

Tell us about  
small claims court . . .

IT'S STRANGE THAT you ask. Small claims courts never seemed to me very important or interesting, until I started thinking and reading about them. Lo and behold, I turned up enough for a column.

Most everyone gets angry enough at his landlord, his auto mechanic or a local merchant to want to sue-the-son-of-a-bitch. Usually it passes: we don't know how to sue, we imagine the complications, the time it takes, the legal fees; and it never seems worth it. Small claims courts do cut through most of these obstacles. It is possible to sue in pleasant surroundings, with dispatch, without lawyers, without pompous circumstance and huge costs. In Massachusetts it costs exactly \$1.78, according to *Consumer Reports*, which never lies. Here is how:

1. *Call up the clerk* of the small claims court in your town/county and ask the following questions. If the clerk won't answer you over the phone, tell him/her that you are bedridden and cannot get down to the office in person, and say something like "I thought the small claims court was for little people, people like me, etc." until guilt carries the day.

a. Are lawyers allowed to defendants? (I'm assuming you are the plaintiff.)

b. Describe your complaint and ask if the court has jurisdiction over this kind of case.

c. Tell the clerk where the defendant lives or works or does business and ask if the court has jurisdiction over the defendant.

d. Ask if your complaint must exactly locate the defendant's legal address. In some states it isn't good enough to use the address you find in the telephone book or even on a receipt you may have saved. If strict accuracy is required, ask the clerk how you can find out what is the proper address to use in your suit. Usually, you can write a note to the secretary of state at the state capital, and to the county clerk at the county seat in which you think the defendant lives/works/does business, and ask them to check their records for you.

e. Ask the court clerk to send you the filing forms and instructions. They are free.

2. *Fill out the forms* legibly, concisely stating your case without malice or venom. Remember that you are into a liberal reformist institution now, where right-thinking people are expected to be rational and calm. If you are a crazy, use a brick, not a Bic Banana, to get your justice.

3. *Prepare thyself.* Make sure that you have some receipt or cancelled check or something to prove that you actually bought the crummy merchandise or paid the rent deposit in the first place. Haul the merchandise into court if you like; show the judge it doesn't work. Rehearse your pitch, and get it down to a couple of minutes. If it's a complicated story, jot down some notes with the events in chronological order. Remember your day-in-court is about five minutes long.

4. *Think about witnesses.* If the receipts alone are not convincing, as in technical disputes over poor workmanship by auto mechanics and such, you might want to get a qualified mechanic to testify. Your best friend won't do—the witness needs to be an expert that the judge will believe. Witnesses do not get paid.

5. *Be on time.* If court convenes at 9 a.m., the bailiff may start calling the roll of cases sharply at nine and you better be there to get onto the docket. If you are unable to make the court

date once it has been set, be sure to call up the clerk and ask that a continuance be granted, otherwise you may not only have your case dismissed (preventing you from suing again), the judge may even grant an award to the defendant—ordering you to pay *him* some money.

6. *Control yourself in court.* Make your presentation without great passion or accusation. Do not try to convince the judge that the defendant is a thief. Let the facts speak for themselves.

AND NOW A LITTLE history. Way back in the '30s lots of states set up informal courts where poor souls could sue each other cheaply and fast. These lumpen tribunals were designed to simplify the settlement of minor disputes, to cut the prohibitive costs usually attendant on civil litigation, and in the words of the *Columbia Law School Journal*, the small claims courts were also to "avoid alienation of large segments of the population from the court systems." You remember hearing about the '30s, and all those troubles—some people thought there might even be a revolution if some reforms were not made. They were, and there wasn't.

Before the days of small claims courts, justices-of-the-peace handled little disputes between creditors and debtors. Attached to that arrangement was a capitalistic incentive system—the JP getting personally paid for his services as judge from fees which were paid by users. Since the users were mostly petty merchants and collection agencies, the JP soon descended from his lofty judicial perch and became a tool of merchantry. The quality of justice yielded, and justice-of-the-peace became justice-for-a-piece of the action. Now things are better: the judges are berobed, are all lawyers, and now the taxpayers get to pay the judge a salary. Sounds like a good deal, right? Those scurvy, avaricious businessmen who have been plundering and pillaging us all these years better watch their ass, 'cause we got our own People's Court. Right?

