



STEP BY STEP THROUGH SMALL CLAIMS COURT

Before you complete your Small Claims Complaint, please read the following.

We will not process your claim unless the *name of the plaintiff(s) and defendant(s) are completely and properly identified.*

The Small Claims Court is prohibited by a Journal Entry of the Parma Municipal Court dated September 14, 1993 to accept any Small Claims complaints if the Plaintiff and Defendant are not properly identified or named. The Supreme Court of Ohio, In *Patterson v V & M Auto Body*, (1992), 63 Ohio St. 3d 573, ruled that lawsuits may not be maintained against a Defendant solely under the fictitious name in which the Defendant does business. The Supreme Court stated, "V & M Auto Body was an entity without real or legal existence, the lawsuit had never been properly commenced".

Because of this Court's Journal Entry and the Supreme Court of Ohio's ruling, you must be absolutely correct as to the name of the Defendant in order to make any judgment collectible. This would include whether the Defendant is a corporation or an individual doing business under a fictitious name or partnership.

For information regarding corporations or fictitious name registrations, contact the Secretary of State, Columbus, Ohio at 1-877-767-3453 or visit their website at <https://www.sos.state.oh.us/>

1. COMPLAINT FILED:

Chapter 19 of Ohio Revised Code explains the Provisions of the Small Claims Act.

(a) The Plaintiff is the person who is suing the Defendant. Be sure to bring with you any evidence or exhibits you intend to use to prove your claim and the correct name and address of the person you are suing. At the time of the filing, the Plaintiff is informed of the date on which the case will be heard by the Magistrate. Even though a Counterclaim or Cross-Claim has been filed, unless otherwise noted by the Court in writing, this date will remain the hearing date.

(b) The Small Claims Law provides that we can assist you in reducing your Claim, Counterclaim, or Cross-Claim to a short and plain statement in writing. At the time of filing, we provided you with a hand-out which contains limited information. These handouts are available for pick-up by anyone during Small Claims business hours, Monday through Friday from 8:30AM to 3:30PM.

(c) Other than that, we are prohibited by law in advising you whom to sue, how to set forth the facts of your claim, the legal procedure to follow or which legal procedures are available to you or “What do I do next?” as this would constitute the unlawful practice of law. See Ohio Revised Code 4705.01.

[Small Claims Complaint](#) [Small Claims Counterclaim](#)

[Small Claims Court Costs](#)

2. SERVICE:

A copy of the COMPLAINT is mailed by Certified Mail and Regular Mail to the Defendant by the Court. If service is not perfected, the Plaintiff will be notified and be required to request additional service as well as pay the appropriate filing fee. The hearing will not go forward until service has been perfected.

3. HEARING:

The actual hearing (Trial) is held before the Magistrate. At that time, both parties MUST have all their witnesses, papers, bills or whatever they have in their possession (evidence) that will help in winning or defending their case. Bring the ‘Original’ and three (3) copies of all the documents that you intend to testify from, and admit into evidence. At the trial you must prove your case by the Preponderance of the Evidence, which means the greater weight of evidence.

The personal attendance of your witness or witnesses to testify is required. You must bring with you persons who have present knowledge of the entire incident regarding your claim. The Magistrate will NOT continue the hearing because you “forgot” to bring along some evidence or did not bring along a witness. Bring all your witnesses and evidence! You can subpoena witnesses through the Clerk of Courts office. [CivilSubpoena](#) Do so well in advance of the hearing date.

4. **DECISION OF THE MAGISTRATE:**

Based on the evidence and testimony presented to him, the Magistrate will make a “Decision” either immediately at the hearing or after studying the facts and the law. A copy is mailed to each party. (A Magistrate’s decision shall be served on all the parties or their attorney).

5. **OBJECTION TO THE MAGISTRATE’S DECISION:**

(a) Time for filing. Within fourteen days of the filing of a Magistrate’s decision, a party may file written objections to the Magistrate’s decision. If any party timely files objections, any other party may file a response to those objections not later than ten days after the first objections are filed. If a party makes a request for findings of fact and conclusion of law under Civ. R. 52, the time for filing objections begins to run when the Magistrate files a decision including findings of fact and conclusions of law. A filing fee is required at the time the objection is filed.

(b) Form of objections. Objections shall be specific and state with particularity the grounds of objection. Any objection to a finding of fact shall be supported by a transcript of all the evidence submitted to the Magistrate relevant to that fact. A deposit of \$100.00 is required to prepare a transcript. Any unused balance will be returned. If the cost of the transcript exceeds the deposit, the additional cost must first be paid before the transcript is released. A party shall not assign as error on appeal the court’s adoption of any finding of fact or conclusion of law unless the party has objected to that finding or conclusion under this rule.

(c) If you do file an objection, you MUST send a copy to the other party and indicate that you have done this on your objection above your signature. If you fail to do this, under Civil Rule 5D, your objection WILL NOT BE CONSIDERED BY THE COURT.

