

**FRANKLIN COUNTY MUNICIPAL COURT
SMALL CLAIMS DIVISION**

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SMALL CLAIMS COURT GENERAL INFORMATION

COSTS

Effective August 1, 2009, the cost for filing a small claims complaint is \$72.00. There may be additional costs as the case proceeds. These fees are noted in the sections that follow.

PARTIES & REPRESENTATION

A Small Claims case begins with the filing of a **complaint** with the court. The party who files the complaint is the **plaintiff**. The party against whom the complaint is filed is the **defendant**.

Individuals may represent themselves or be represented by an attorney. **A general partner or an attorney may represent partnerships.**

An attorney may represent corporations. In Ohio, a bona fide officer or salaried employee may also represent a corporation. However, there are limitations on this representation.

- The officer or salaried employee may testify only as to facts of which he or she has personal knowledge.
- The officer or salaried employee may present documentary evidence in support of the claim or defense.
- The officer or salaried employee may **not** examine or cross-examine any witness, present legal arguments, or engage in other acts of advocacy.
- The officer or salaried employee may not file or present motions, objections, affidavits, or file proceedings to collect judgments.

JURISDICTION & VENUE

Jurisdiction refers to the court's authority to hear a case as to subject matter and parties. In the Small Claims Division, judgments may be granted for **money only**—no other relief is permitted. **The monetary jurisdictional limit of the court is \$3000.00, exclusive of interest and court costs.** The court does not have jurisdiction over actions for libel, slander, malicious prosecution, abuse of (legal) process. **No punitive damages** may be awarded except in cases brought specifically under the Revised Code sections 1345.09 and 1345.48 and 5521.16. No claims may be brought against the State of Ohio or the United States of America.

Venue refers to the territory (usually, a specific county) in which a case may be heard. Generally, this court is a proper venue for a small claims case if the incident or transaction giving rise to the claim occurred in Franklin County or if the defendant resides in or regularly does business in Franklin County, Ohio.

CONTINUANCES (Postponing the Trial Date)

Any party may obtain one continuance, for not more than thirty (30) days, by delivering a **written request** for such to the Small Claims Division **at least seven (10) days in advance** of the scheduled date of trial. The request may be sent by mail, via fax, or delivered in person. A request for a continuance of more than 30 days or for an additional continuance must be directed to the assigned magistrate in person. A special request for continuance will only be granted in exceptional circumstances.

TRANSFER TO THE REGULAR CIVIL DIVISION

Pursuant to Revised Code Section 1925.10 and Municipal Court Rule 11.03, a case may be transferred from the Small Claims Division to the regular civil docket in any of these ways:

- 1) upon the motion of the court at any stage of the proceedings;
- 2) upon the motion of a party against whom a complaint, counterclaim, cross-claim, or third party complaint is filed, accompanied by an affidavit, stating that a good defense to the claim exists and which sets forth the grounds of the defense; or
- 3) Upon the filing of counterclaim, cross-claim, or third party complaint for more than \$3,000.00.

As a condition of transfer, a **fee of \$45.00 is required AT THE TIME THE MOTION IS FILED.** Transfer must be accomplished **at least five court days prior to trial.** A party seeking transfer less than five court days prior to trial must obtain permission from the assigned magistrate.

COUNTERCLAIMS, CROSS-CLAIMS, & THIRD PARTY COMPLAINTS

A **counterclaim** is a claim brought by a defendant against a plaintiff; a **cross-claim** is a claim brought by one defendant against another defendant; a **third party complaint** is a claim brought by defendant against a new party who was not named in the original complaint. Counterclaims, cross-claims, and third party complaints for money only in amounts not exceeding \$3000.00 may be brought in the Small Claims Division. Forms and instructions are available in the Small Claims office. These claims must be filed at least seven (7) calendar days prior to trial. **A fee of \$20.00 (plus costs for service of process) is required** to file each of these pleadings.

TRIAL, EVIDENCE & SUBPOENAS

Trial will be conducted in a relatively informal manner by a **magistrate**. Generally, the plaintiff will first present evidence, after which

the defendant may ask questions of the plaintiff, as well as any of his or her witnesses. The defendant may then have an opportunity to present evidence; the plaintiff may then likewise ask questions of the defendant and the defendant's witness (es). **Please note: no one representing a corporation who is not an attorney at law may ask questions of any witness.**

The **burden of proof** rests with the complaining party (i. e., the plaintiff, as to the complaint; the defendant, as to a counterclaim) who will be required to prove his or her case by the **preponderance of the evidence**. The magistrate will evaluate or "weigh" all of the evidence presented by the parties. If the weight of the evidence presented by the complaining party is greater than that presented by the responding party, then the burden of proof will be met.

