and the degree to which the court allows them to reach fair and appropriate results without representation.

Key findings from this research include:

- **In Philadelphia, small claims cases, which include debt collection disputes, have made up an increasing share of civil division cases in recent years, consistent with national trends.** Of the nearly 91,000 civil cases in 2018, 31% were small claims, up from 23% in 2016, when total filings were at their lowest level since 2008.
- **In small claims cases, the plaintiffs—often banks and credit card companies, health systems, collection companies, and other creditors—almost always received judgments in their favor.** Plaintiffs won 97.6% of all small claims cases from 2013 to 2018 that ended with judgments in favor of one party, defendants 2.4%. In almost half—a little less than 46%—of cases that ended in judgments, the defendants didn’t come to court, where they would have had the chance to dispute the validity of the claim, and the result was a default judgment against the defendant; more than 99% of default judgments went in the plaintiff’s favor.
- **Plaintiffs were significantly more likely to have legal representation than defendants were.** From 2013 to 2018, 91% of plaintiffs in small claims cases had lawyers, while only 12% of defendants did. Defendants did better when they had counsel, winning judgments in their favor about 10% of the time when they had representation and less than 1% of the time when they didn’t. In the Pew survey, 85% of defendants reported believing that one needs legal representation in order to be successful in court, and 55% said it was not easy to understand what happened in their cases.
- **Municipal Court’s system for service of process—the way a defendant is notified that a case has been filed against him or her—presents challenges for everyone involved, including the court, plaintiffs, and defendants.** Plaintiffs and court staffers say it can be difficult to contact defendants. And defendants have reported learning that a lawsuit had been filed against them only after a judgment was entered. From 2013

to 2018, some 32% of civil cases were dismissed because the process server reported being unable to reach the defendant, thereby forcing the plaintiff to file a new claim to pursue the case. In the defendant survey, 22% of respondents said they didn't attend their court hearings because they were unaware that a claim had been filed or that a hearing had been set.

In general, Municipal Court seems to work better for plaintiffs, which tend to be bigger businesses with legal representation, than for defendants, who often represent themselves and may have difficulty navigating an often complicated court process.

With small claims cases, including those involving debt collection, on the rise in Philadelphia and nationally, it remains to be seen how the economic shock associated with the COVID-19 pandemic will affect the volume of these cases and Municipal Court's ability to manage them. In a Pew Philadelphia Poll published in [October 2020](#), 32% of city residents indicated that they had fallen behind in credit card or other bills, with 28% reporting trouble paying for food in the prior five months. This suggests that more Philadelphians will be faced with litigation for debt claims in the coming years.

But one thing is certain: A clear understanding of how this system works for litigants, and where there may be opportunities to strengthen and simplify policies and practices, is essential to ensuring that all litigants have access to justice.

## **The Philadelphia Courts: First Judicial District**

Together with the Court of Common Pleas, Philadelphia Municipal Court forms the First Judicial District of Pennsylvania, which is under the direction and control of the Pennsylvania State Supreme Court and an administrative governing board.

Common Pleas Court is a general trial jurisdiction court with three divisions and more than 100 judges.<sup>2</sup> The trial division oversees most felony criminal cases and civil cases with claims that typically exceed \$12,000. Family Court covers topics such as delinquent acts by juveniles (offenses that would be considered crimes if committed by an adult), divorce, child abuse, and parental rights. Orphans Court handles questions involving powers of attorney, guardianship, and estates of the deceased. Additionally, Common Pleas Court hears appeals of cases originating in Municipal Court. Litigants can appeal the outcome to the Court of Common Pleas, where the case begins again as if it is a new filing, but very few do so.

Municipal Court has limited jurisdiction, hearing only select types of cases in three divisions: criminal, traffic, and civil. The criminal division handles bail hearings and misdemeanor cases with less than five years of potential incarceration, as well as criminal cases brought by individuals, as opposed to the District Attorney's Office. This division also oversees preliminary hearings for felony criminal cases that eventually make their way to Common Pleas Court.<sup>3</sup> The traffic division handles moving violations and parking disputes. The civil division oversees landlord-tenant disputes—usually eviction-related—without regard to dollar amount, small claims and debt collection cases under \$12,000, code enforcement cases brought by city government for issues such as housing code violations, and real estate or school tax cases under \$15,000.

## Glossary of Terms: Case Outcomes

The following terminology is used throughout this piece to represent case outcomes in Philadelphia Municipal Court’s civil division.

- **Judgment for defendant.** The case is argued before a judge, who rules in the defendant’s favor. No judgment is entered against the defendant, or the defendant filed and won a counterclaim against the plaintiff.
- **Judgment for plaintiff.** The case is argued before a judge, who rules in the plaintiff’s favor; a judgment is entered against the defendant.
- **Default judgment.** One party does not appear in court for the hearing, and the case is automatically won by the party who appears.
- **Judgment by agreement.** The two parties agree to terms to resolve the claims, and a legally binding judgment is entered in the court’s records documenting those terms. The parties can seek to enforce the terms of the agreement through the court—for example, should the defendant miss payments on an agreement resolving a debt collection case, the plaintiff may seek to garnish the defendant’s bank account.
- **Settled.** The two parties agree to terms and resolve the case without a judgment.
- **Dismissed for no service.** The process server tasked with notifying the defendant of the lawsuit and the hearing on it reports being unable to do so, and the case is dismissed. The plaintiff has the option to refile the case and try again to serve the defendant.
- **Withdrawn with prejudice.** The plaintiff does not move forward with the case and does not have the option to refile.
- **Withdrawn without prejudice.** The plaintiff does not move forward with the case and retains the ability to refile.

## Municipal Court’s civil division

### Structure and oversight

The civil division of Municipal Court is located on the sixth and 10th floors of an office building at 1339 Chestnut St. in Center City, rather than in a courthouse or government building. It is the focus of this report, particularly its work in small claims and debt collection.

The Municipal Court is run by a president judge, elected by fellow judges for a five-year term. The civil division is overseen by a supervising judge, who assists the president judge by managing the division’s administrative functions, also for a five-year term.<sup>4</sup> As of February 2021, the president judge was Patrick F. Dugan and the civil division’s supervising judge was Matthew S. Wolf; on Oct. 1, 2020, Wolf succeeded Bradley K. Moss, who had held the position since 2008. The court has 27 judges, elected by the voters for six-year terms, and approximately 150 other personnel, including civil trial commissioners, courtroom technicians, and other staff members.

Unlike judges, who make rulings on cases brought before them, trial commissioners preside over cases in which an agreement has been reached between the parties or claims are not contested. This can include default judgments, which are entered when one side does not appear in court; judgments by agreement, in which both sides agree to certain terms that are recorded in a judgment against the defendant; withdrawn cases; and continuance requests.

