

Each year, the Civil/Real Estate Division of the 36th District Court handles thousands of cases in which one party (a person, group, business, corporation, or organization) brings an action against another for money owed as a result of a variety of causes. Such causes may include overdue accounts, rental security deposits, delinquent rent, repair bills, physical damage, breach of contract, failure to pay rent or land contract payments, etc.

Small Claims Court

Small Claims Court is a judicial process established in district courts that allows for settling monetary disputes of \$3,000 or less. You can only sue for **money damages** in Small Claims Court. This court is not for cases in which you are trying to require someone to do, not do, or stop doing something.

If you want to bring a suit against another party in the 36th District Court, Civil/Real Estate Division Small Claims Court, **the cause of the action for which you are suing must have occurred, or the party that you are suing must live or do business in the city of Detroit.** It is important for you to know that by having your case heard as a Small Claims action, you give up the following rights:

- The right to have an attorney represent you in court,
- The right to a jury trial, or
- The right to appeal a judge's decision to a higher court.

However, the party you are suing (the defendant) in Small Claims Court does not have to give up these rights. They may demand that the case be

removed to the **General Civil Docket** where the case will be heard by a judge. If that happens, you may need to seek the advice of an attorney.

Q. How do I start a small claims lawsuit?

A. To start a Small Claims lawsuit, you must fill out and file an **Affidavit and Claim** form at the Civil/Real Estate Division cashier counter window on the 2nd floor of the Madison Center Building. The cost of the form is \$1.00 and they are available at our cashier counter window or at many office supply stores. When filling out this form, it is important for you to enter the correct name and address (including the zip code) of the party you are suing. The Court does not locate the party to be sued if you do not have an address. The **plaintiff** begins the lawsuit. The **defendant** is the person being sued.

The cost for beginning a Small Claims suit depends on the amount of your claim. **Remember, the maximum that you can sue for on a Small Claims complaint is \$3,000.**

The amount of your cost to start a Small Claims case:

\$600.00 or less	\$25.00
\$600.01 to \$1,750.00	\$45.00
\$1,750.01 to \$3,000.00	\$65.00

When you file your **Affidavit and Claim** form, you will be asked how you want this form served on the defendant. **Service** refers to the official way the defendant is notified that a Small Claims lawsuit has been initiated against him/her. If you request personal service by a court officer or bailiff, it will cost you \$24.50 for each defendant in the lawsuit. If you request service by certified

mail, the cost is \$10.00 for each defendant. You must pay for the service when you file your claim with the lawsuit in the Civil/Real Estate Division.

Q. How soon after beginning my suit will I have my hearing?

A. When you file your **Affidavit and Claim**, you will receive a hearing date, usually forty (40) days after the filing date, and a courtroom will be assigned. It is important that you show up in the courtroom on the day and time when your hearing is scheduled. Small Claims cases are scheduled for 8:30 a.m. and 1:30 p.m., Monday through Thursday.

Q. How are Small Claims cases conducted?

A. Informal hearings are held before a 36th District Court magistrate. During the hearing, all parties tell their side of the case. It is important that you bring to court any records, evidence, and witnesses to support your case. You should be prepared to state your case clearly and concisely. After testimony and evidence is presented, the magistrate makes a decision. A **magistrate** is a lawyer appointed by the chief judge of a court, who has certain powers and duties which include Small Claims hearings.

Q. What kind of results can occur from a Small Claims hearing?

A. If both parties to the case are present at the hearing, the following actions can occur:

- the defendant disagrees with your claim but agrees to continue with the hearing, after which the magistrate makes a decision (enters a judgment),

- the defendant disagrees with your claim and requests the case be transferred to the General Civil Docket,
- the defendant admits liability for the claim of the plaintiff and a consent judgment is entered against the defendant, or
- the magistrate rules that the plaintiff has no cause of action to sue and dismisses the case.

Q. Can either party appeal the decision of a magistrate?

A. Yes. The decision of a magistrate at an informal Small Claims hearing can be appealed. You must file your appeal with the Civil/Real Estate Division within seven (7) days of entry of the judgment. (Appeals are held as scheduled before a judge.) You will receive notice of your hearing in the mail. Generally, the appeal hearing will be held within 28 days of filing.

The decision of the judge is final. No appeal can be made of the judge's decision.

