

FAIRBORN MUNICIPAL COURT
SMALL CLAIMS DIVISION
1148 KAUFFMAN AVE
FAIRBORN, OHIO 45324
937-754-3044
www.fairbornmunicipalcourt.us

SMALL CLAIM'S INFORMATION PACKET

NOTE: If you are using our online form, please be sure to provide the appropriate copies: The court will keep the original and you would need a copy for each defendant and a copy for yourself.

1. PARTIES

The individual or corporation who initiates an action is known as the PLAINTIFF. The individual or corporation against whom an action is brought is known as the DEFENDANT. Anyone may file a claim, however, a minor under the age of 18 must bring an action through his parent or legal guardian and a corporation must bring an action through an attorney at law, an officer, or a salaried employee. An officer or salaried employee of a corporation will not be allowed to engage in cross-examination, argument, or other acts of advocacy.

Special care and attention should be given when filing against a business or other organization to determine whether or not it is INCORPORATED. If the business is incorporated you must name the exact corporate title of your defendant. One method of determining whether an organization is incorporated is by contacting the Secretary of State Corporations Section (1-877-767-6446 OR AT SECRETARY OF STATE WEBSITE AT www.sos.state.oh.us/) to see if your defendant is listed. If the business is not incorporated, you must determine the owner or owners name (s), then file the complaint against the owners doing business as the name of the business (*example: John Doe dba John Doe's Plumbing*).

2. JURISDICTION - AMOUNT

The Small Claims Division has jurisdiction over claims FOR THE RECOVERY OF MONEY ONLY, with a maximum allowable recovery of \$3,000.00 not including interest and court costs. A Counterclaim may be for any amount of \$3,000.00 or less.

The Court has jurisdiction over a claim if the defendant lives or the transaction occurred within the court's jurisdiction which is Fairborn, Beavercreek, Beavercreek Township and Bath Township, Ohio.

The Small Claims Division does not have jurisdiction over actions for libel, slander, replevin, alienation of affection, malicious prosecution, abuse of process, actions on any claim brought by an assignee, agent, or power of attorney, or actions for punitive or exemplary damages.

3. FACTS

Briefly describe what happened. If your property was damaged, describe what it was that was damaged as well as when and how it happened. If your claim is based upon a contract or agreement with the defendant, describe what you expected from the contract, as well as what the defendant failed

to perform for you, and your loss. BE CONCISE AND ACCURATE.

Your claim may be dismissed if essential information is omitted.

4. EVIDENCE

You must provide the Court with copies of all documents (receipts, contracts, checks, etc.) that substantiate your claim and a set for each defendant at the time of filing. The Court will keep no originals. (Example: If you have 1 Defendant - you will need 2 sets of Exhibits. Please have these copies ready when you file your Complaint.)

Although you may prepare and present your case in any manner you see fit, you should have evidence to support your claim. And, although you believe that the defendant owes you a sum of money, your most important objective is to convince the Magistrate that your claim is valid. As the Plaintiff, you will have the BURDEN OF PROOF AND WILL BE EXPECTED TO PROVE YOUR CASE BY THE GREATER WEIGHT OF EVIDENCE.

Claims for property damage should always be accompanied by estimates of repair or loss. A MINIMUM OF TWO (2) ESTIMATES IS PREFERRED. Additionally, if damage is to your motor vehicle, YOU MUST PRESENT A CERTIFICATE OF TITLE AS EVIDENCE OF OWNERSHIP TO THE MAGISTRATE.

Written agreements, documents, photographs, and tangible items are evidence as well as is your own testimony and testimony from your witnesses. The clerk will issue subpoenas for witnesses if requested. You must pay the witness fee and file your request at least 14 days prior to your hearing date in order to give the bailiff or sheriff sufficient time to serve the witness with the subpoena.