## **Small claims court litigants**

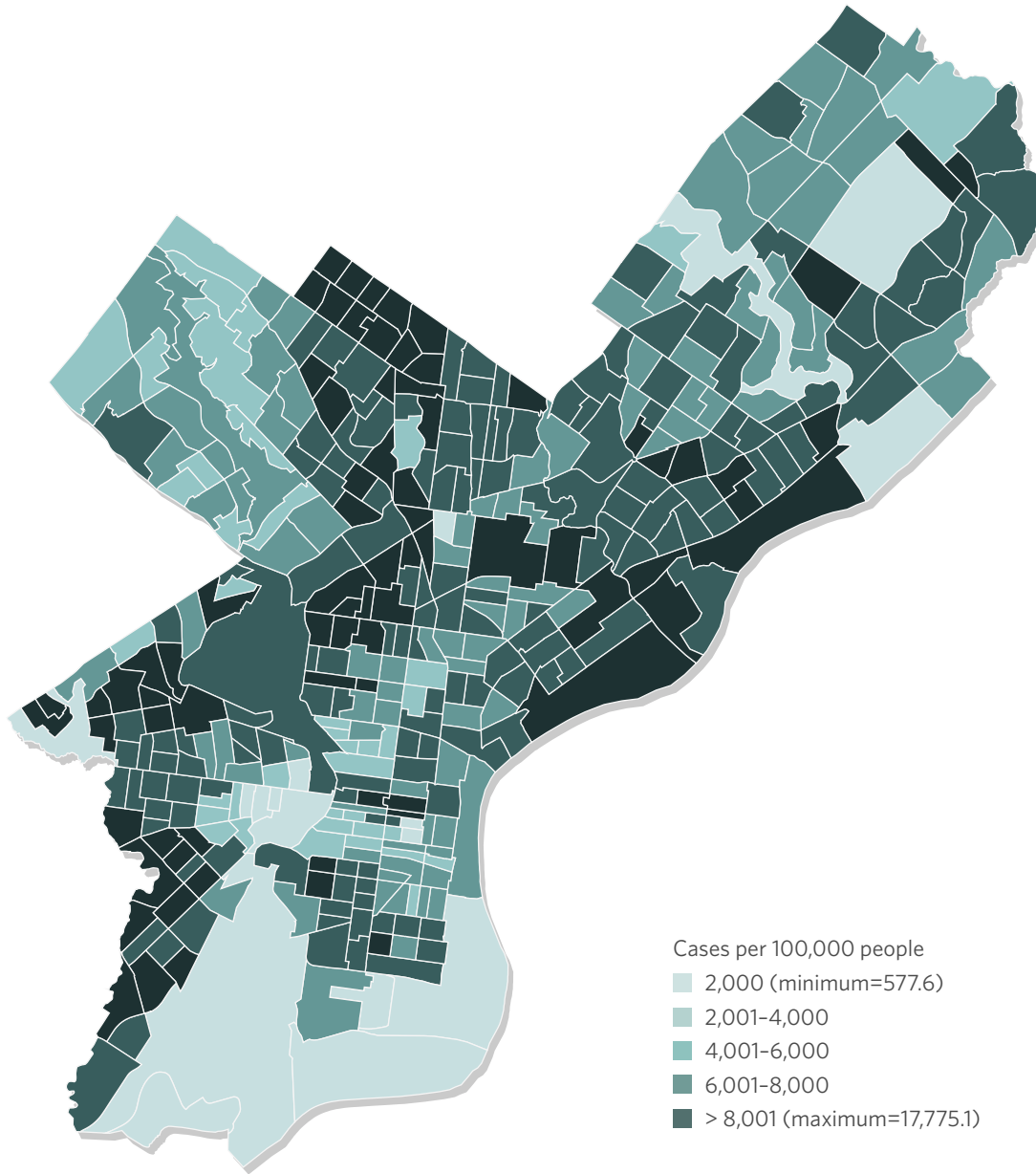
Small claims cases in Municipal Court involve individuals, businesses, and corporations that file or defend against legal complaints for amounts of \$12,000 or less. Defendants in these cases are most likely to be individuals who are sued by businesses and creditors over allegedly unpaid debts. According to Pew's review of defendants' addresses included in court data, more individuals are brought to court from parts of North and West Philadelphia than from other areas of the city. (See Figure 1.)



Figure 1

# Philadelphia Small Claims Cases by Census Tract, 2013-18

Per 100,000 residents



Sources: Philadelphia Municipal Court; U.S. Census Bureau

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## What brings small claims litigants to court

In the spring of 2020, Pew conducted a survey of defendants who were sued in Philadelphia Municipal Court in 2018 for collection of unpaid debts. Fifty-nine percent of the 308 respondents said their cases involved credit card debts; the rest concerned personal loans, contracts, medical bills, car loans, and rent, among other factors. (See Table 1.)

Table 1

### Survey Findings: Type of Debt in Municipal Court Small Claims Cases All survey respondents, 2018

Type of debt	Percentage of cases
Credit card, charge card, bank card	59%
Other	14%
I don't know	9%
Personal loan	7%
Agreement/contract	3%
Medical, dental, or hospital bill	3%
Car loan	3%
Rent	3%
Past-due taxes	2%
Student loan	2%
Phone, cable, internet bill	1%
Blank	1%
Utility bills	<1%

Note: Total adds up to more than 100% because some respondents cited more than one type of debt.

Source: Pew Philadelphia Civil Legal Survey, May 2020

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Asked how they incurred these debts, many respondents said they thought they were going to be able to pay them off but couldn't for unexpected reasons. Thirty percent said a major life event happened after they took on the debt, preventing them from paying it back. Twelve percent reported that they took on too many debts at once, and 11% went into debt to cover daily living expenses such as food, rent, or transportation. Another 5% said the debt was unplanned or needed to handle an emergency. (See Table 2.) This finding is consistent with Pew's national report on debt claims, which concluded: "Most household debt in collection stems from a financial shock, such as a job loss, illness, or divorce, and reflects the broader financial fragility of many American households."<sup>5</sup>

Table 2  
**Survey Findings: How the Debt Occurred**  
 All survey respondents, 2018

How the debt occurred	Percentage of cases
After I took on the debt, there was a major event that prevented me from paying it off.	30%
Other	20%
Does not apply	13%
I took on too many debts at one time.	12%
I went into debt for daily life expenses such as food, rent, or transportation.	11%
The debt was unplanned/emergency.	5%
I thought I would have the money to pay back later.	4%
Blank	2%
I took the debt on for someone else who I thought would pay it off.	1%

Note: Total does not add up to 100% due to rounding.

