

FRANKLIN COUNTY MUNICIPAL COURT SMALL CLAIMS DIVISION

375 South High Street, 16th Floor
Columbus, Ohio 43215-4520
Phone: Office: 614/645-7381
24-Hour Information Line: 614/645-8615
Fax: 614/645-8465
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HOW DO I FILE A SMALL CLAIM?

An action is commenced in the Small Claims Division upon the filing of a **complaint** with the Clerk of Courts. Preprinted complaint forms and instructions are available at no charge in the office. Complaint, Waiver for Service and Clerk of Court's Civil Cover Sheet Forms are also available at <http://www.fcmcclerk.com/forms/SmallClaims/smallclaims.htm>. The information below is provided to help you fill out your complaint form--the first step in the process. You might elect to schedule a **mediation** before filing a formal action. This no-cost procedure which can help you to avoid the expense and delay of a court trial is described on the reverse side. Please call 614-645-8576 to schedule a mediation

WHO ARE THE PARTIES IN A CLAIM? WHO CAN FILE? WHO CAN BE SUED?

The party who files a complaint is known as the **plaintiff**. As the plaintiff, you may claim money that is due to you only--you may not file suit to collect someone else's money. The party you seek payment from is known as the **defendant**.

Individuals, partnerships, or corporations may appear as parties in an action. It is very important that you list each party accurately. If there is more than one plaintiff or more than one defendant, each should be listed separately.

A) Individuals. An individual 18 years or older may file a claim in his or her own name. Here is an example of how you might list a party who is an individual (always provide a full first and last name; do not use nicknames).

John Doe
23 Any Street
Columbus, OH 43200

B) Corporations. A corporation is an artificial "person" which is permitted to exist under Ohio law. A corporation may sue or be sued in its own name and may be represented by an officer, salaried employee, or attorney at law in a small claims case. To list a corporate party, enter the title of the corporation, and the address of its usual place of business. All corporations are registered with the Ohio Secretary of State (614/466-3910, <http://www.sos.state.oh.us/>). Here is an example of how you might list a corporate party:

General Enterprises, Inc.
10000 Enterprise Ave.
Columbus, OH 43200

If you are filing against a corporation and you cannot determine a regular business address, you may direct the court to notify the corporation through its **Statutory Agent** as determined from the records at the Secretary of State's office. The Statutory Agent is a person appointed by the corporation for the sole purpose of receiving summonses when the corporation is sued. It is important to note that the Statutory Agent is *not* a defendant, but merely an agent to whom court notices may be directed. Officers, employees, or other agents of the corporation should *not* be listed as defendants unless you also have claims against any of them personally. As a general rule, a principal (e. g., the corporation) is responsible for the acts of its agents (e. g., employees, officers, etc.) provided that they are conducted in the scope of their duties with their principal. If you elect to add any of these individuals as defendants, be sure to explain their personal responsibility to you in the complaint.

C) Partnerships. A partnership is an entity whose ownership is shared by two or more persons. A partnership may sue or be sued in its own name and may be represented by a general partner or an attorney at law. For a partnership, enter the name of the partnership and a mailing address. You may direct the partnership's court notice to one of its general partners. Most partnerships are registered with the Franklin County Recorder's office (614/462-393, <http://www.co.franklin.oh.us/recorder/>). Here is an example of how you might list a partnership:

Rental Properties of Columbus, a partnership
c/o John Doe, general partner
5000 Some Street
Columbus, OH 43200

D) "D.B.A." "D.B.A." means "doing business as" and is commonly used to denote a *fictitious business name* under which the owner, (i. e., an individual, partnership, or corporation) might operate. The fictitious name is never a substitute for the true identity of the party who is the owner of the business. Here is an example of how you might use "D.B.A." in identifying a party:

Jane Doe, D.B.A. Jane's Restaurant
100 Uptown Street
Columbus, OH 43200

HOW DO YOU FILL OUT THE COMPLAINT FORM?

In the upper left-hand corner of the form on the lines provided, enter the plaintiff's name, address (ZIP Code required) and telephone number. If there is more than one plaintiff, make sure that all are listed. Do not use nicknames.

In the upper right-hand corner, enter the defendant's name, address (ZIP Code required), and phone number, if known. If there is more than one defendant, make sure that all are listed separately. If you are bringing an action against a commercial entity, i. e., a business, be especially careful to enter the name of the owner, whether it be an individual, corporation, or partnership, as the defendant. An incorrect identity can result in delay, dismissal, or obtaining an unenforceable judgment.

