

SMALL CLAIMS DIVISION

Small Claims Court is provided for in Chapter 1925, Ohio Revised Code. Every municipal court in Ohio must establish one.

Small Claims is the "people's court." It is designed to alleviate much of the expense, delay, and complicated procedures of the civil division. Court personnel are called upon to provide information and assistance regarding filing procedures, however providing legal advice or acting as a substitute attorney should be discouraged.

RULES FOR FILING

The claim is for money only, not exceeding \$3,000.00, exclusive of interest and costs. The case cannot involve libel, slander, repletion, damages, EXCEPT for damages specifically authorized by Division (B) of O.R.C. 1345.09 and 1345.48 (Consumer Sales Practice Law).

The court must have jurisdiction. Territorial and venue are the same as in regular civil action. (Civ. R. 3)

Assignees or agents may not file in small claims court, EXCEPT the County Treasurer, who may file to recover personal property taxes. (O.R.C. 1925.02) (A) (2)

No more than twenty-four (24) claims may be filed by a single person, firm, or cooperation within the calendar year EXCEPT the County Treasurer, to which the limit does not apply. (O.R.C. 1925.08)

The claim must be stated in writing in clear, concise, nontechnical language. It must state the nature and amount of the claim, and must be signed under oath by the Plaintiff or the attorney for the Plaintiff. Complete names and complete addresses, and telephone numbers, if available, must be provided. This also includes the name of the agent of any corporation that is a party. The plaintiff must also state the military status of the defendant. Any written evidence supporting the claim must be provided at the time of filing. (See Form 1 at the end of this section)

A parent or legal guardian must sign the complaint if the plaintiff is under eighteen (18) years of age.

The filing in Small Claims Court constitutes a waiver, by the plaintiff, to any right to a trial by jury. (O.R.C. 1925.04)

The plaintiff should be advised that they will receive, by regular mail, their portion of the complaint. They should make a note of the date and time of the hearing because they must appear in person at the hearing to present the facts upon which their claim is based. They should be prepared to support their claim with any evidence and/or witnesses.

If a Magistrate hears the claim, judgment cannot be made final until after the fourteen- (14) day waiting period for filing of objections.

CLERK'S DUTIES AND PROCEDURES

File stamp.

Assign a case number pursuant to Sup. 12 (E).

Receipt the filing fee. May not exceed one-half the filing fee charged in a civil action (O.R.C. 1925.04)

Assign a hearing date. Allow at least fifteen (15) days and no more than forty (40) days after the commencement of the action. (O.R.C. 1925.04)

Service of the summons to the defendant is by certified mail as provided in Civ. R. 4.1, unless a request for personal or residence service is filed.

Mail the plaintiff's notice by regular mail.

Docket and index.

If the notice is returned by certified mail, unclaimed, or refused, and the plaintiff requests it, a subsequent notice shall be issued by regular mail (certificate of mailing as provided in Civ. R. 4.6. It may be necessary to assign a new hearing date if the second notice does not allow at least fifteen days. (O.R.C. 1925.04)

If the defendant may wish to appear, admit the claim, and ask for time to pay. (O. R. C. 1925.06). If the court orders payments, no execution or proceedings in aid may issue. (O. R. C. 1925.13)

If the case is uncontested, judgment may be granted to the plaintiff at the hearing. Judgement shall be recorded in the same manner and have the same force and effect as any other judgment of the court.

If the judge hears the case, judgment is entered immediately. If a Magistrate hears the case, judgment will be granted, by the judge as recommended by the Magistrate, after the fourteen (14) day waiting period for filing of any objections.

A counterclaim or cross claim not exceeding \$3,000.00 may be filed, (O.R.C. 1925.02) and served on all parties at least seven (7) days prior to the date of trial of the plaintiff's claim in the original action.

The Small Claim can be transferred to the regular civil docket upon a motion of a party against whom a claim, counterclaim, or cross claim is filed, or upon the motion of a third party defendant, or by the filing of a counter claim or cross claim in excess of \$3,000.00. The motion to transfer the case must be accompanied by an affidavit. (O.R.C. 1925.10)) Failure to file a motion under this division to transfer a case to the regular docket of the court constitutes a waiver by the party or third party defendant of any right to trial by jury.

The case is transferred to the regular civil docket if a demand for jury trial is filed by a party against whom a claim, counter claim or cross claim is filed. There is no provision for a trial by jury in the Small claims Division. In a contested case, the hearing shall proceed as in a regular civil case EXCEPT that no depositions or interrogatories shall be taken except by leave of court. (O.R.C. 1925.09) Subpoenas for witnesses are issued as provided in Civ. R. 45.