Source: Pew Philadelphia Civil Legal Survey, May 2020

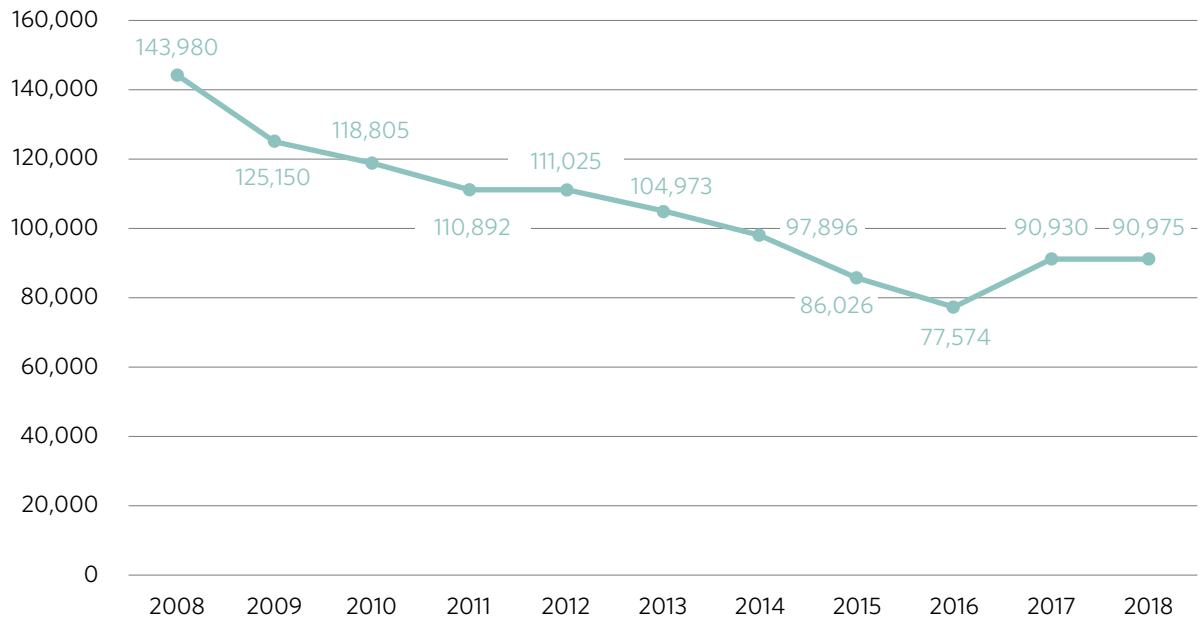
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## Case types and trends

In 2017 and 2018, approximately 91,000 cases per year were filed with Municipal Court’s civil division, which is about 37% fewer than in 2008. (See Figure 2.) There were reductions in all three categories of cases that the division handles.

Figure 2

### Philadelphia Municipal Court Civil Filings, 2008-18



Source: Philadelphia Municipal Court

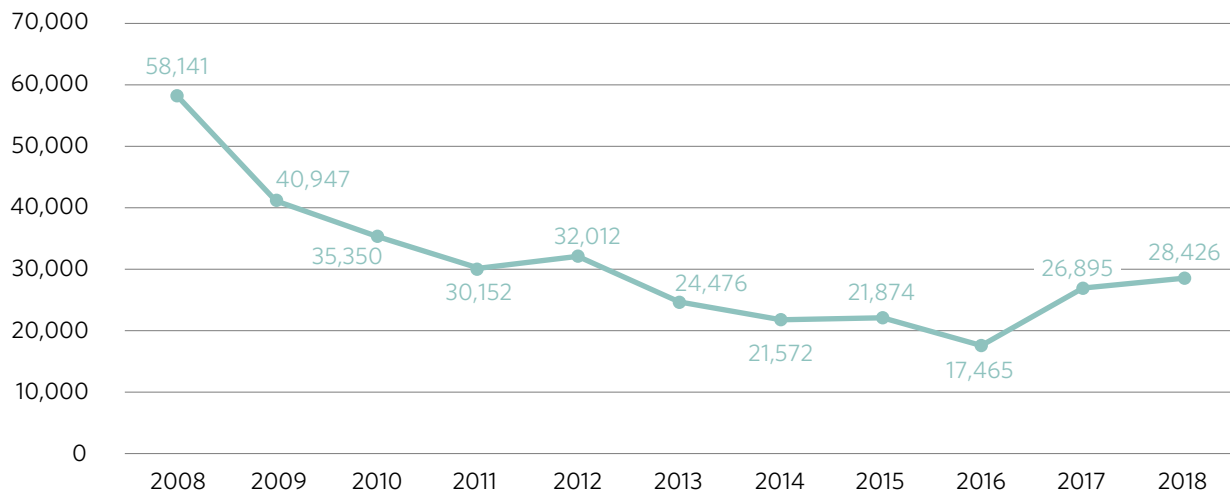
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Even so, there was a 17% increase in civil filings overall from 2016 to 2018. Small claims filings rose 63% during this time, a significantly greater increase than for other types of civil cases. (See Figure 3.) These filings included corporate entities bringing cases against individuals for unpaid consumer debts such as credit card bills, medical expenses, and auto loans, and individuals suing each other. Over the same two years, code enforcement cases increased by approximately 11%, while landlord-tenant cases declined slightly.

As noted in Pew’s report on debt collection in state court systems, debt collection lawsuits account for a greater percentage of the cases coming before the courts than in the past. From 1993 to 2013, the number of debt collection suits more than doubled nationwide, from less than 1.7 million to about 4 million, and consumed a growing share of civil dockets, rising from an estimated 1 in 9 civil cases to 1 in 4.<sup>6</sup>

Figure 3

## Total Small Claims Filings in Philadelphia Municipal Court, 2008-18



Source: Philadelphia Municipal Court

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The number of landlord-tenant cases declined 27% from 2012 through 2018, although it was relatively stable in the last few years for which numbers were available. Code enforcement cases rose in 2017 and 2018 after declining sharply from 2013 through 2016.

## Case outcomes

### Out-of-court resolutions

About 7% of civil cases filed in Municipal Court are settled before the court date, with the two parties reaching an agreement—either on their own or through court-supported mediation—outside of court. In 11.7% of cases, the plaintiff withdraws the claim, perhaps thinking there is insufficient evidence to win the case or that the costs of litigation outweigh the potential benefits.

The rest, however, result in a binding legal judgment, which can be accomplished in three ways.

