FAIRFIELD MUNICIPAL COURT
SMALL CLAIMS DIVISION
675 Nilles Road
FAIRFIELD, OH 45014
(513) 867-6000

NOTICE TO ANY SMALL CLAIMS PLAINTIFF OR DEFENDANT BUSINESS

CERTAIN PERSONS CANNOT TESTIFY FOR A BUSINESS. For a corporation, only a *bona fide* officer or salaried employee may testify. Any person testifying in small claims court on behalf of a corporation (whether the defendant or the plaintiff) who is not represented at the hearing by an Ohio licensed attorney, shall bring verification to the hearing that he or she is a *bona fide* officer or salaried employee of the corporation. An LLC member or business owner must be one of the persons appearing for an LLC or non-corporation business.

Any person testifying in small claims court on behalf of a sole proprietorship, partnership, LLC, or other business (whether the defendant or plaintiff) who is not represented at the hearing by an Ohio licensed attorney, shall bring verification to the hearing that he or she is one of the owners, partners, or members.

The applicable verification may be a printout from the Ohio Secretary of State's corporate records website, LLC certificate, pay stub, original signed letter from the business, or other document as long as the documentation clearly verifies the person's status meets the stated requirements. Failure to do so as a plaintiff may result in dismissal of the claims. Failure to do so as the defendant may result in judgment in favor of the plaintiff.

Further, all businesses must verify at the hearing its lawful business name and dba trade name such as with a copy of the current registration certificate from the Ohio Secretary of State. Failure to do so as a plaintiff may result in dismissal of the claims. Failure to do so as the defendant may result in judgment against any individual named in the complaint and not just the business. Effective 10/17/16.

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Rules & Information for Small Claims Court.

Important: You must comply with all stated rules and information.
If you need legal advice, contact the Butler County Referral Service at 896-6671.

The "Plaintiff" is the person or business making a claim for money damages against another person or business called the "Defendant." A claim may involve one or more Plaintiffs or Defendants. Still, this information sheet refers to the "Plaintiff" and the "Defendant" in the singular, to either as the "Party," and to both as the "Parties." The Plaintiff files a form and affidavit to initiate a claim in the Small Claims Court called the "Complaint." The Fairfield court clerk and staff are referred to as the "Staff." The judge or magistrate presiding over your hearing is referred to as the "Court."

The Plaintiff is responsible for correctly identifying the Defendant. The Plaintiff is responsible for correctly identifying each Defendant and providing accurate addresses on the Complaint. The Plaintiff is responsible for determining the correct Defendant to name in the Complaint, such as an individual person, sole proprietorship, business, partnership, corporation, or other entity. Possible resources to determine the correct Defendant to name in the Complaint include contacting the person or business, contacting the Ohio Secretary of State at sos.state.oh.us/, or consulting with an attorney. The Complaint may be dismissed if the Defendant is not correctly named in the Complaint. A minor under the age of 18 must bring an action through his or her parent or guardian. The Staff does not research or assist with obtaining a correct address or a correct name. You as the Plaintiff filing the Complaint must decide for yourself whether to represent yourself or hire an attorney to represent you at the hearing.

If the Defendant is incorrectly named, the Defendant is responsible for requesting the Court to dismiss the Plaintiff's Complaint <u>before</u> the testimony begins. The Defendant must present documents or testimony to support the dismissal request. You as the Defendant may want to consult with an attorney if you believe you are incorrectly named as a Defendant in the Complaint.

The Plaintiff must direct the Staff how and where to serve the Defendant. The Staff will serve the Defendant the Complaint and notice of the hearing date. The procedure for delivering the Complaint to the Defendant is known as the "service of process." The Plaintiff must direct the Staff how and where to serve the Defendant, including by providing accurate address information. The preferred and usually faster method of service is by personal service. The less preferred method is by certified mail. The certified mail must be signed at least a week before the hearing date and the green card must be returned to the Court before the hearing. Otherwise, the hearing cannot go forward. Before setting a new hearing date, the Plaintiff must provide additional service address and pay applicable costs for further attempts to serve the Defendant.

The amount and types of claims permitted. The Court cannot order a person to turn over property or complete a repair, but can only order money damages. The Plaintiff's claim may be for the recovery of money damages up to $6,000.00, exclusive of interest and court costs. The Defendant may file a Counterclaim for up to $6,000.00 and must file it immediately after receiving the Plaintiff's Complaint. The Court will hear the Complaint and Counterclaim at the same hearing.

