

IN THE CIRCLEVILLE MUNICIPAL COURT
CIRCLEVILLE, OHIO

OUTLINE FOR SMALL CLAIM CASES

This brief outline is offered to help persons unfamiliar with our court system. "Small Claims Court" is a special division of Municipal Court and is limited to claims for money damages not over \$3000.00 plus interest and costs that arose in Pickaway County, Ohio.

A claim begins in Small Claims Court with the preparation of the standard Complaint. That Complaint Form is obtained from a deputy clerk of the court. It may be filed by the Plaintiff (the person suing) with or without assistance of an attorney and must include both the Plaintiff and Defendant's place of residence and the "nature" and amount of Plaintiff's claim. The "nature" of your claim must be reduced to writing in concise, nontechnical terms so that an adequate defense can be prepared to the claim and the judge can understand your claim. In other words, explain exactly what you want and why. Attach an additional explanation sheet, if necessary, to provide all available information. **In addition, two (2) copies of each bill, account, contract or any other written instrument upon which your claim is founded must be attached to the complaint.** We will assist you in making copies, if necessary.

Upon filing the Complaint the person suing must advance payment of court costs (which vary in amount) and then a hearing date will be scheduled and noted on your copy of the Complaint. **That is the only notice you will get of the trial date.** Notice of the Complaint and hearing will be sent to the Defendant as provided in the Rules of Civil Procedure. The Civil Rules govern the administration of all civil law suits. You may review the Rules in our law library. If the defendant is a corporation, you must obtain the name and address of the "statutory agent" from the Secretary of State's office (466-3910). Notice is sent to that agent.

NOTICE

Notice of the suit is required to be served to the Defendant by either of two methods: (1) Personal delivery to the Defendant or (2) Certified mail service with the return receipt requested to the Defendant. Notice is the second important step. It "alerts" the other person that they have been sued.

If the certified mail receipt is returned "refused" or "unclaimed," then the Plaintiff must request **in writing** at the Clerk's Office that the Complaint be served by ordinary mail service. A request for ordinary mail service will change the hearing date

to a later date. Be sure to confirm the new hearing date with the Clerk to ensure that you are able to attend your trial. If you are unable to serve (find) the defendant then the claim can not proceed.

TRIAL

The time for which trial must occur is shortened to not less than fifteen (15) nor more than forty (40) days after the Complaint has been filed. If the Plaintiff would fail to appear at the trial, the case would be dismissed. You are only allowed one (1) dismissal before you lose your right to sue.

If other persons (witnesses) are necessary for the trial, then you should subpoena those persons, providing the name, address and telephone number of each person you require. Subpoenas may be important for specific kinds of information. File your subpoenas with the clerk's office early and deposit additional court costs. For instance, the value of services rendered or damages to an automobile often require expert testimony. By expert testimony, we mean someone who is not a lay person and whose opinion is based on special training or education. The correct witnesses provide information important for the Court's decision and sometimes a judgment can not be obtained without proper witnesses. Neither the judge nor the clerk can advise you which witnesses you should subpoena. The person suing must prepare for trial.

The purpose of a trial is to establish a specific amount of money to compensate you for a loss of some kind.

MAGISTRATE

Because of the necessity to complete criminal and traffic cases within a short period of time, small claims cases are generally decided by a magistrate. A magistrate is an attorney, who is an officer of the court, makes finding of fact and recommends resolutions of cases to the judge. Those recommendations become final unless one of the parties files a written "objection" to the magistrate's opinion. That written objection must be filed before 14 days have elapsed. The other party may then object within 10 days of the first objection. All of this is governed by the Ohio Rules of Civil Procedure.

JURY

No authority exists for either of the parties to a Small Claims case to request that the matter be tried before a jury. If you want a jury trial you will need an attorney to file in regular civil division of the court.

JUDGMENT OF THE COURT

The judgment of the Small Claims division has the same force and effect of any other judgment of the court. Requests to set aside judgments are specifically controlled by the Ohio Rules of Civil Procedure and other Ohio cases. The court may order that the judgment plus interest and costs be paid either at a certain date or in specified installments. The Court will attempt to meet the needs of both of the parties in establishing a reasonable payment plan including the amount of installments and the frequency of payment. In order to control the parties and to be of assistance, the person against whom a judgment is awarded may be required to reappear in court to assure continuing compliance.

ENFORCEMENT

If the Defendant fails to appear in Court and, as the plaintiff, you obtain a “Default Judgment”, you need to then enforce the judgment. (Some judgments are unenforceable because you sue someone who has no money, income or property subject to attachment). The first step is to request, in writing, a “judgment debtor examination.” Additional court costs are required for this process. The “Order to Appear” must be served personally on the debtor. It requires the debtor to appear in Court and explain what property he or she owns and how the judgment might be paid. The Court has a form to assist you in the examination. This form may be obtained from the clerk’s office.

Another method of enforcement is the “garnishment” of the Defendant’s personal earnings or bank account. Additional court costs are required for this procedure. If your debtor is working, you must serve by mail a “Notice of Court Proceeding To Collect Debt.” These forms are available through the clerk’s office. Each time a garnishment is attempted, your “Certificate of Mailing” obtained from the post office must go into your case file. When 15 days has expired, you may attach personal earnings of the debtor. Our staff will assist you **but can not offer legal advise.**

Please, if you have any questions ask the Clerk of Court, Rob Reeser. If you do not understand or are not satisfied with the help offered by a Deputy Clerk, please also see the Clerk or Judge. We are all here to serve the public.