### Judgment by agreement

The first is a so-called judgment by agreement between the two parties, which often occurs minutes before the case is heard. What distinguishes this from an out-of-court settlement is that the agreement is entered into the court record as a legal judgment against the defendant. Judgments by agreement cannot be appealed.

### Judgment in favor of one party

If the parties do not reach an agreement and both appear in court, the case goes before a judge, who enters a judgment and decides the amount, if any, to which the winning party is entitled. For plaintiffs, this can include the original loan amount, accrued interest, and court and attorney's fees. For defendants, this could be damages sought if they file a counterclaim. Additionally, the judge can order how to enforce this ruling—such as by garnishing or freezing bank accounts or placing a lien on property.

Of all small claims cases from 2013 to 2018 that ended with a judgment in favor of one party, plaintiffs won in 97.6% of them, defendants 2.4%. At least one of the defendants was a corporation, LLC, governmental entity, or business in 40% of cases in which the defendant won. The remaining cases in which the defendant won were against individuals. In Pew’s defendant survey, those who received legal help were more likely to report winning their cases than those who did not (41% vs. 13%, respectively).

## Default judgment

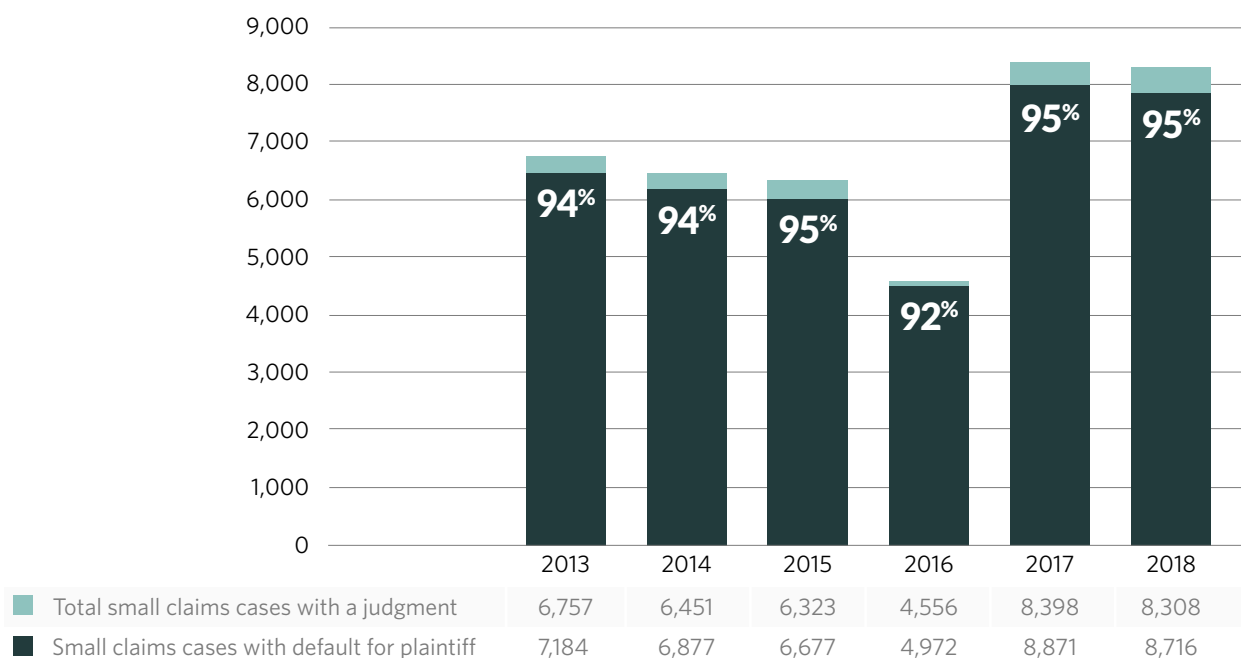
Finally, if there is documentation of successful service of process but one party does not appear for the hearing, the judge or trial commissioner can enter a default judgment in favor of the other party. The court is able to process its high volume of cases in part because many of them end this way, with one side, nearly always the defendant, not coming to court. Such cases can be resolved in a matter of minutes by the trial commissioner.

From 2013 to 2018, nearly 46% of all cases that ended in a judgment for one party or the other were default judgments, with more than 99% in favor of the plaintiff. This resulted in the awarding of all damages sought—even though the plaintiff never had to prove that the claim was legitimate and the defendant never had the chance to dispute it. When a default judgment is in favor of the defendant, the plaintiff’s claims are denied and the defendant wins.

Of cases during this period that resulted in any kind of judgment—excluding settlements, withdrawn cases, or cases without service—92% to 95% ended in defaults for the plaintiffs. (See Figure 4.)

Figure 4

### Total Small Claims Cases Resulting in Judgments and Proportion of Default Judgments for Plaintiffs in Philadelphia 2013-18



Source: Philadelphia Municipal Court

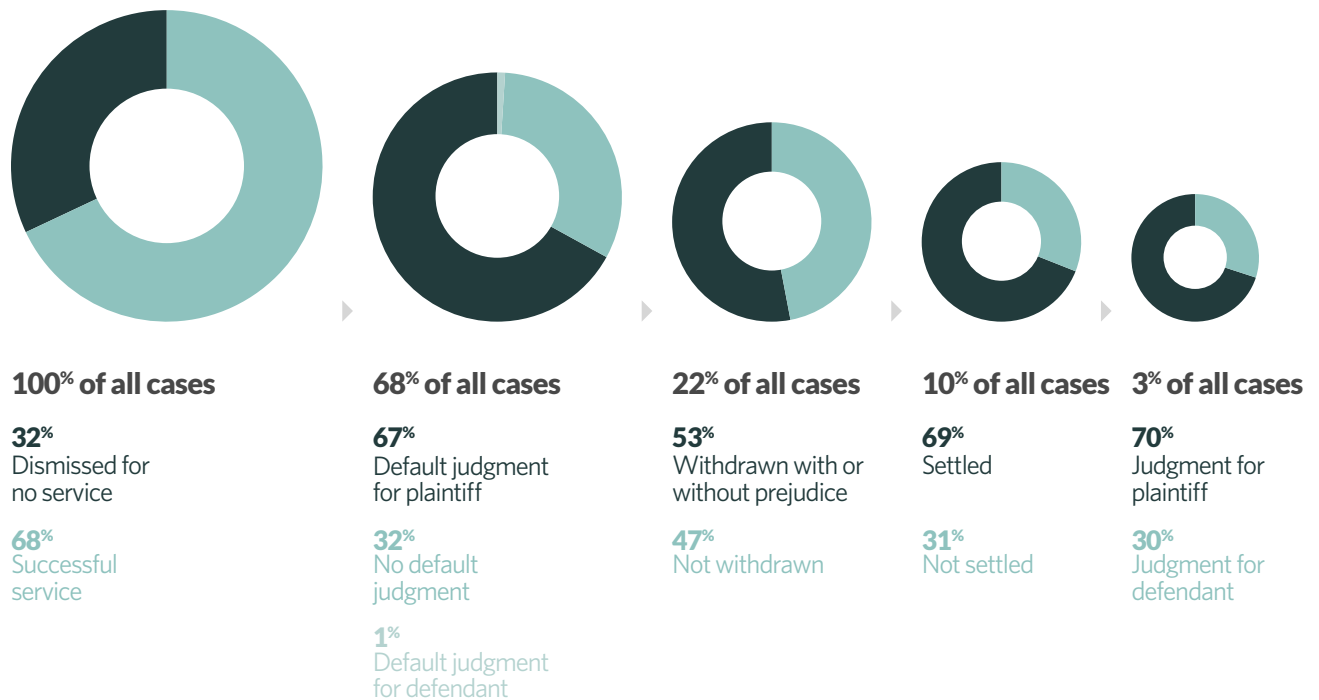
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## Sequence of case resolutions

