

◆ WHO CAN FILE ?

If you have a claim for \$3,000 or less, you can bring a lawsuit without an attorney in a small claims court.

The claims can include such things as unpaid wages, security deposits, breaches of warranties, defective products, damages in minor auto accidents or damages caused by movers or cleaners.

If you are sued in small claims court, you may be able to file a claim of your own (a counterclaim) if it totals \$3,000 or less.

For instance, if you are sued for damages in an auto accident and you think the other driver was at fault, you may be able to counterclaim for the amount of your own damages.

◆ WHERE DO YOU FILE?

Every municipal and county court in Ohio has a small claims division.

Claims may be filed in the community where the defendant (the person being sued) lives or operates his or her business, where the accident or event took place or where the rental property at issue is located.

To find the right court, check the list on the last page.

Some courts serve more than one community. Phone the court clerk to make sure you can file your claim there.

◆ HOW DO YOU FILE?

Once you are sure you have the right court, go there and ask for help in filing your claim.

You should take with you the name, home or business address and telephone number of the defendant, names and addresses of all of your witnesses and all the evidence you have to support your claim.

In most courts, you will be asked to complete a form.

- ◆ Use clear language.
- ◆ Write or print clearly.
- ◆ Briefly explain why you think the defendant owes you money.

Be sure to write down the amount of money you are owed. Ask for interest and payment of all court costs.

The fee for filing a claim varies from court to court. (See the last page listing.)

Take money with you when you file your claim. If you can't afford to pay the filing fee, most courts will allow you to file a sworn statement saying so and you will not have to pay the fee in advance.

◆ HOW TO GET READY?

Try to put yourself in the judge's shoes.

Ask yourself what it will take to convince a judge or magistrate to decide that you should get the money you are claiming. Remember that the person who will decide knows nothing about your case.

You must have *evidence* to prove your claim.

The most important evidence is what you and your witness—if you have one—testifies about in court.

Before choosing a witness, make sure that he or she has first-hand knowledge about the facts of your case.

You may be your most important witness since you probably know more about your case than anyone else.

Others also could be very important in proving your case. For instance, if your car was damaged in an accident and you were not at fault, someone who saw what happened could be a good witness. If your house repairs were done badly and were left unfinished, someone who saw the shoddy work could be a helpful witness.

If you are trying to get a security deposit, a friend who could tell the court about the condition of the apartment or house could help prove your case.

Ask him or her to come to testify for you. If your witness is not willing to come voluntarily, ask the clerk of courts for a subpoena ordering the witness to testify. A small fee may be charged for the subpoena.

Make sure to tell the witness the exact time, date and place of the hearing.

In addition to witnesses, you can use papers, photos, drawings of how an accident occurred or the faulty merchandise itself to help prove your case.

Some other examples of evidence are sales receipts, contracts, leases, rental agreements, warranties, promissory notes, IOU's, diagrams, notes, letters, time cards and anything else that will support your claim.

Make sure you keep copies of everything.

Before you go to court:

- ◆ Write out the facts that will support your claim.
- ◆ List the evidence and witnesses that you plan to use to prove your case.
- ◆ Organize the facts, evidence and witnesses in the order that you will use them at the hearing. The best way to tell your version of what happened is to tell it in the order that events took place.

.. WHAT HAPPENS IN COURT?

Some courts will hold an informal conference before scheduling a trial. At this conference, you and the defendant will meet with a judge or magistrate who will try to settle the matter without a trial.

If the claim is not settled, or if no conference is held, the court will notify you of the time of your trial.

If you do not appear at the time and date scheduled for a conference or trial, your case may be dismissed and you may immediately lose no matter how good your case may be.

If you have an emergency or a **very good** reason why you cannot be in court at the time set, let the court clerk know immediately.

Show up on time with all of your evidence and witnesses. The judge or magistrate will ask the plaintiff (or person who filed the claim) to tell his or her story first.

Be as brief as possible, using the notes you made earlier. Remember that the defendant also will get a chance to tell his or her side of the story.

Do not allow yourself to become angry even if the defendant is lying.

Be polite to the judge and others in the court and do not interrupt. During the trial or conference, talk only to the judge or magistrate, **not** to the defendant.

Staying calm will help your case because you are not in court to argue with the defendant. You are there to convince the judge or magistrate about your claim.

If you do not understand the procedure, ask the judge, magistrate or a court employee to explain it to you.

After the trial is over, ask how you will get the court's decision.

♦ CAN YOU SETTLE?

You may be able to settle your case after you file your claim with the court and before your conference or hearing is set.

If you do settle, do not dismiss your case or sign a release until you have been paid the agreed amount in full.

Once you get your money, let the court know you have settled.

.. HOW CAN YOU COLLECT?

If you win your case and the defendant does not pay, you can take other steps.

You can ask the court to garnish the defendant's wages, attach the defendant's bank account if you know where he or she banks or put a judgment lien against any real estate owned by the defendant.

Ask the court to help you with the paperwork.

LAKE COUNTY AND GEAUGA COUNTY SMALL CLAIMS COURTS AND THEIR FEES

Chardon Municipal Court
108 South Hambden Street
Chardon, OH 44024
440-286-2684
Filing Fee: \$45

Mentor Municipal Court
8500 Civic Center Blvd.
Mentor, OH 44060
440-974-5745
Filing Fee: \$50

Painesville Municipal Court
7 Richmond Street
Painesville, OH 44077
440-639-4990
Filing Fee: \$40

Willoughby Municipal Court
1 Public Square
Willoughby, OH 44094
440-951-2800
Filing Fee: \$30

Lake-Geauga Legal Aid 6/02

TAKING YOUR CASE TO SMALL CLAIMS COURT