

# **DEBBIE WALSH, CLERK OF COURTS**

## **SMALL CLAIMS INFORMATION SHEET**

### **PARTIES:**

The party who initiates an action is the plaintiff. The party against whom an action is brought is the defendant. If you are incorporated, an employee or officer may file the claim and appear at the hearing. An attorney is required for corporations and LLCs attempting to do collection procedures after judgment has been rendered.

### **JURISDICTION:**

The Small Claims Division can hear claims for the recovery of money with a maximum limit of \$6,000.00. Claims based on libel, slander and malicious prosecution and lawsuits seeking punitive or exemplary damages (pain and suffering) cannot be handled by a small claims court.

### **FILING FEES:**

The filing fee is \$101.00 to file against one person or company and \$16.00 for each additional party. Costs are recoverable from the other party if you win the suit.

### **EVIDENCE:**

Although you may prepare and present your case in any manner that you see fit, you should have evidence to support your claim and provide that evidence prior to the hearing, as hearings can be heard remotely by Zoom or in person. The court will provide you with instructions as to how evidence can be submitted. Written evidence that include documents, text messages, photos, videos, etc., will not be considered unless it is presented at the time of the hearing, provided to the opposing party at least three (3) days prior to hearing and a Hearing Evidence Form is completed. Evidence also includes your testimony and the testimony of any witness(es), which are presented at the time of hearing. If your claim involves damages to an automobile, bring in proof of ownership (title). Affidavits from witnesses will not be accepted as evidence. If your witness does not want to appear on their own free will it will be necessary to have them subpoenaed into court to give testimony. This should be done no later than seven (7) days before your hearing date. The cost of each subpoena is \$16.00 if the witness to be served lives inside Summit County and \$41.00 for those outside of the county, plus a mileage fee to and from court.

### **DEFENDANT'S COUNTERCLAIM:**

If you deny the plaintiff's claim and if you feel that the plaintiff actually owes you money as a result of the same incident or transaction, you should file a counterclaim. Counterclaims in the amount of \$6,000.00 or less are heard by the Small Claims Division. Counterclaims in an amount over \$6,000.00 must be heard by a municipal court judge. The filing fee for a counterclaim is \$78.00. **If you elect to file a counterclaim, it is required by law that the claim be filed at least seven (7) days before the first hearing date.**

### **ODR and MEDIATION:**

Pursuant to Rule 36 of the Akron Municipal Court Rules of Court, small claims cases filed in this court are required to take part in Online Dispute Resolution (ODR)/mediation. ODR is an online, asynchronous, text or e-mail based platform available on the court's website that allows the parties to attempt to resolve their dispute prior to a hearing being set. A mediator can be requested once all the appropriate parties have registered if you are unable to come to agreement. The first date set by the court is a Hearing Review Date. If the parties have participated in ODR as required, the court will set a hearing date for trial. Cases resolved by ODR/mediation will be dismissed without prejudice after the settlement agreement is signed. If any of the parties fail to abide by the settlement agreement, the case can be re-opened and heard before a magistrate. Failure to take part in ODR could result in your case being dismissed or a default hearing being set.

**TRANSFER TO THE REGULAR DOCKET:**

A party may request a transfer of this case from the Small Claims Division to the regular Civil Division docket of this court. This can be done by filing a motion to transfer the case along with an affidavit which states that a good defense to the claim exists and sets them forth. It is highly recommended that you contact an attorney to advise you on this procedure. The Clerk of Courts office cannot assist you with the preparation of your motion or affidavit. The filing fee for a motion to transfer is \$35.00. You are cautioned, however, that a motion to transfer is discretionary with the court and will increase the costs of the case and could complicate the procedures. Again, you are urged to contact an attorney prior to filing a transfer.

**CONTINUANCES:**

The request for continuance must be put forth in writing and state the parties' names and case number along with the current assigned date. The request must state the reason for continuance and should be filed seven (7) days before your hearing date. Failure to appear at the hearing date could result in judgment being granted against you if you are the defendant or dismissal of your claim if you are the plaintiff. Even if a request for a continuance is filed, you must still appear at the scheduled date unless the court notifies you that the continuance was granted.

**DECISION AND JUDGMENT:**

After a successful hearing before a magistrate, a decision will be mailed to all the parties. Any party within 14 days from the filing of the decision may file with the court an objection to magistrate's decision. The filing fee for an Objection to Magistrate's Decision is \$35.00. At the time you file your objection, you may need to include a transcript of the hearing held in your case. You can fill out a Transcript Request Form at the Clerk of Courts office or online. There will be a \$20.00 processing fee assessed by the Clerk's office and, in addition, a deposit will be due before transcription. You will be contacted by the Court Reporter for the deposit. After filing an objection, the case will then be assigned to a judge for consideration. That judge may modify the magistrate's decision, order a new hearing, or amend the decision.

If money is awarded to the plaintiff, the defendant should make arrangements to pay the amount awarded and any costs and interest that have accrued. If you fail to pay the judgment, the plaintiff by law can enforce the judgment by garnishment of your wages, attachment of your property or bank accounts or placement of liens against your property.

**LEGAL ADVICE:**

Representation by an attorney is permitted, but not required. If you have any questions concerning your legal rights, you should contact an attorney for advice. The Clerk of Courts office or the Small Claims Division is not permitted to give you legal advice at any time during your case.

**DISMISSALS:**

The plaintiff at any time may dismiss the action that was filed by him/her. Any dismissal **MUST BE DONE IN WRITING**. The court will not accept telephone calls asking that the case be dismissed. Any notice filed with the court must contain the case number and all parties being dismissed. The court has forms that you can use for this procedure.

**SATISFACTIONS:**

Once the claim has been paid in full, you are obligated to file a written notice to the court that the claim **HAS BEEN SATISFIED**. Any satisfaction filed with the court must have the case number and names of the parties involved. Once again, our office has forms that you can use for this procedure.