Figure 5 depicts the various stages at which a case is resolved—and the share of cases that proceed from one step to the next. At the start, 32% of cases are dismissed due to lack of evidence of service, and the remaining 68% proceed to the next step. Many of those cases end in default judgments, generally for the plaintiff, but those that proceed can be withdrawn, settled, or have a judgment by agreement. Of the cases that end up with a trial before a judge, 70% result in judgments for the plaintiff. (See Figure 5.)

Figure 5

### Sequence of Small Claims Outcomes 2013-18



Source: Philadelphia Municipal Court

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## How civil court works

Individuals' experiences in Municipal Court often vary, depending on whether they are defendants or plaintiffs and whether they have legal representation.

### Representation in small claims court

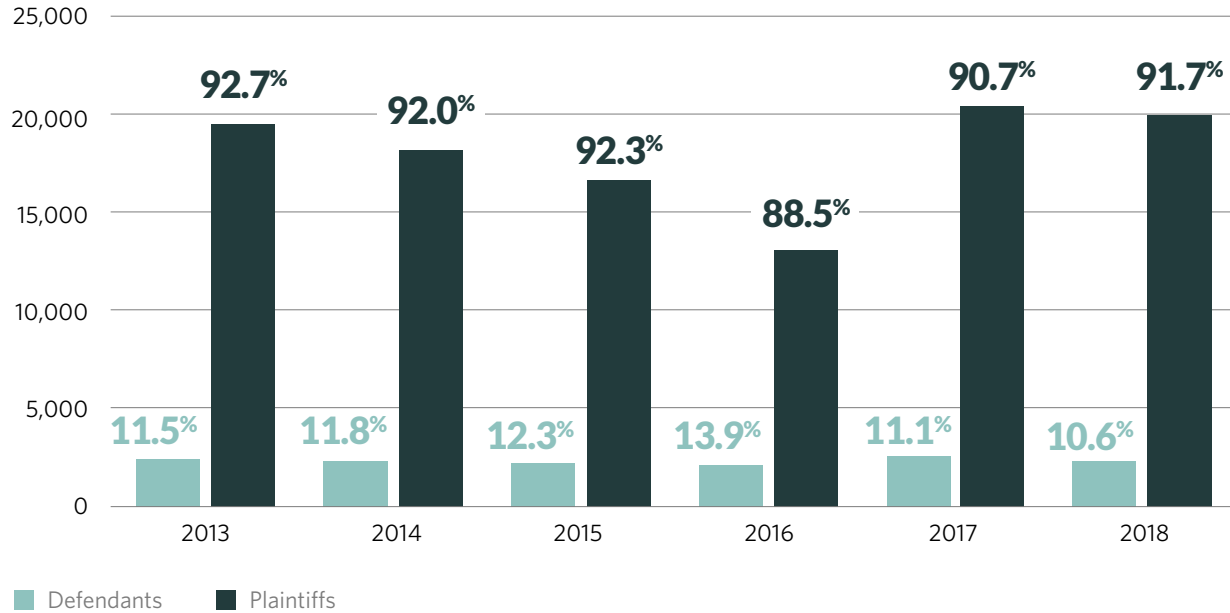
The court was created to be a place where litigants don't need attorneys. In general, defendants at any level of civil court in Pennsylvania are not guaranteed access to attorneys—a right that is afforded in most criminal matters.

In the civil division, most plaintiffs appear with legal representation, and most defendants do not. From 2013 to 2018, an average of 91% of plaintiffs with small claims cases were represented by attorneys, while less than 12% of defendants were. In 2018, for instance, 19,927 plaintiffs (91.7%) had counsel and only 2,312 defendants (10.6%) did. (See Figure 6.) This is consistent with national trends,<sup>7</sup> and it reflects the findings from Pew's litigant survey.

If litigants want legal assistance, they can retain private attorneys or, if financially eligible, request free legal help from one of Philadelphia's legal aid organizations. But demand for these services exceeds supply. For instance, in 2019, Philadelphia VIP—an organization that connects litigants with volunteer attorneys—reported that it was forced to turn away more than 4 in 10 eligible clients seeking legal help in civil cases.<sup>8</sup> The Philadelphia Bar Foundation estimates that only about 1 in 5 eligible individuals and families in the city receive legal assistance for serious matters affecting their lives.<sup>9</sup> This supply challenge is not unique to Philadelphia: A 2017 national report by Legal Services Corp. estimated that "86% of civil legal problems reported by low-income Americans in the past year received inadequate or no legal help."<sup>10</sup>



Figure 6  
**Small Claims Case Litigants Represented by Counsel in Philadelphia  
 2013-18**



Source: Philadelphia Municipal Court  
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For the most part, defendants fared better when they had lawyers, as shown by an analysis of small claims cases from 2013 to 2018 that were heard in court and were not dismissed, settled, or withdrawn:

