



## AFIT JA FACT SHEET

### SMALL CLAIMS COURT

<http://daytonmunicipalcourt.org/index.html>

#### **What is Small Claims?**

Small Claims is a division of the Dayton Municipal Court (every Ohio county has one). Small Claims was created by the Ohio Legislature to permit easy access to the court system for persons with disputes involving relatively small amounts of money. A Magistrate (a lawyer appointed by the court) hears small claim cases. By filing a small claim action, you waive your right to trial by judge or jury. You may dismiss and refile in the regular division of the Municipal Court prior to your hearing date if you wish to proceed otherwise.

#### **Rules for Filing a Small Claims Suit**

1. The most you can sue for in Small Claims Court is \$3,000.
2. You may not separate your claim into a multiple suit in order to exceed the \$3,000 maximum.
3. You must know the address of the party you file suit against.
4. If you are under 18, you must have your parent or legal guardian file the suit for you.
5. You may sue a minor only through the parent or legal guardian.
6. The party filing the suit must prove their case by preponderance of the admissible, credible evidence.
7. The date of hearing is the date of trial.
8. Auto accidents, or any suits regarding damage to a motor vehicle, require proof of title in court. You must be the owner of the vehicle in order to file suit, and you must present your title in court.
9. Individuals filing on their own behalf do not need an attorney. A corporation, company, an LLC, a partnership or general partnership may appear in small claims court through an officer of the company. However, the officer may not engage in cross-examination, argument or other acts of advocacy, per section 1925.17 ORC.

#### **What does it cost and where do I file?**

The current minimum cost for filing a Small Claims case is \$53.00. This amount is for a suit against one defendant with service by certified mail. The current minimum for bailiff service is \$59.00 against one defendant. If you are filing against more than one defendant, add \$10.00 for each additional certified mail, or \$20.00 for each additional bailiff service. If you request service by certified mail, an optional Ordinary Mail Waiver for \$5.00 may be requested which covers all defendants. **Note:** both certified mail and bailiff service may be used together. If you are filing by mail, send your small claims complaint to the address listed below. If you file by mail, your signature **must** be notarized, and a check for filing fees



## AFIT JA FACT SHEET

and a self addressed stamped envelope must be included. Do not add the filing costs to the amount you are suing for. If you win, court costs will most likely be added to the amount of your judgment. Costs subject to change.

Small Claims are filed at the Clerk of Courts office located in the Hamilton County Courthouse, 8:00am to 4:30pm, Monday through Friday; Dayton Municipal Court is located at 301 West Third Street, Dayton, OH 45432.

### **Court Date**

Your court date will be approximately 28 days away from the day you file.

### **What kinds of cases are heard?**

Small Claims can only decide claims for money. The Small Claims Magistrate cannot order a defendant to do anything other than pay a specific sum of money. Thus, you must be able to put a price tag on any damages you have suffered as a result of the defendant's actions.

Small Claims **does not** have jurisdiction in such actions as libel, slander, repossession or any other kinds of cases which do not involve actual monetary damages. If you have a dispute with your mechanic, for example, you can base an action on your bills or the estimated cost of re-doing his work. However, you cannot ask the court to make the mechanic fix your car or release it before payment of a bill. Typical cases involve breach of contract disputes, security deposit claims, accident damages, loan defaults, etc. The following are examples of some typical cases.

**Rent Deposits.** Your landlord did not return your security deposit? File a small claim. If you can prove that you gave proper notice before leaving and left a forwarding address and, 30 days after moving the landlord has not returned your deposit or provided an itemized statement of damages to you, you can ask for double damages. **Note:** if you can prove that the landlord's damage claim is false, even though it was sent within 30 days, you may still claim double damages.

**Vehicle Damages. Only the titled owner may file the suit if your case involves damages to a motor vehicle.** If you are suing for damages to a motor vehicle, the Magistrate will want to know how much the car was worth (its fair market value) just before the damage occurred, and how much it was worth after the damage. The difference between these two values is the actual damage sustained. A "Blue Book" or other such guide can help to appraise your car's worth. To determine your car's worth after the accident, you must have repair estimates. The court may also consider your car's value to you. Photographs may be helpful. For example, your car was worth \$1500 before the accident and only \$500 after the accident. Your damage claim would be for \$1000, the difference between the two amounts.

**Deceptive Sales.** Ohio's basic consumer protection law, The **Consumer Sales Practices Act** (1345 ORC), includes a set of "substantive rules" that explains specific consumer rights on various kinds of transactions. Small Claims has the authority to hear cases in which a consumer claims a rule has been violated and to grant judgments equal to the greater of \$200 or triple the amount of actual damages.

### **Determine your damages**

Since you can collect only money from a Small Claims action, it is very important that you put the right price tag on your claim. Estimates and receipts will help the Magistrate in determining your loss. If there is no stipulated interest rate, the current statutory rate may be awarded from the date of judgment.

### **Filing Your Case**



## AFIT JA FACT SHEET

Make sure you know the true, legal name of the person or business you intend to sue. Suing the wrong party may cause the case to be dismissed (thrown out), or you could wind up with an uncollectable judgment. A common mistake is for a tenant to sue the resident manager for the return of a rent deposit instead of the owner. Similarly, a mistake would be for a customer of a repair shop to sue the mechanic instead of the shop owner.

A similar problem can result from suing a business name (such as NM's Car Repair) without making sure it is the legal name. Unless the business is actually incorporated under the name, there may be no chance of collection, even if you win. An unincorporated business (sole owner or partnership) should be sued in the personal name of the owner or partner, i.e., Joe Sleaze d.b.a. Sleazy Joe's (d.b.a. means "doing business as").

Only a corporation (NM Car Repair, Inc.) can actually be sued in the company name. **If you are unsure whether the business is incorporated, call the Ohio Secretary of State at (614) 466-3910.** If incorporated, get the name and address of the statutory agent. You may discover the business name is totally different from the actual corporate name, and it is the corporate identity you should be suing.

As a general rule, you should sue a person or business in the county in which they reside or do business.