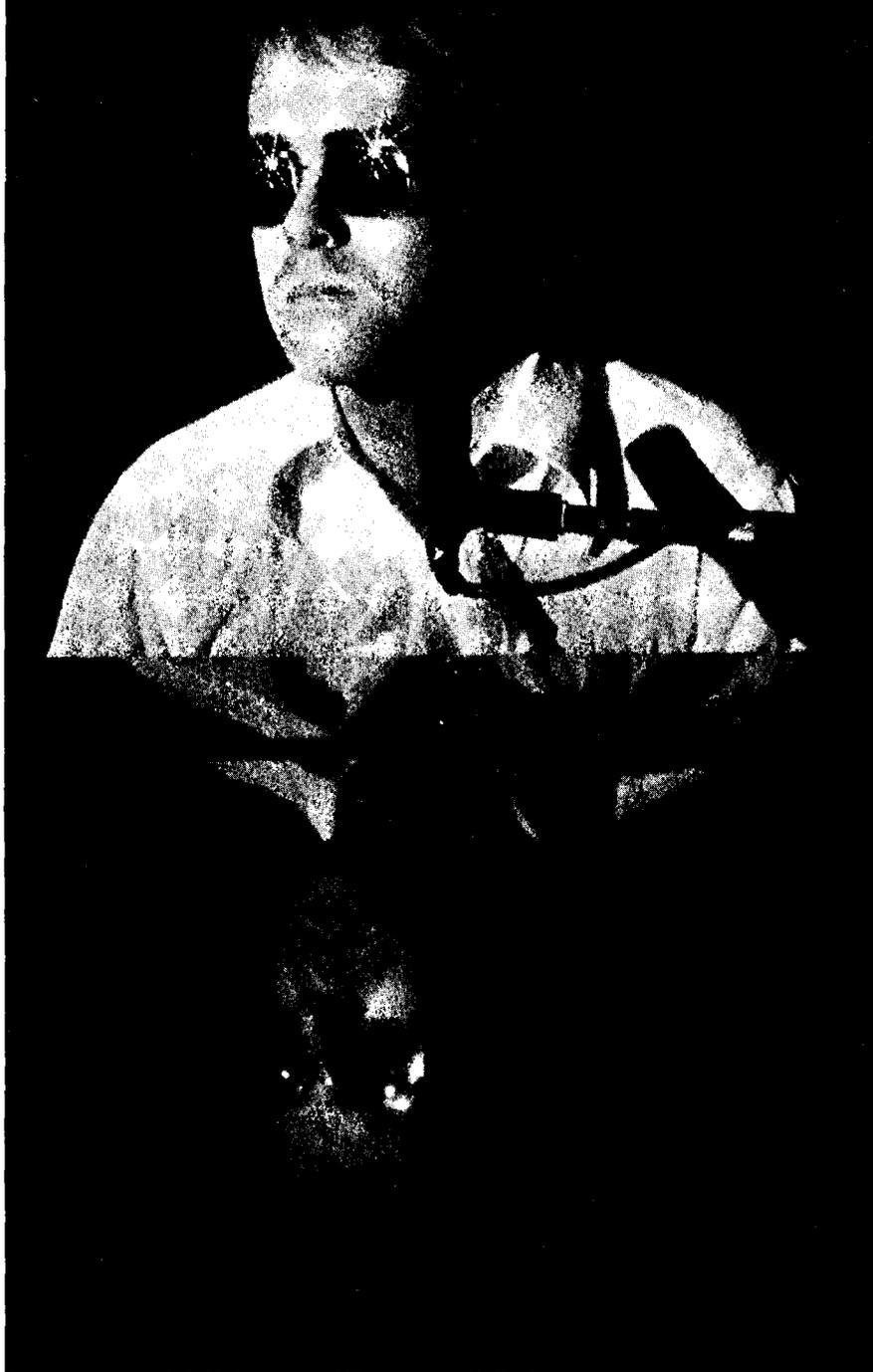
Dead wrong!

Small claims courts have been taken over by those same folks who owned the JPs. Recent studies show that over

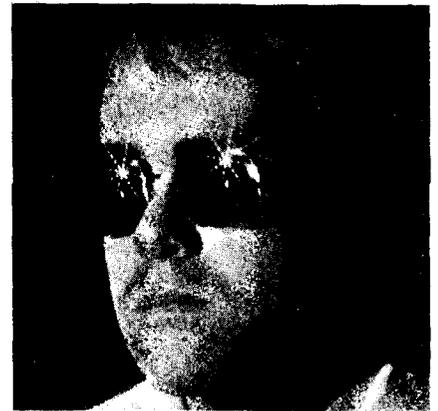
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by Bob Cratchit

## Elton John: Rocket Man Takes Off



THE CHANCES ARE that you've never heard *Empty Sky*, Elton John's first album on the English DJM (Dick James Music) label; it's an interesting record, moderately rewarding to the ear but of greater value for the information it can offer as to where he came from, musically. He's one of those odd popular musicians who give trouble to the chronicler of the popular arts: is he saying something serious (Lennon, Dylan, Davies, Townshend) or is he, sham-profound, in truth substanceless (Neil Diamond, Dion Di-



Mucci, Paul Anka)?

He came onto the American scene in 1970 with a fine "debut" album, *Elton John*, and at first the people who take popular music at all seriously took him seriously. His second American album, *Tumbleweed Connection*, was eagerly awaited and listened to with considerable pleasure but with an unsettling feeling that he was merely repeating the musical statements of its predecessor.

Followed a period of amazing productivity and mass (i.e., AM radio and single record sales) acceptance, coupled with complete disenchantment on the part of the rock intelligentsia.

Elton John is back now with a fine new album, *Honky Chateau*, from which an immensely good single is riding the Top 40 circuit, and it may be hoped that the post-teenybopper crowd can be coaxed back to their turntables long enough to listen once thoroughly to the album. Once should be enough to gain for Elton John at least recognition as a serious artist, if not the stature of a giant.

Really the first thing to remember is that we're dealing with a words-and-music team on the classic model: the songs begin with poems by Bernie Tau-

by Dick Lupoff