If a judgment remains unpaid for thirty (30) days, the plaintiff may request the court to order a list of assets and liabilities from the defendant. (See Form 2 at the end of this section) The list of assets and liabilities shall contain a notice that failure to complete the form and return it to the court within one (1) week after receiving the form may result in a citation for contempt of court as provided in Chapter 2705. (O.R.C. 1925.13 (B)). See Form 3 at the end of this section.

A Judgment in Small Claims may be collected as in a regular civil case. That is by execution, or any proceedings in aid. (O.R.C. 1925.13 provides that the court, upon payment of the proper costs, shall explain to the plaintiff, and assist the plaintiff in the preparation of and filing of the necessary forms to collect and enforce the judgment. The court shall furnish all the necessary forms.

MAGISTRATE Civ. R. 53

Proceedings in the Small Claims Division of a municipal court may be conducted by a Magistrate appointed by the court. The Magistrate must be a person admitted to the practice of law in this state. The Magistrate receives an annual salary in an amount prescribed by the court, payable in the same manner as a municipal court judge.

Judgment cannot be entered for fourteen (14) days. (See Form 4 at the end of this section) for default entry.

In a contested case, the Magistrate files with the clerk, a Report of the Magistrate which includes finding of fact, conclusion of law, and decision. The report is mailed to all plaintiffs and defendants, or any attorney of record. There should be a cover letter attached explaining the right to file objections. (See Form 5 at the end of this section).

If an objection is filed, the court may adopt, reject or modify the report; hear additional evidence; return the report to the Magistrate with instructions; or hear the matter itself (Civ. R. 53 (2)). The clerk shall proceed only as the judge orders. See Form 6 or Form 7 at the end of this section for a journal entry after the ruling on objections.

RULES OF CIVIL PROCEDURE APPLICABLE (O.R.C. 1925.16)

Except as inconsistent procedures are provided in Chapter 1925., of the Revised Code or in rules of court adopted in furtherance of the purposes of such Chapter, all proceedings in the small claims division of a municipal court are subject to the Rules of Civil Procedure, Chapter 1902., Sections 2307.06 and 2307.07 or the Revised code, and all proceedings in the small claims division of a county court are subject to the Rules of civil Procedure Chapters 1907., 1909., 1911., 1913., 1915., 1917., 1921, and 1923., and Sections 2307.06, 2307.07 of the Revised Code.

(Name of Court)
(Jurisdiction)
(Address) (Phone Number)

PLAINTIFF
vs.
DEFENDANT

CASE NO.
(date)

NOTICE OF MAGISTRATE REPORT

There is attached, the Report of the Magistrate upon your action in the _____ Municipal Court. This Report is issued pursuant to Ohio Revised Code Section 1925.01, Ohio Civil Rule 53, and orders of the (Name of Court), entered (date of appointment of Magistrate), appointing the Magistrate to hear cases such as yours.

The Report of the Magistrate is not effective and binding upon the parties until it has been approved and entered as a matter of record by the Court through the signature of Judge (Name of Judge).

You may, within fourteen days of the filing of the Report of the Magistrate, file written objections to the Report of the Magistrate. Such objections shall be specific and state with particularity the grounds of the objection.

If you file a timely written objection to the Report of the Magistrate, Judge (Name of Judge) may adopt the Report despite your objection; reject the Report of the Magistrate; modify the Report of the Magistrate; personally hear additional evidence; or return the Report of the Magistrate, to the Magistrate, for further action pursuant to the Court's instructions.

If no written objection is filed, the Court will enter final orders fourteen (14) days following the filing of the Report of the Magistrate.

(Name of Clerk)

(Name of Court)
(Jurisdiction)
(Address) (Phone Number)

Case Number _____

Plaintiff(s),

vs.

Defendant(s).

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**ENTRY, ORDERS UPON
REPORT OF MAGISTRATE**
(Civil Rule 53 and Ohio
Ohio Revised Code
Section 1925.01)

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This matter came before the Court upon the Report of the Magistrate filed with the Court on _____.

Objections were filed within fourteen days, and upon consideration thereof, the Court finds them to be without merit.

THEREFORE, IT IS ORDERED AND ADJUDGED that the Report of the Magistrate is approved and incorporated herein as if fully rewritten herein. It is further ordered that judgment is rendered for _____, and against _____, in the sum of _____ with interest thereon at the rate of _____ percent per annum from _____, to _____. Court costs are to be paid by _____.

(Name of Judge)