5. FILING FEE (New filings taken during 7:45am-3:30pm)

The filing fee is \$55.00 for one Defendant and \$15.00 for each additional Defendant. (Cash or Check - No Credit Cards. If paying by cash, please have correct amount). You will receive a receipt for your filing fee through the mail along with a copy of your Small Claims Complaint. You will be assigned a date for trial upon filing the complaint. BE SURE TO APPEAR AT THE TRIAL OR YOUR CASE WILL BE DISMISSED. IF YOU SETTLE OUT OF COURT BEFORE THE TRIAL, PLEASE NOTIFY THE SMALL CLAIMS DIVISION, 754-3044, AND ASK FOR THE CASE TO BE DISMISSED.

6. SERVICE OF PROCESS

Before your case may come to trial, the Court must have evidence that the defendant has received notice of the complaint filed against him as well as notice of the trial date. In Ohio, the principal method of service is by certified mail. If the certified mail is returned unclaimed or refused, then you may request service by ordinary mail. In the event that there has been a failure to deliver notice to the defendant, the Small Claims Clerk will notify you by mail to obtain a current address of the defendant. THE SMALL CLAIMS DIVISION DOES NOT PROVIDE LOCATOR SERVICE FOR DEFENDANTS WITH AN UNKNOWN ADDRESS.

7. TRANSFER

Just as you have elected to file your claim in the Small Claims Division of the Court rather than in the Civil Division, the Defendant has the right to transfer the case out of the Small Claims Division into the Civil Division. The Defendant may do this in order to preserve his right to a trial by jury and if he has a valid defense. Once transferred, the case will no longer be on the Small Claims Docket and a new trial date will be scheduled in the Civil Division. When a case is transferred into the Civil Division of the court the process to move a case to judgment is more involved and the Plaintiff may wish to consult with an attorney. If the Plaintiff/Defendant does not wish to consult with an attorney it may be in the best interest of the Parties to research the legal procedures necessary to go forward in the Civil Division of the Court.

8. TRIAL

Small Claims cases are heard at 1148 Kauffman Ave., Fairborn, Ohio. Enter the Court lobby on the trial date, check in with the bailiff in the lobby, and have a seat until your case is called. When called, walk in and have a seat in front of the Magistrate at the table. At the trial, you will have an opportunity to present your arguments and your evidence to the Court. You will also have an opportunity to ask questions of the Defendant and any witnesses in order to bring out points in your favor. The defendant will also have an opportunity to present his evidence and ask questions of you and your witnesses. **PRESENT FACTS - NOT YOUR FEELINGS TOWARD THE DEFENDANT.** You will be furnished a copy of the judgment by mail as soon as the Magistrate makes her decision.

9. AFTER JUDGMENT

If Judgment is rendered in your favor and you need assistance with the forms necessary to collect on a Judgment, these forms are available in the Small Claims Division of the Clerk's Office. There is a thirty-day period before you can proceed with collection of any judgment. Do not ask the Magistrate how to collect a judgment during your trial. **IF YOU OBTAIN A JUDGMENT IN YOUR FAVOR AND IT HAS BEEN PAID IN FULL, CALL THE COURT AND REQUEST AN ENTRY OF SATISFACTION.**

The Court cannot practice law for you or locate Defendant's assets such as bank accounts, name and addresses of employer, real estate, motor vehicles etc.

Small Claims cases are heard by a Magistrate. If you do not agree with the Magistrate's decision, you have fourteen (14) days from the date the decision is filed to file any objections. The filing of objections will result in the decision being reviewed by a Judge. Failure to file any objections will result in the Magistrate's decision becoming the final Entry.