Q. What happens if either party in the lawsuit does not show up for the hearing?

A. If the plaintiff fails to appear for the hearing, the case is dismissed. If the defendant fails to appear for the hearing, the magistrate enters a judgment, which is a non appearance default, against him/her. However, before a judgment is issued, the court verifies that the defendant was properly served with a notice of the suit at least seven (7) days before the hearing. If the defendant was not properly notified of the hearing, then another hearing must be scheduled. When cases are dismissed or a

judgment entered, the court sends notice to all parties in the case.

Q. Can an appeal be made of either a dismissal or a judgment?

A. Yes. Magistrate decisions about dismissals and judgments can be appealed. The plaintiff has seven (7) days following the hearing date to file with the court a **Motion to Reinstate the Cause of Action**. A defendant has seven (7) days in which to file a **Motion to Set Aside a Judgment**. Either motion must be filed at the Civil/Real Estate Division counter on the 2nd floor of the Madison Center. The forms cost \$1.00 each. The motion fee is \$20.00.

Generally, three weeks after a motion is filed, the decision is made to either grant the motion or deny it. The court notifies both parties of the decision. If the motion is granted, a new court date is set. If the motion is denied, you may file an appeal of that decision with the Civil/Real Estate Division.

Q. What happens if the Court enters a judgment against the defendant?

A. When the court enters a judgment against the defendant, the **plaintiff becomes responsible** for collecting on a money judgment in a Small Claims case. At your hearing, a **Small Claims Judgment** form is completed stating the amount the defendant owes, how and when it must be paid, and what happens if it is not paid. These forms are available at the Civil/Real Estate Division's cashier counter window for \$1.00 each.

A Small Claims judgment is collectible for a maximum of 6 years. MCL 600.5809 (3)

Q. What can the plaintiff do if the defendant does not pay the judgment?

A. If, after 21 days following the date on which the judgment was entered, no payment has been received; the plaintiff can file a **Writ of Garnishment** against the defendant's wages. The fee is \$15.00 to file and \$27.50 for bailiff/court officer service. However, income from welfare, unemployment, social security, etc., cannot be garnisheed. Arrangements are then made for the defendant's employer or bank to release the garnishment monies.

Another way for the plaintiff to collect on a money judgment is to file a **Seizure of Property** with the Civil/Real Estate Division. When issued by the court, this court document authorizes a bailiff/court officer to take possession of real and personal property of the defendant to be sold to pay the judgment. There is a \$15.00 filing fee and \$38.50 bailiff/court officer service fee for issuing a **Seizure of Property**, plus additional costs related to the actual expense of taking, storing, and selling the property.

Q. What happens once the judgment has been paid in full?

A. If the defendant pays the judgment in full to the satisfaction of the plaintiff, the plaintiff must file a **Satisfaction of Judgment** form to close the case. This form is available at the 36th District Court Civil/Real Estate Division counter. The plaintiff must give/mail a copy of the **Satisfaction of Judgment** to the defendant. The cost of the form is \$1.00

THE COURT STAFF IS NOT ALLOWED TO GIVE LEGAL ADVICE

Glossary of Terms

Affidavit and Claims - The form you complete and file with the Civil/Real Estate Division to start a Small Claims case.

Judgment - What the court issues when a defendant in a Small Claims case fails to appear at a hearing. This results in a money award to the plaintiff.

Defendant - The party being sued in a Small Claims case.

Dismissal - The action of the Court when the plaintiff does not show up for a hearing.

Judgment - The decision of the court.

Plaintiff - The person who begins a Small Claims case.



GENERAL INFORMATION

- *There are several parking lots within a couple of blocks of the Madison Center that allow all day parking.*
- *Entrance into the building requires you to go through a metal detector security system. Weapons and illegal substances will be confiscated. Cell phones with cameras are not allowed into the building.*

Hours of Operation

Monday – Friday * 8:00 a.m.-4:30 p.m.

36th DISTRICT COURT

Phone: 313.965-2200

TDD/TTY: 313.965.4158

FAX: 313.965.3951

We're on the Web!

<http://www.36thdistrictcourt.org>

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CIVIL/REAL ESTATE DIVISION

SMALL CLAIMS INFORMATION



36th District Court

Civil/Real Estate Division
Debra F. Gatson, Director
2nd Floor
Madison Center Building
421 Madison
Detroit, Michigan 48226
Phone (313) 965-6143
(313) 965-8624

Hon. Marylin E. Atkins, Chief Judge