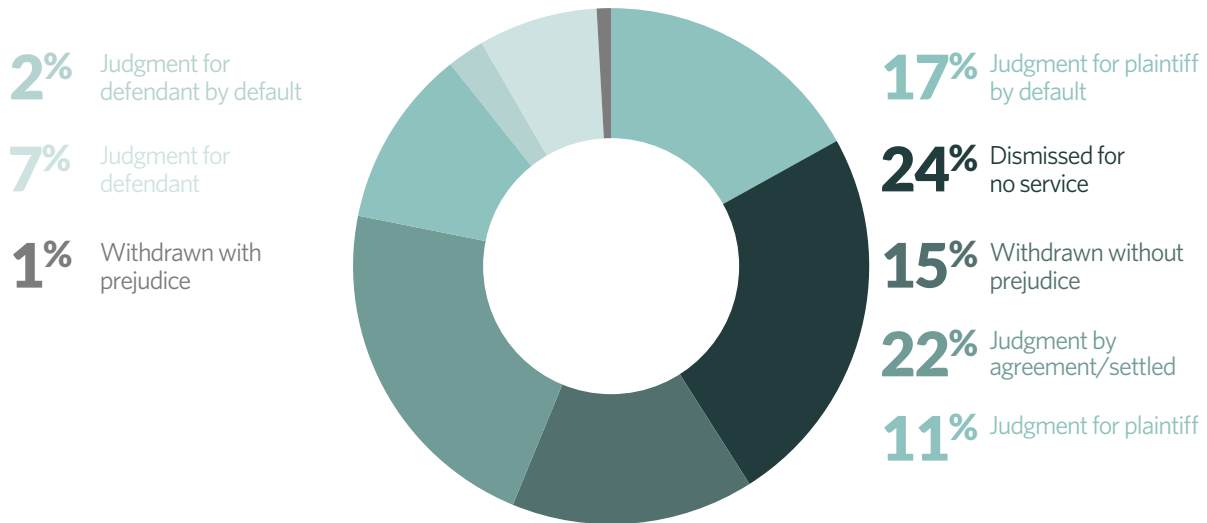
- Nearly 50% of all cases ended in default judgments in favor of the plaintiff when the defendant did not have counsel, as did 17% of cases in which the defendant had secured counsel. Because so few defendants had counsel, only 735 cases resulted in defaults against defendants who had representation, while more than 40,000 were entered against those who did not.
- Defendants with representation won judgments in contested cases 8% of the time and by default 2% of the time. They won in contested cases or by default 0.57% of the time when self-represented.
- Twenty-two percent of cases were settled or ended with a nonappealable judgment by agreement when defendants were represented, compared with 5% when they were without counsel. Although defaults obligate defendants to immediately pay the debt in full and enable the plaintiff to pursue collection, judgments by agreement may be more favorable outcomes for defendants. These judgments sometimes allow defendants to pay a lower amount than originally sought and to do so over a longer period of time.
- For represented defendants, 15% of cases were withdrawn without prejudice; for self-represented defendants, the figure was 11%. When a claim is withdrawn without prejudice, the plaintiff retains the right to refile. These withdrawn cases typically result from out-of-court settlements.

Figure 7 shows the outcomes of all small claims cases for defendants with and without attorneys.

Figure 7

## Outcomes for Defendants With Counsel in Small Claims Cases in Philadelphia, 2013-18

12% of all cases

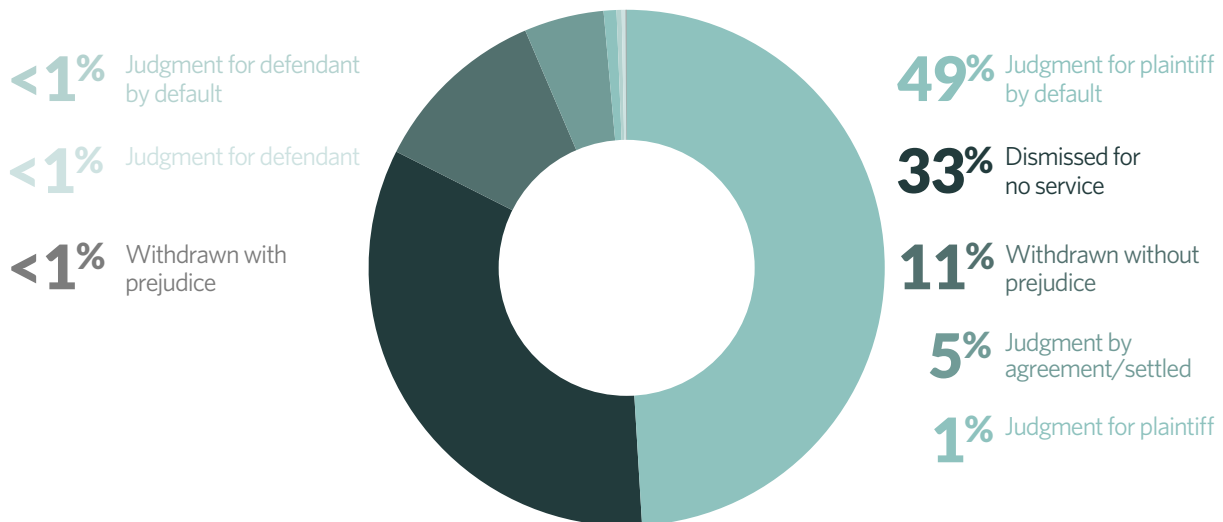


Source: Philadelphia Municipal Court

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## Outcomes for Defendants Without Counsel in Small Claims Cases in Philadelphia, 2013-18

88% of all cases



Notes: Only cases with outcomes included. Totals do not add up to 100% due to rounding.

Source: Philadelphia Municipal Court

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## Filing a case and using court resources

### For plaintiffs

All individuals bringing lawsuits—both pro se plaintiffs (those representing themselves) and those with legal counsel—must file their cases through the civil division’s First Filing Unit. Although attorneys generally file their claims online, pro se plaintiffs have been required to file their claims in person.<sup>11</sup> However, the court has developed free online classes to teach nonlawyers how to file their claims electronically—with completion of the class a prerequisite for doing so. In response to the COVID-19 pandemic, the court has pledged to make these classes more readily available.<sup>12</sup>

The First Filing Unit does not provide legal advice, but it helps plaintiffs complete the filing correctly.<sup>13</sup> As former Philadelphia Municipal Court Supervising Judge Moss explained: “Plaintiffs who arrive to file a claim and do not have all of the required paperwork usually don’t have to come back to restart the process from the beginning. Instead, the interviewers in the First Filing Unit will usually be able to help them complete and submit the claim with the material they brought with them, and the individual can submit the additional information needed before the hearing date.”<sup>14</sup>

Finally, although plaintiffs are generally responsible for any court filing fees, some may be able to file their cases at no cost if they meet certain income or public benefit eligibility requirements.

### For defendants

The resources available to defendants seeking help navigating the court process are more limited; and although some services are provided directly by the courts, many are the work of third-party organizations.