Fairborn Municipal Court

44 West Hebble Avenue • Fairborn, Ohio 45324

Phone: (937) 754-3040 • Fax: (937) 879-4422

Catherine M. Barber, Judge

William D. Litteral, Clerk of Court • Deborah L. Stout, Chief Bailiff

MEMORANDUM

TO: All litigants appearing in Small Claims Court

FROM: Judge Catherine M. Barber *CMB*

DATE: December 1, 2000

RE: Corporations executing on judgments in the Small Claims Division

The issue was recently raised as to whether a corporation could execute on a judgment in the Small Claims Division. After researching the issue, it is the opinion of this Court that the act of executing on a judgment is an act of advocacy and is in contravention of Ohio Revised Code §1925.17 and Disciplinary Rule 3-101 of the Code of Professional Responsibility. As such, commencing December 15, 2000, a corporation may no longer execute on a judgment in the Small Claims Division. A corporation may still appear in the Small Claims Division as before for a trial as long as it does not advocate. However, as of December 15, 2000, a corporation must obtain counsel to execute on any judgment obtained in the Small Claims Division.

Thank you for your attention to this matter.

SMALL CLAIM COMPLAINT

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Plaintiff's Name _____ Fairborn _____ Municipal Court
 Plaintiff's Address _____ Greene _____ County Court
 _____ Zip Code _____ Area _____ District
 Phone No. Your Number Plaintiff _____ vs. _____
 Defendant's Name _____
 Defendant's Address _____ Fairborn _____, Ohio
 _____ Case No. _____
 Phone No. Their Number Defendant _____ Zip Code _____

TO THE CLERK:

Please take notice that a claim is hereby filed against the above defendant(s) and request that he (they) be summoned to appear in Court to answer same.

STATEMENT OF CLAIM

ACCOUNT—EXHIBIT A ATTACHED AND MADE A PART HEREOF WAGES _____

OTHER Brief Statement of Claim _____

Wherefore plaintiff prays judgment against defendant in the sum of \$ Amt. owed, plus interest from the _____ day of _____, _____, at the rate of _____% and costs.

STATE OF OHIO)
COUNTY OF Greene) ss. **AFFIDAVIT OF COMPLAINANT'S CLAIM**

Your Name, being first duly sworn, on oath states that, he, she or they the Plaintiff in the above entitled cause, that the said cause is for the payment of money that the nature of plaintiff's demand is as stated, and that there is due to plaintiff from the defendant the amount stated above; defendant(s) (is are) not now in the military or naval service of the United States.

Your signature to be notarized
(By ~~Deputy Clerk or Notary~~) _____

Subscribed and sworn to before me this _____ day of _____, _____.

Clerk, Deputy Clerk, Notary Public

NOTICE AND SUMMONS IN ACTION FOR MONEY ONLY

To: (1) Defendant's Name Defendant _____ (2) _____ Defendant _____
Defendant's Address _____ Street and Number _____ Street and Number _____
 _____ City _____ City _____

Your Name ask (s) judgment in this court against you for Dollars Written Out dollars (\$ _____), plus interest from the _____ day of _____, _____ at the rate of _____/and costs, upon the following claim: _____
Brief Statement of Claim _____

The court will hold trial on this claim in the Small Claims Division located at 1148 Kauffman Ave., Fairborn, Ohio 45324 at _____ o'clock _____ M. on _____, the _____ day of _____.

If you do not appear at the trial, judgment may be entered against you by default, and your earnings may be subjected to garnishment or your property may be attached to satisfy the judgment. If your defense is supported by witnesses, account books, receipts, or other documents, you must produce them at the trial. Subpoenas for witnesses, if requested by a party, will be issued by the clerk.

If you admit the claim but desire time to pay, you may make such a request at the trial. IF YOU BELIEVE YOU HAVE A CLAIM AGAINST THE PLAINTIFF, YOU MUST FILE A COUNTERCLAIM WITH THE COURT AND MUST SERVE THE PLAINTIFF AND ALL OTHER PARTIES WITH A COPY OF THE COUNTERCLAIM AT LEAST SEVEN DAYS PRIOR TO THE DATE OF THE TRIAL OF THE PLAINTIFF'S CLAIM."

Clerk — Deputy Clerk
Small Claims Division

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