

OBJECTION TO THE MAGISTRATE'S DECISION

What is an Objection to the Magistrate's Decision?

This is a request made to the court asking that it review the magistrate's findings and asking it to modify those findings in whole or in part, or to reject them entirely and order a new trial. Any party who does not agree with the decision of the magistrate may file written objections to that decision. When objections are filed, the case will be assigned by lot to one of the 15 judges of the Court for review. The assigned judge will have the responsibility to rule on the objection.

How long does a party have to file an objection?

After hearing the evidence presented in trial, the magistrate may file a *Decision* only, or may file a decision together with *Findings of Fact and Conclusions of Law*, a detailed explanation of the facts as determined by the evidence and the law upon which the decision was based.

If requested at the time of trial, or requested in writing by a party no later than seven (7) days after the date of trial, the magistrate is obligated to include Findings of Fact and Conclusions of Law with the decision. It is sometimes helpful to have this explanation, although not required, to file an objection.

Objections must be filed within fourteen (14) days of the date on which the decision was filed, or within fourteen (14) days of the date on which the Findings of Fact and Conclusions of Law were filed. The date of filing will be evidenced by the clerk's *time-stamp*.

If one party files an objection, then any other party may also file an objection within ten (10) days of the filing of the first objection.

The filing of an objection will operate as a "stay", or suspension, of the operation of the judgment until the judge has ruled upon the objection.

How is the form completed?

A party or his or her attorney may draft objections from "scratch" or may use forms provided by the court in the Small Claims office. The names of the parties and the case number must be entered in the caption at the top. The grounds on which the objection is based should be specifically explained in the space provided. Extra pages may be added if more space is needed, and supporting memoranda and affidavits may be included. This document should be typed or printed.

Where is the objection filed?

As with all pleadings, this should be filed with the Clerk of Courts, Civil Division, on the third floor. This copy should be "time-stamped" to indicate that it was filed in a timely manner. Objections may be mailed to the Clerk, but with risk to the filer that mail delivery may not arrive in time.

What is the cost?

The Clerk will charge a fee of **\$20.00** for the objection. If you wish to have the court serve the objection to the other party, an additional cost for doing so will be charged.

How are the other parties notified?

The party who files the objection has the duty to notify the other parties by mailing copies to all of them. When the copies are to be mailed out by the filer, he or she should complete the certificate of service declaration at the bottom of the objection. The clerk of courts office will serve the copies, if requested, but with a \$3.00 charge per mailing for regular mail, \$6.00 for certified mail, or \$25.00 for personal delivery.

Will there be a hearing on the objection?

If a party requests a hearing, the judge will consider the request, but is not obligated to schedule one. If an oral hearing is requested, the request should be made in writing at the top of the objection in a conspicuous manner in words such as this: "*An oral hearing of approximately _____ minutes is requested*".

Decision on the objection.

The judge will rule upon the objection and notify all parties of that decision in writing.

May corporations file objections?

Yes, but only if represented by an attorney at law. Although Revised Code section 1925.17 authorizes an officer or salaried employee to file and present a corporation's claim or defense in trial, such corporation must be represented by an attorney at law to engage other acts of advocacy, including the filing of objections to the magistrate's decision.