Municipal Court lists on its website the contact information for potential sources of legal advice and representation,<sup>15</sup> provided by the legal aid community to income-eligible residents as availability permits.

Additionally, a relatively recent practice designed to help defendants, which originated in landlord-tenant court for eviction cases, is for the trial commissioner to read a script at the beginning of the hearing. This script, written and required by the court, explains the hearing process, what the parties can expect to happen during their time in court, rights and responsibilities, and options for resolving the case. This guidance is aimed at helping unrepresented defendants, who often must argue their case against a plaintiff’s attorney. In early 2020, this practice was adapted and applied to the small claims court for debt collection cases.

## Services for Unrepresented Defendants Facing Eviction

Since 2017, the court has allowed legal aid and nonprofit organizations to provide services to defendants facing eviction at the time of their hearings through the Philadelphia Eviction Prevention Project (PEPP), which is funded by the city. PEPP provides a “lawyer of the day” who can meet directly with a limited number of defendants and represent them during their hearings and negotiations with their landlords. It also provides a court navigator, a trained volunteer who may or may not be an attorney, to answer questions and offer guidance to any unrepresented defendant waiting for a hearing. In addition, the project operates a Tenant Help Center, whose legal staff can answer questions outside of hearing times.<sup>16</sup>

According to a 2018 legal representation report about evictions, written by global advisory firm Stout Risius Ross, more than 22,000 residential landlord-tenant cases were filed in Philadelphia in 2016, and the equivalent of 6.5 full-time legal aid attorneys were available to provide representation to tenants. From 2007 to 2016, according to Stout’s review of Municipal Court data, landlords appeared in court with legal representation about 80% of the time, while tenants were represented in about 7% of cases.<sup>17</sup>

To address this challenge, in 2019, Philadelphia City Council passed an ordinance guaranteeing the right to counsel in eviction cases for tenants with incomes less than 200% of the federal poverty level. The law is being phased in over several years, with legal representation to be provided by designated legal aid organizations.<sup>18</sup> Access to that representation depends on defendants receiving service, understanding their rights, and appearing in court for their hearings.

## Setting a trial date and requesting continuances

In general, the court determines the trial date, which typically occurs 45 to 60 days after the plaintiff files the case.<sup>19</sup> The process leading to the trial itself can look very different, depending on whether one is a plaintiff or a defendant.

### For plaintiffs

When scheduling trial dates and times, court officials often consult plaintiffs who frequently bring cases—such as landlords, creditors, and the city. According to Laura Smith, an attorney with Community Legal Services, “The court certainly accommodates them, because plaintiffs’ attorneys often file huge volumes of cases and make sure that all their cases are set for the same hearing time so they can minimize trips to court.”<sup>20</sup>

The court has processes for litigants to request a continuance, or rescheduling, of a trial date in advance and encourages parties to make such requests jointly. A plaintiff may also require a defendant to provide notice, in writing, of his or her intent to present a defense to the claim.<sup>21</sup> To do so, the plaintiff must include with the complaint a “notice of defense” form. If the defendant appears in court to defend the case but has not filed the notice of defense in time, the plaintiff may request an automatic continuance.<sup>22</sup>

### For defendants

For defendants to be granted continuances prior to their initial trial dates, they must have been served notice of the suit less than 20 days before the trial date, and the court must determine that “the interest of justice requires additional time to prepare a defense.”<sup>23</sup> Information about whether and how a pro se defendant can request a continuance is generally not included in the instructions that defendants receive when served with the lawsuit. In debt collection cases in which the plaintiff decided not to send a notice of defense form to the defendant, the

defendant can be granted a continuance by appearing in court on the hearing date and requesting one in person. For defendants who are not available at the time of the hearing, this is not a practical option. If a defendant attends the hearing but does not enter into a judgment by agreement with the plaintiff, he or she can ask for a trial before a judge, which is usually scheduled for six to eight weeks later.<sup>24</sup>

## Court fees

### For plaintiffs

A plaintiff must pay filing fees to initiate a case. The fees vary depending on the case type, the number of individuals involved, and the amount sought. The minimum cost of initiating a civil claim is approximately \$68. Additional related fees can include the cost of service of process, among others. Fee types and amounts are listed on the Municipal Court’s website. The median cost of court fees in cases from 2013 to 2018 in the civil division was \$118.<sup>25</sup>

### For defendants

Defendants are generally responsible for court fees only if a judgment is entered against them. In that situation, they are responsible for any court fees originally incurred and sought by plaintiffs. A defendant who files a counterclaim seeking damages from the plaintiff is responsible for the new service and filing costs as well.

## Service of process

The plaintiff is responsible for notifying the defendant that a civil suit has been filed, which must initially be attempted through in-person service of the documents listed in Table 3.

Table 3

## Documents Included With Small Claims Service Packets

<b>Statement of Claim</b>	Amount owed and date, time, and location of hearing.
<b>Notice of Language Rights</b>	Notice of availability of translation services during court proceedings.
<b>ADA Compliance</b>	Notice of availability of accommodations during court proceedings.
<b>Affidavit of Non-Military Service</b>	Affidavit that the plaintiff is not serving a defendant on active military duty.
<b>Notice of Defense</b>	Statement that defendant must return, if included, indicating intent to enter a defense or counterclaim. Plaintiffs are not always required to include this document.
<b>Court Instructions/FAQ</b>	Document from the Philadelphia Municipal Court regarding the rights and responsibilities of a defendant before, during, and after being sued in small claims court.

Source: Philadelphia Municipal Court

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## Rules for completing service of process

Service can be done either by a court-appointed process server or by any adult over the age of 18 who is not a party to the lawsuit, including private process servers.

For in-person service to be considered successful, several conditions must be met. First, the defendant must receive the service documentation at least 10 days before the scheduled hearing.<sup>26</sup> Second, the process server must hand it to an adult, although not necessarily to the defendant, at the service address. The adult could be a member of the defendant's family who lives there or the individual in charge of the residence at the time of service. What being "in charge of the residence" means is not explicit in the rules and therefore can be interpreted broadly. If the residence is located within an apartment building, hotel, boarding house, or another type of multiunit lodging, a clerk or manager of the building can accept service on the defendant's behalf.<sup>27</sup> And finally, the individual making service must file a report so that the court can determine whether service was successfully completed.<sup>28</sup>

If in-person service is unsuccessful, the court accepts other modes of service, depending on case type. In small claims cases, the plaintiff can attempt service by both certified and first-class mail, which is considered successful if neither is returned as undeliverable. In landlord-tenant cases, the plaintiff can have service posted on the property at issue, which is considered successful if the complaint is also sent to the address via first-class mail.

