

CHARDON MUNICIPAL COURT

SMALL CLAIMS DIVISION

www.co.geauga.oh.us/municourt

INSTRUCTIONS TO PLAINTIFF

1. **FILING SUIT:** To begin an action in Small Claims Court, come to the Clerk's office, and prepare the necessary papers. Effective September 28, 2016, the maximum amount you may ask for is \$6,000.00. Claims must be for money only; this court cannot be used to sue for possession of property or to put a tenant out. You may sue a person living in the county where the Small Claims Court is located, or a person living elsewhere if your claim arose in the county. A corporation is treated as a "person".
 - The debt must be owed to you.
 - You may bring an action on behalf of yourself.
 - A company may be represented by its officers.
 - A corporation may be represented by an officer of the company or a salaried employee.
 - If your claim involves property damage to your auto, or arises out of a contract, ordinarily ONLY the Titled owner of the car or contracting party, and no others, are proper plaintiffs.

When filing, bring with you the following information:

- a) Amount of claim and what it is for
- b) Name, street address, and telephone number of the person you are suing.
- c) If "Account, (exhibit attached)", please provide one copy for Court and one copy for each defendant.

Effective August 1, 2020, a \$100.00 fee is required at the time of filing, (\$20.00 for each additional defendant named on the complaint). If request is made for personal or residential service by Bailiff, a service fee will be charged at time of request.

2. **TRIAL:** A trial date will be set by the clerk. The clerk will mail you a copy of the complaint, which will have the trial date entered on it. It will be your responsibility to appear at the Small Claims Court on the date set, without further notice, and to bring with you any papers and witnesses to prove your claim.

IF YOU FAIL TO APPEAR AT TRIAL, YOUR CASE WILL BE DISMISSED.

INSTRUCTIONS TO DEFENDANT

1. **TRIAL:** You have had a lawsuit filed against you. If you wish to contest the Plaintiff's claim, you must appear on the court date and bring with you any papers, evidence, or witnesses who you need to prove your defenses. **IF YOU FAIL TO APPEAR AT TRIAL, JUDGMENT MAY BE ENTERED AGAINST YOU.** If you want to file a counterclaim against the Plaintiff, you must file the original with the Court (\$25 fee) and give or send a copy to all other parties, at least seven days before trial of the Plaintiff's claim. A counterclaim may not exceed \$6,000.00 in the Small Claims division.
2. **PAYMENT:** If you do not dispute Plaintiff's claim, you should make arrangements to pay it, either before or after judgment. Include the court costs shown in the body of the Summons. If Plaintiff has to pursue collection procedures through the Court, additional court costs will be charged to you.

GENERAL INSTRUCTIONS

1. **ATTORNEY:** Small Claims Court is informal. Parties usually appear without an attorney, but you may hire an attorney if you wish.
2. **SETTLEMENT:** If the claim is settled prior to court date, please advise the Court. {Municipal Court phone number 440.286.2684; Fax: 440.286.2679; E-mail: municivil@co.geauga.oh.us} Plaintiff must follow up with a written dismissal.
3. **WITNESSES:** If there is someone you need as a witness who refuses to attend the trial, you may ask the court to issue a subpoena, if it is needed, no later than 10 days before the trial date. (Cost is additional) If you wish to use documents as evidence at trial, bring copies for the Court to keep.

Frequently, certain kinds of testimony may be especially useful. If your claim or defense involves questions or issues which involve education, experience or training that you do not have, the testimony of a qualified person as to that particular question may be helpful. For example, a professional repairman is a good witness when poor or incomplete workmanship is an issue.

4. **JUDGMENT:** If the judgment is for Plaintiff, Plaintiff and Defendant will be sent a copy of the judgment. If the defendant refuses to pay the judgment, Plaintiff has the right to enforce the judgment by using any or all of the following procedures:
5. **JUDGMENT UPON MAGISTRATE'S DECISION:** If your case is contested and heard by a Magistrate, the Court will review the Magistrate's reported decision and may base its decision and judgment thereon. All parties will be sent a copy of the Magistrate's Decision and each has fourteen (14) days from its filing date with the Clerk to file written objections to it. Any such objections and a copy shall be mailed by you to the other parties. After the Court reviews the report (and any objections filed), it will render, and forward each party a copy of its judgment.
6. **APPEAL:** By law, parties may appeal to the 11th District Court of Appeals from a Small Claims Court judgment within thirty (30) days from the date of judgment. If your case is contested and heard by a Magistrate, the thirty days do not begin to run until the Court renders its judgment thereafter.
7. **SATISFACTION OF DOCKET:** When judgment is paid in full, Plaintiff has the obligation to satisfy the docket by reporting same to the Court within 30 days, either in person or by letter.

UNSATISFIED JUDGMENTS HAVE A DETRIMENTAL EFFECT FOR CREDIT RATINGS. ADDITIONAL FILING FEES AND COST OF SERVICE MAY BE ADDED TO THE JUDGMENT.

THE COURT ITSELF IS NOT A COLLECTION AGENCY. The Plaintiff must follow up with collection action. These collection procedures can be done through the court upon your instructions. Each of these procedures requires a fee that can be added to the total amount due. For some collection actions, the debtor's social security number is needed.

- SUPPLEMENTAL PROCEEDINGS -

- ❖ **DEBTOR'S EXAM: \$35.00 FILING FEE (\$20.00 EACH ADD'L DEFENDANT)** – Request that a supplemental order be served on the defendant to require him to come back to court to testify about his assets and income. Plaintiff must handle the questioning.
- ❖ **ASSET & LIABILITY STATEMENT: \$20.00 FILING FEE (\$20.00 EACH ADD'L DEFENDANT)** - After 30 days from the judgment date, you may also have the Clerk issue an Asset & Liability Form for the defendant to answer through the mail.
- ❖ **JUDGMENT LIEN: \$20.00 FILING FEE** – Docket the judgment in the office of the County Common Pleas Court Clerk where it will be a lien against all real estate owned or acquired within the county. The Municipal Court prepares the Certificate of Judgment for Lien, which you must file in the Common Pleas Court of the county where the property is located.
- ❖ **EXECUTION (LEVY): \$100.00 FILING FEE** – Have the Bailiff seize certain types of non-exempt personal property, belonging to the defendant, to be sold at public auction to apply on the judgment.
- ❖ **GARNISHMENT:**
 - **\$100.00 FILING FEE FOR WAGE GARNISHMENT;**
 - **\$35.00 FILING FEE FOR BANK ATTACHMENTS (BAILIFF SERVES THE LOCAL BRANCH);**
 - **\$50.00 FILING FEE FOR BANK ATTACHMENTS WITH CERTIFIED MAIL SERVICE ON BANK**

Upon plaintiff's completion of Affidavit, the Court will serve a Writ of Garnishment on the defendant's employer or bank to seize non-exempt wages, bank accounts, or debts owed to the defendant (along with the court's deposit, a \$1.00 check payable to the bank must be included.) * The Plaintiff shall note that wage garnishments are a complex way to collect on a judgment.

KEEP IN MIND THAT DEPUTY CLERKS CANNOT PROVIDE LEGAL ADVICE.