

SMALL CLAIMS IN CLINTON COUNTY

WHAT IS A SMALL CLAIMS LAWSUIT?

In the Small Claims Division of District Court you can bring a lawsuit against a business or individual whom you feel owes you money. You can sue a person or business which has caused damage to your property or possessions. The maximum you can collect through a judgment in small claims court is \$3,000. Small claims courts are designed to operate informally and without attorneys present. If you feel you need an attorney, the matter must be filed as a general civil case in District Court. In small claims court you represent yourself, speak directly to the Judge or Magistrate, provide your own evidence, and have any witnesses you wish to speak for you. You do not need to know the law before you appear for a hearing.

You simply tell the judge why you feel that someone owes you money and that person or business you are suing has the opportunity to tell their side of the case. After hearing both sides, the judge will decide whether money is owed to any party, and if so, how much.

When deciding whether to file a claim, consider whether the person you are suing has any income. Even if the judge grants you a judgment, if the person you sued has no income, it will be difficult for you to collect the money. You might want to check this out before you invest your time and money in filing a claim.

WHERE TO FILE YOUR SMALL CLAIMS LAWSUIT:

Small claims lawsuits must be filed in the county in which the business or individual you are suing does business or lives, or where the action took place. If there is more than one defendant, the suit may be filed in the county in which any defendant is doing business or lives or where the action took place. If the person or business or action is not in Clinton County you will then have to file your small claims in the county where it would apply.

HOW TO FILE A SMALL CLAIMS LAWSUIT:

1. To file the lawsuit you must go to the Court of correct jurisdiction (discussed above) and ask for a small claims form.

65A District Court for Clinton County is located at; 100 East State Street, Suite 3400, St. Johns, Michigan 48879. Phone is (989) 224-5152

You may also send to the address above, a self-addressed, stamped envelope requesting a small claims form and one will be mailed.

2. On the small claims form you must name the individual or business you are suing, give the dollar amount you feel is owed (not more than \$3,000) and tell why you

believe this money is owed to you.

It is extremely important that you use the correct name and address for the person or business you are suing.

3. When you file your small claim, take any evidence such as receipts and contracts with you. Bring copies only; keep the originals for your evidence.

4. The expenses of small claims lawsuit include the filing fee, and the serving summons (notifying the person or business that you are suing them). If you win the case, you may be entitled to be reimbursed for the costs of filing your suit. Check with the Court for these fee amounts.

AFTER YOU FILED YOUR SMALL CLAIMS SUIT:

The Court will issue and then serve the defendant with a summons by either certified restricted mail or personal service. There is a cost for both services and you need to contact the Court for the cost. Any legally competent adult, who is not a party or an officer of a corporate party in the case, may serve a summons. If the defendant cannot be located and served, the suit cannot go forward.

⇒ Certified Mail – Addressed to addressee only, return receipt requested, if the defendant is not located and served with this method, you may try:

⇒ Personal Service – a copy of the summons is left with the defendant by a court officer or process server. They are entitled to a fee per defendant plus mileage each way. It should be remembered that the court officer is not a detective and must rely on the information given him by you in order to locate the person being sued.

When the summons is issued, a court date is set at which time you and the defendant are to appear in court to present your cases. Once this court appearance is set, one of four possible things will occur.

✓ You may be notified by the court that the defendant (the person you are suing) has asked that the case be tried in a higher court (general civil) where an attorney can be used. This is the defendant's right.

✓ You may be contacted by the defendant that they wish to settle outside of court. If you and the defendant agree to terms and settle before the court date, get the terms in writing and signed by both you and the defendant and file a copy with the court.

✓ You may appear at the court on the proper date and find that the defendant

does not appear. If this occurs, and your claim is good, the court may grant you a default judgment against the defendant. This means you can collect your money without a court hearing because the person you are suing decided not to fight this case. If you (the plaintiff) fail to appear, the case may be dismissed.

✓ You and the defendant may both appear at the court on the date of the appearance. The case will go to hearing before the Magistrate or Judge.

Once the case has been presented to the judge or magistrate, they will make a decision. The decision is final if granted by the Judge and cannot be appealed. Neither you nor the defendant can take a small claims decision to a higher court. If the decision was made by a magistrate, you may appeal within 21 days to the judge of the same court to hear the case.

IF YOU WIN YOUR SMALL CLAIMS CASE, COLLECTING THE JUDGMENT:

The judge will award you a dollar amount plus appropriate court costs. The court may allow a judgment to be paid in monthly payments if requested by the defendant.

If the defendant refuses to pay, there are several legal procedures available to assist you in satisfying your judgment. The court will be able to provide a brochure on how to collect your judgment. You must initiate the procedures.

Note: Once you receive your money, you must file a satisfaction of judgment with the courts so the public record will show the final result.

POINTS TO PONDER:

- If you feel an individual or business has treated you unfairly and you feel the money is owed to you, there is something you can do about it. You can sue them in Small Claims Court for up to \$3,000 except in automobile accident cases where the limit is \$500.
- If you have any questions or need help, ask the civil clerk. He or she will help you as much as is legally possible. The clerk may tell you how to use the court, but may not give legal advice.
- Try to settle the matter out of court, even up to the day of the trial. If settlement is reached, get it in writing.
- A person shall not file more than 5 cases in the Small Claims Division of the District Court at a time.