## Service of process in practice

Various Philadelphia stakeholders have highlighted challenges with the process-serving system, which is a common struggle for courts across the country<sup>29</sup> and is reflected in court data.

According to Municipal Court data from 2013 to 2018, 32% of small claims cases were dismissed due to a lack of service, which typically means the process servers reported that they were unable to deliver notice. If a plaintiff wishes to pursue the case, he or she must file a new claim.

In Pew's survey, 22% of small claims defendants who did not attend their court hearings said the main reason was that they did not know a lawsuit had been filed or a hearing scheduled. Several said they first learned about the case—and the judgments entered against them—when their bank accounts were frozen, their credit rating dropped, or they were denied a rental unit or loan as a result. The survey included only individuals whose cases proceeded through the court, meaning that process servers reported successfully delivering notice to the defendants; this raises questions as to how these respondents could have been unaware of the lawsuit and hearing date.

There are several reasons why this happens. For instance, service is not always completed correctly. Process servers may give the documents to someone who turns out not to be legally qualified to accept them, or they may inappropriately leave them at the door or in a mail slot rather than handing them to someone. One plaintiff's attorney said that the court-appointed process servers can be unreliable and that it is often difficult to know whether they have successfully completed service.<sup>30</sup> Others have said that inadequate rules about who can receive service and how to report it can lead the court to incorrectly classify service as complete. When that happens, the court may proceed with a case about which the defendant is unaware. And even when service is provided, legal advocates have indicated that the documents can be difficult to understand.<sup>31</sup>

## Survey Findings: How Small Claims Litigants Participate in the Court Process

Pew's survey asked respondents to describe the experience of participating in a small claims case as a defendant.

Forty percent attended their hearings; 60% did not. Of those who did, more than half said that taking off from work or school (51%) and arranging transportation or parking (56%) were somewhat or very difficult, and 20% said that arranging child care was a challenge.

For those who failed to attend their hearings, 22% said they did not know that a suit had been filed or a hearing had been scheduled. Another 13% said they could not take time off from work or arrange child care.

The survey also covered questions related to legal representation. Eighteen percent of those who did not attend their hearings cited not having an attorney as one reason for their absence, and 56% were unsure what they needed to do to defend their cases. According to the survey, those who received any kind of legal help were significantly more likely to attend their hearings than those who did not (50% to 35%).

While in court, respondents—particularly those who were unrepresented—expressed uncertainty about court processes. Eighty-five percent reported believing that small claims defendants need attorneys, and 55% said it was not easy to understand what happened during their cases.

Table 4

### Views of the Municipal Court Process From all small claims defendants surveyed

	Strongly/ somewhat agree	Strongly/somewhat disagree
<b>People on both sides of a case are treated the same in Municipal Court.</b>	38%	62%
<b>People sued in Municipal Court need a lawyer.</b>	85%	15%
<b>It is easy to understand what happens to your case in Municipal Court.</b>	44%	55%

Note: Some totals do not add up to 100% due to rounding.

Source: Pew Philadelphia Civil Legal Survey, May 2020

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## Long-term consequences on financial stability

Judgments in Municipal Court small claims cases often result in monetary obligations, liens on property, seizure of assets, difficulties in obtaining a future loan or financing, and garnishment of bank accounts. The same consequences apply to defendants who appear in court and lose, who enter into a judgment by agreement, or who have a default judgment entered against them.

These outcomes can affect individuals' financial stability for years. An order to garnish a bank account puts the recipient at risk of becoming unable to keep or open a bank account or of losing access to funds needed to meet basic needs.<sup>32</sup> For some, that can result in having to hire an attorney to make a filing with the U.S. Bankruptcy Court for the Eastern District of Pennsylvania.

Settlements and judgments can also have positive outcomes for one or both parties to a case. Plaintiffs are often able to recoup losses they've incurred. For defendants, reaching an agreement on a manageable way to settle conflicts or debts can come as a relief.

In Pew's survey, 51% of respondents said they had paid back some or all of the amount owed on judgments against them. Fourteen percent reported feeling relieved that their cases were resolved and that they were either free of their debts or working toward paying them.

Although 39% of respondents did not report any negative consequences from their case, most said they faced at least one significant challenge. Twenty-one percent said they were paying off their debts instead of other bills, and 17% were borrowing money from friends or family to make the payments. And 22% fell behind on other bills or had utilities cut off for nonpayment, while 16% said they went without food, transportation, or other basic needs in order to pay the debt. Eleven percent had money garnished from their bank accounts, 10% were denied a mortgage or a car loan, and another 9% had liens placed on their property. Five percent did not learn that they had lost their cases until they discovered that their bank accounts were frozen. (See Table 5.)



Table 5

## Survey Findings: Respondents' Experiences After the Case Was Resolved

As a direct result of the outcome

I fell behind on bills or had utilities disconnected for nonpayment.	22%
I went without food, transportation, or other basic needs in order to pay the debt.	16%
I felt relief that the debt had been paid.	14%
I had money frozen or taken ("garnished") from my bank account.	11%
I was denied a mortgage or car loan.	10%
I had liens placed on my property.	9%
I was denied a rental unit.	7%
I had my wages garnished.	2%
I am struggling to pay the debt.	2%
Other	10%
None of the above	39%

Note: Total adds up to more than 100% because some respondents cited more than one type of experience.

Source: Pew Philadelphia Civil Legal Survey, May 2020

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## Conclusion

The number of case filings in Philadelphia Municipal Court has been rising in the past few years, particularly for small claims and debt collection cases. This is not unique to Philadelphia, and the trend is likely to continue in the coming years as households face the pandemic's financial toll.

Although Municipal Court was created to be a "people's court," navigable without an attorney's help, court data and stakeholder accounts demonstrate that having a lawyer makes a big difference. In small claims cases, most plaintiffs filing lawsuits are businesses or corporations that have legal representation and typically win their cases. Most defendants are individuals and regularly represent themselves or fail to appear for their hearings. They usually have judgments entered against them.

Challenges related to service of process, the clarity of materials sent to those being sued, the availability of resources, and procedures for entering default judgments against individuals who do not appear in court contribute to these statistics.

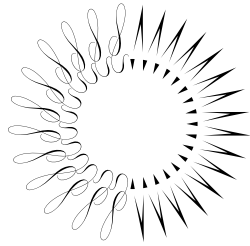
In a time of widespread economic hardship, it is critical to understand the purpose and function of Municipal Court—the piece of the judicial system that touches tens of thousands of residents each year through cases that directly affect their daily lives, their housing stability, and their financial security—and to ensure that resources and policies make it accessible to and navigable by all.

## Endnotes

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