6. **FINAL JUDGMENT:**

The Judge of the Parma Municipal Court will thoroughly review the Case File, Magistrate’s Decision, the Objections, if any, and enter Final Judgment which may be the exact Magistrate’s Decision or a modification of it.

7. **APPEAL:**

The Judgment entered by the Judge can be appealed to the Court of Appeals. This is a very technical procedure which, **MUST** be done within a relatively short time after the Judgment and will probably require the services of an attorney.

8. **VEHICLE COMPLAINTS:**

Title to your vehicle **MUST** be shown at the time of your hearing. Only the owner of the vehicle can sue for damages. The owner must be a party to the lawsuit and must be present at the trial to testify as to “damages”. If you are a Lessee, we suggest you contact the Lessor prior to filing suit. The Lessee of a vehicle can sue for damages, but **MUST** name the Lessor in the lawsuit.

9. **RIGHT TO HAVE AN ATTORNEY:**

Because Small Claims was originally conceived as being for lay people, and still is, more often than not the parties appear without attorneys. However, anyone in a Small Claims Hearing can have an attorney. (O.R.C. 1925.01(D)). It is your choice whether or not to bring along an attorney.

PLEASE NOTE THAT A CORPORATION USUALLY WILL HAVE AN ATTORNEY REPRESENT IT.

The agent, or officer of a corporation cannot practice law and act as an attorney – that is, engage in cross examination, argument, or any other act of advocacy. (O.R.C. 1925.17) The Magistrate will **NOT** continue a case for you to get an attorney if at the hearing the other party arrives with an attorney.

Other than the above, we cannot advise you whom to have present at the trial or how to proceed. Please consult an attorney about any questions you may have regarding any hand-out. The hand-outs are only for your convenience. That is why you should consult an attorney regarding your claim or how the hand-outs apply to you.

10. **EXPERT TESTIMONY:**

If you are relying on the Statement or Opinion of some other person (an expert) that the repairs to your personal property (car, appliance, etc.) were improperly done or that a product you purchased is defective, or a remodeling job was not done in a good

workmanship like manner, you must have that qualified (opinion) witness in court to testify (you can subpoena that witness). A written statement or Affidavit of such witness is NOT admissible even if notarized.

LOCAL RULES OF THE PARMA MUNICIPAL COURT RULE 6:

Security of Costs:

No action or proceeding shall be accepted for filing by the Clerk of this Court unless there first shall be deposited the filing fee required by this Court in its schedule of costs, except that upon representation of indigence, the Clerk of this Court shall investigate the accuracy of such representation and upon finding that such indigence does exist, the security for cost shall be waived.

When a jury trial is demanded, the party requesting same shall be REQUIRED to make an advance deposit as required by law and fixed by the court, except upon a finding of indigence as above.

Deposits and advance payments of fees and costs shall be returned only by Order of Court, and only when the same have been paid by the party against whom they are assessed by the Court.

Small Claims Collection of Judgments

(See Forms/Documents Tab for additional forms)

Once you receive a judgment in your favor and it is formally journalized, you may start collection proceedings. The Clerk's Office can provide you with the proper forms and an instruction sheet, once you determine the collection procedure you wish to follow. However, it is your responsibility to obtain any and all information regarding the individual from whom you are attempting to collect the debt.

Garnishment of Wages

You must obtain the name and address of the employer. Before you file the Wage Garnishment, you must send a Statutory Demand Notice (15 day notice) to the person. These forms may be obtained from the Clerk's Office. After the 15 day waiting period, bring in your completed and typed Wage Garnishment forms with the correct filing fee for judgments of \$3,000 and less; and for judgments over \$3,000.

[Small Claims Court Costs](#)

Attachment of Bank Accounts

You must determine the names of the banks where the person has accounts which can be attached. Prepare the forms and file them with the Clerk's Office along with the fee of for the first bank and for each additional bank, plus a separate check in the amount of \$1.00 made payable to each bank.

Lien Against Real Property

A "Certificate of Judgment for Lien" can be requested from the Clerk's Office for a fee. You may file the Certificate of Judgment for Lien with the Clerk of Court's Office in the county where the Defendant owns property. It is your responsibility to research real property ownership.

Levy (Only Property Located in Cuyahoga County)

You must determine if the person has any personal property belonging solely to him or her (i.e., automobile, furniture, office equipment, etc.). If you wish to levy on an automobile, you must verify if the person is the owner, location, model/year and color. If possible, get the serial number and license plate number. On all other items, you must have a complete description and location. *See cost schedule for filing fee.* If a Sheriff Sale goes forward, there will be an additional cost to pay for appraiser fees, advertising, etc.

Examination Before the Judge (Long Aid)

The person is required to come to Court to testify about his assets and where they are located. You must be present to conduct the questioning. There is a filing fee if the defendant is in the Courts jurisdiction and an additional fee if outside the jurisdiction.

[Small Claims Court Costs](#)