ON THE FORM, EXPLAIN YOUR CLAIM

Below the heading "COMPLAINT," you must explain why the defendant is indebted to you. Include in your explanation *how*, *when*, and *where* the debt arose. It is not necessary to go into lengthy detail (you will have ample opportunity to do this at trial) nor is it necessary to explain all of your past efforts to collect this money. The purpose of the complaint is to provide an official record and to advise the defendant of the reasons for your claim. In your statement, you may refer

to yourself as “plaintiff” and the opposing party as “defendant.” For example, you might state your claim in this manner: Defendant owes plaintiff in the amount of \$_____ for the following reasons:

1. Explain the basis for your suit. Provide the dates of any incidents or transactions and describe where these events took place.
2. More reasons? It’s a good idea to list each reason separately. If you need more space, continue on a separate page.

Wherefore, plaintiff demands judgment against defendant in the sum of \$_____ (Enter the dollar amount of your claim, *not* including court costs), and costs, and interest.

You may claim *money only*--no other recovery is permitted within the jurisdiction of the Small Claims Division. The maximum amount you may ask is \$3000.00, exclusive of interest and costs. Generally, you may not recover “punitive damages,” nor may you recover any expenses directly incurred in your gathering evidence or in coming to court (e. g., travel expenses, lost wages, baby-sitting, parking, etc.). The amount of your claim should be supported by the evidence you intend to bring to court. **Enter the amount of your claim (not including court costs and interest) in the blank in the line which begins “Wherefore,. . . .”**

Generally, if you win your case, you are entitled to recover your out-of-pocket court costs. Court costs include 1) the filing fee, 2) subpoena fees, if any, and 3) fees required to enforce your judgment, if that should become necessary at a later time. You may also recover interest at the legal rate of 10% per annum from the date of judgment.

THE LAST STEP-- FILING YOUR CLAIM WITH THE CLERK

You must sign the affidavit on an oath at the bottom of the Complaint Form, either in the presence of a notary public outside the courthouse or before a deputy clerk in the Clerk of Courts office on the 3rd floor where you will file your complaint. In the spaces provided, please provide you daytime telephone number and your Supreme Court Registration Number, if you are an attorney at law.

If you are mailing or bringing your Complaint form downloaded from the internet, you must bring in 3 copies of the completed forms and any exhibits that you wish to file with your complaint. The three required forms are Complaint, Waiver for Service and Clerk of Court’s Civil Cover Sheet. A filing fee of \$71.00, payable in cash, or by check, money order, or credit card (VISA or MasterCard), is required at the time of filing. Fees are payable to “Clerk of the Franklin County Municipal Court.” Credit card payment must be made in person at the Clerk of Courts office. Notice of your trial date will be mailed to you in a few days.

MEDIATION: A NO-COST ALTERNATIVE TO COURT ACTION

Mediation is a process whereby a neutral third party, a mediator, attempts to bring about the settlement of a dispute by meeting with the parties privately to help them resolve their differences in mutually agreeable way. If desired by the parties, the mediator will help them to prepare a written agreement which sets forth the terms of the settlement. Here are some of the advantages of mediation:

- This service is available to you at no cost;
- The proceedings are conducted privately and confidentially;
- It is generally much quicker. Most mediations are scheduled within 10 -14 days;
- There is no need to involve witnesses or gather evidence. Mediation is not a “proof” hearing;
- Mediation can be scheduled in the evening so you may avoid missing work. Evening hours are generally more convenient for most as there is less traffic and easier access to parking;
- You control the outcome. No decision will be imposed upon you against your will;

- Even if a settlement is not achieved, you will always retain your right to bring legal action, although you are not obligated to do so; and
- Even if your case should later go to trial, you will be better prepared to present your case.

To set up a mediation first, speak with a staff member in the small claims office or call 614/645-8576. It is quicker, less expensive, and most often easier to resolve your dispute in this manner.

NEED LEGAL ADVICE OR MORE INFORMATION?

The court, including judges, bailiffs, clerks and other clerical staff, cannot provide legal advice to any person. If you have a specific question regarding your legal rights or responsibilities, you should contact an attorney at law. If you do not have an attorney, you may wish to contact the Columbus Bar Association's Lawyer Referral Service at 175 S. Third St., Columbus, OH 43215 (telephone: 221-4112), or at www.cbalaw.org.

You may contact the Small Claims office by phone at 645-7381 if you have questions about procedures in the Small Claims Division. You may contact the File Room in the Clerk of Courts office by phone at 645-8161 if you have a question about any of the court records pertaining to your case. Court hours are from 8:00 A.M. to 5:00 P.M., Monday through Friday.

You may also call the court's 24-hour "Information Line" for information on a variety of court-related topics. The telephone number for the Information Line is 645-8615.

In addition, the court maintains a web site through which you may access case information. The web site may be found at www.fcmclerk.com.