The Court has jurisdiction (authority) to hear the Plaintiff's Complaint only if the claim, incident, or transaction described in the Complaint occurred in the City of Fairfield, or if the Defendant resides in Fairfield, or—when the Defendant is a business—the business is located in Fairfield. The Court does not have jurisdiction over actions for libel, slander, malicious prosecution, alienation of affections, or assignees of debts. The Court cannot consider claims for punitive damages. Some disputes are simple and straightforward and others are not. The Plaintiff must decide whether to file the dispute in Small Claims Court and whether to proceed with or without the assistance of an attorney.

Parties that are corporations, LLC's, and other business entities. CERTAIN PERSONS CANNOT TESTIFY FOR A BUSINESS. For a corporation, only a *bona fide* officer or salaried employee may testify. Any person testifying in small claims court on behalf of a corporation (whether the defendant or the plaintiff) who is not represented at the hearing by an Ohio licensed attorney, shall bring verification to the hearing that he or she is a *bona fide* officer or salaried employee of the corporation. An LLC member or business owner must be one of the persons appearing for an LLC or non-corporation business. Any person testifying in small claims court on behalf of a sole proprietorship, partnership, LLC, or other business (whether the defendant or plaintiff) who is not represented at the hearing by an Ohio licensed attorney, shall bring verification to the hearing that he or she is one of the owners, partners, or members. The applicable verification may be a printout from the Ohio Secretary of State's corporate records website, LLC certificate, pay stub, original signed letter from the business, or other document as long as the documentation clearly verifies the person's status meets the stated requirements. Failure to do so as a plaintiff may result in dismissal of the claims. Failure to do so as the defendant may result in judgment in favor of the plaintiff.

Further, all businesses must verify at the hearing its lawful business name and dba trade name such as with a copy of the current registration certificate from the Ohio Secretary of State. Failure to do so as a plaintiff may result in dismissal of the claims. Failure to do so as the defendant may result in judgment against any individual named in the complaint and not just the business.

The person properly permitted to testify for the business still may not engage in acts of advocacy, such as cross-examination or closing argument. This person may not present witnesses to testify. These limitations do not apply to a sole proprietorship.

Requests to transfer case to the regular civil docket. The Defendant has the right to transfer the case from the Small Claims Division to the Regular Civil Division. The Defendant may make this request and pay applicable costs to utilize the more formal procedures and rules not available in the Small Claims Division. The Plaintiff may also make this request after initially filing in the Small Claims Division.

Requests to continue hearing date. If you wish to change your hearing date, refer to the Rules of Practice and Procedure for the Fairfield Municipal Court, Rules 7 and 22. File your continuance in writing via hand delivery or fax consistent with Rule 7. You must state your reasons for your request, whether you contacted the other Party, and whether the other Party agrees or objects to your request for a continuance. You must send a copy to the other Party. The Court will routinely grant one continuance requested at least seven days before the hearing. The Court only grants continuances requested within seven days of the hearing for emergencies and other limited circumstances. The Court may require you to submit verification of the emergency or other circumstances.

Settlement attempts before the hearing. In the days before your hearing, the Defendant may make contact with the Plaintiff to pay the claimed amount or to negotiate a settlement. The Plaintiff must prepare a signed letter with the names of the Parties and case number, stating the dispute is resolved and any agreed settlement amount is paid in full, and file the letter with the Staff before the hearing date. If the Parties settle in the minutes before the hearing begins, the Parties may also sign a binding settlement in the courtroom. The Court will assist the Parties with preparing a basic settlement agreement which may include binding payment terms of the money judgment amount.

How to prepare testimony and defenses for the hearing. Prior to the date of your hearing, prepare your exhibits as explained below, practice your testimony, prepare questions to ask the other Party, and request the Staff to issue subpoenas at the applicable costs for any needed documents or witnesses. You may at your cost request the Staff to issue a subpoena to your witnesses but make this request at least two weeks before the hearing. You may request a continuance of the hearing at the time you submit your request for a subpoena to allow enough time for service of your subpoena.

The Court may ask you questions during the hearing to better understand your testimony and to test your credibility, so be well prepared to respond. The Plaintiff has the burden (responsibility) to present enough testimony and evidence to prove the claims and damages by a greater persuasive weight of all of the evidence presented at the hearing. The Parties must be completely prepared with needed testimony, witnesses, and exhibits at the time of the hearing. The Court will almost always deny requests to "take a break to bring in additional evidence," requests to "bring a witness or exhibit later," or requests "for the Court to make some calls to witnesses after the hearing."