What is evidence? Evidence may include the relevant testimony of witnesses, original documents (or acceptable duplicates) including contracts, receipts, public records, authenticated business records, market data reports, photographs, tangible items, etc. Hearsay evidence is not admissible. Written statements from witnesses who are not present at trial are considered hearsay evidence. Written estimates of value or repair cost, however, are admissible as evidence to measure monetary loss in small claims cases.

Any party may issue subpoenas to compel the attendance of witnesses. Requests for subpoenas should be made at least a week prior to trial at the Clerk of Courts office on the third floor. The length of time the witness is in court and the way in which the witness receives the subpoena determines fees for subpoenas. In addition, there is a fee of \$.10 per mile for witness travel to and from the court. For more information about witness fees, see the Clerk of Court's Civil Cost Sheet at <http://www.fcmcclerk.com/forms/civil/forms/civilcost.pdf> Subpoenas are issued by the Clerk of Courts office located on the third floor of the building.

Motor vehicle damage In claims for damage to motor vehicles, the complaining party must present proof that he or she is the **owner or lessee of the damaged vehicle**. This is usually done by producing a valid certificate of title or the original lease agreement (if the damaged vehicle is leased), or by the stipulation of all parties in open court that ownership is not in dispute. Proof of monetary loss may be demonstrated by producing a) at least two (2) estimates of repair, or b) a receipted repair bill, or c) testimony from an expert in collision repair. *Eyewitnesses* who saw the damage occur, or *expert witnesses*, such as a police officer who may have investigated the accident or a collision repair expert, may be subpoenaed, if necessary, and called upon to testify in open court.

SETTLEMENT

The parties are encouraged to discuss their differences with one another in an attempt to resolve their dispute prior to trial. If an out-of-court settlement is achieved, the plaintiff should submit to the court a statement indicating that the case has been settled before the hearing date. A case number should appear on the statement.

If communication between the parties is difficult, assistance may be obtained by contacting the court's **Dispute Resolution Program** that may be able to facilitate negotiations through the process of **mediation**. Please call 614/645-8576 for more information. In the courtroom, if a mediator is available, you may be asked by the magistrate to engage in settlement discussions conducted by the mediator.

MAGISTRATE'S DECISION, JUDGMENT, OBJECTIONS

Magistrate's Decision. After each case is heard, the magistrate will file a written decision, copies of which will be mailed to the parties or to their attorneys. **The magistrate, as part of the decision, sometimes prepares Findings of Fact and Conclusions of Law.** They will provide a detailed explanation of the reasons supporting the magistrate's decision. If they are not included, any party may request that the magistrate provide them in an amended decision, but such request must be made within seven (7) calendar days of notice of the original decision. Forms for requesting findings of fact are available at the Small Claims Division.

Judgment. After considering the magistrate's decision, the court will enter a judgment. The judgment rendered in this division of the court may be appealed or enforced in the same manner as any other judgment of the court.

Objections to the Magistrate's Decision Any party who disagrees with the magistrate's decision may ask the court to modify or set aside the decision by filing written objections. **Objections must be filed within fourteen (14) days from the filing of the magistrate's decision.** If a party files objections within this fourteen-day period, then any other party may also file objections at least ten (10) days after the first objections are filed. The objections must state the specific reasons why the magistrate's decision is challenged. If a party makes a request for findings of fact and conclusions of law, the time for filing objections begins to run when the magistrate files the decision that includes these findings of fact and conclusions of law.

A fee of \$20.00 is required to file an objection to the magistrate's decision.

Upon the filing of timely objections, the case will be assigned to a judge. The judge after considering the objection and any supporting memoranda, may approve, reject, or modify the magistrate's decision and enter a final judgment, may hear additional evidence or refer the case back to the magistrate for a new trial. A copy of the final judgment will be mailed to all parties.

LEGAL ADVICE, PROCEDURAL INFORMATION

Persons in need of specific legal advice should contact an attorney at law. Court personnel, including judges, magistrates, bailiffs, and other staff may not provide legal advice to any party. Lawyer referral is available through the Columbus Bar Association (175 South Third Street, Columbus, OH 43215, telephone: 614/221-4112, www.cbalaw.org .)

The court also maintains a website through which you may obtain further information including specific case records. The website address is www.fcmcclerk.com