At the hearing, the Plaintiff will go first and present his or her testimony by clearly explaining the reasons for the claims against the Defendant and the calculations for the claimed amount of damages. The Defendant will go second and present his or her response by clearly explaining the reasons for denying the claims or the amount of damages. Do not read your testimony. The Parties may present and explain any exhibits supporting their side of the dispute. The Parties may present and ask questions of any witnesses. The Parties may be permitted to ask questions of each other near the end of the hearing. The Court will consider requests to view relevant evidence immediately after the hearing, such as a vehicle brought to the Court parking lot.

How to prepare your exhibits before the hearing. NO PHONE TEXTS OR VIDEOS PERMITTED. "Exhibits" are your relevant documents, photographs, contracts, receipts, written estimates, proof of ownership of the relevant vehicle or property, public records, business records, tangible items, etc. If you have photos, video, text, or voice recordings from a cell phone or other screen device, you <u>must print a copy or prepare a transcript</u> in advance of the court hearing. You <u>may not</u> simply present the images on the screen or play a recording as an exhibit.

BRING ORIGINALS PLUS TWO COPIES OF ANYTHING YOU WANT TO PRESENT. LABEL EVERYTHING. The Parties must bring to the hearing the <u>originals plus two copies</u> of all exhibits that you intend to present in support of your Complaint or in support of your defense. <u>Mark each exhibit original and copy in the upper right hand corner or other available space.</u> Plaintiffs, use numbers in sequence (1, 2, 3 etc). Defendants, use letters in sequence (A, B, C, etc). Do not staple your exhibits. Do not put your exhibits in a binder.

You must be prepared to give an entire set of your exhibits before your hearing begins to the Court and the other party. You will keep the originals for yourself. You must have the originals available for inspection if requested by the other party or the Court. You may not submit documents after the day of your hearing. Even if you attached documents to the Complaint, you must still provide the originals and two sets of copies.

While Ohio rules of evidence do not apply to Small Claims Court, witness affidavits are typically unreliable or not helpful. This type of evidence may be presented but understand it may provide little or no persuasive value in your favor. You have the responsibility for getting witnesses you need to personally appear at the hearing.

Decision and judgment. At the conclusion of your hearing, the Court may render a decision in the courtroom or may take the case under advisement, meaning a decision will be later mailed to all Parties. The decision may be short or may be several pages if the Court chooses to explain the decision for the benefit of the Parties. The decision could take a few weeks or even months, depending on the issues in your dispute, the Court's case load at the time, and other time factors. If neither Party files an objection within 14 days after the filing of the decision, the decision becomes a binding judgment. Important basic information regarding filing an objection will be attached to the decision.

If no objection is filed and the decision is in favor of the Plaintiff, the Defendant should make arrangements to pay the judgment and any assessed costs and interest directly to the Plaintiff. The judgment is not paid through the Court. The Defendant should insist that the Plaintiff provide a receipt of payment and that the Plaintiff promptly file with the Court a signed letter stating the name of the case, the case number, and that the judgment was paid in full.

Collection of any judgment. If the judgment is not voluntarily paid by the Defendant, the Plaintiff may take various legal collection actions such as garnish wages, garnish bank accounts, or file a judgment lien. Remember, the Staff receives and processes legal collection paperwork but cannot provide the paperwork or advise what collection action to take and how to take it. Obviously, it is important for a Plaintiff to evaluate the chances of enforcing collection prior to investing the time and expense necessary to file, prepare, and present the Complaint. The Plaintiff may schedule a hearing to question the Defendant about assets, liabilities, and personal earnings by requesting a Judgment Debtor's Examination and paying the applicable cost to file and serve the Defendant. The Plaintiff may also request the Staff to issue a subpoena ordering the Defendant to bring to the hearing various documents such as employment, wage, bank, tax returns, vehicles titles, and other records. If the Defendant is served and appears at the examination, the Plaintiff and not the Court asks the Defendant questions about assets, liabilities, and personal earnings. If the Defendant was personally served notice of this examination and fails to appear, upon the Plaintiff paying applicable costs the Court may issue a notice ordering the Defendant to appear before the judge on another date. The Defendant may be arrested for failing to appear on that date.

Other rules. Hearings in Small Claims Court are conducted in an informal manner to allow Parties without counsel to more easily and economically pursue and defend legal claims. But remember, while Small Claims Court is a simplified proceeding, you must still follow certain rules, procedures, and requirements when presenting your case or defense. If you are uncertain how to proceed, you may want to contact an attorney. The Staff cannot assist you and cannot provide legal advice. **Revised October 17, 2016**