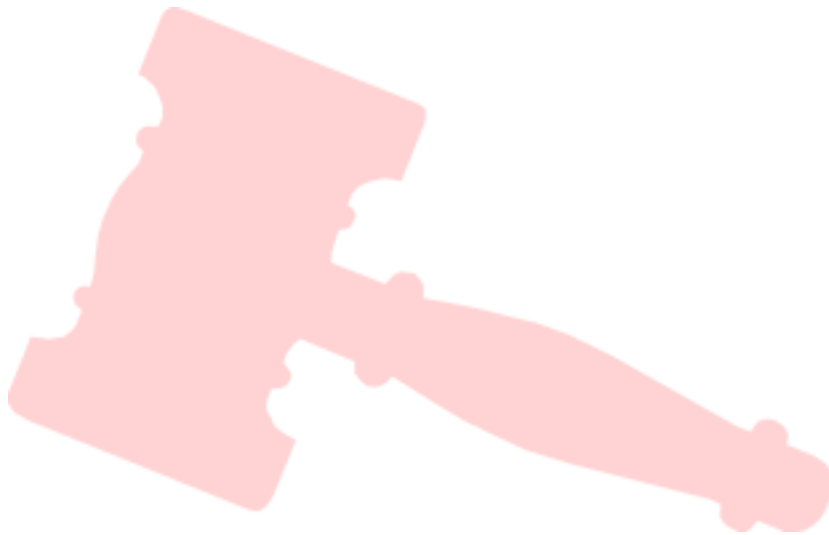




Information on starting a

Small Claims Suit



First District Court

– County of Monroe –

106 East First Street • Monroe, Michigan 48161

Telephone: 734.240.7090 • Toll Free: 1.888.354.5500 ext. 7090

Points To Consider

The Court is a tool that is available to you for settling disputes or establish and reducing your claims to judgment

If you file a small claims suit, **YOU WILL** be responsible for locating the parties, determining your course of action, gathering your witnesses with evidence and determining a defendant's source of income.

Collectability should be a prime consideration prior to starting a suit. There are often situations where a judgment is not particularly difficult to obtain but the collection of money is difficult, if not impossible. Situations such as welfare, unemployment, social security, and other similar payments are not subject to garnishment.

While the staff of this court will assist either party to an action in this court, the following must be understood:

- Staff members **ARE NOT** attorneys and they **MAY NOT** give legal advice.
- The **Judges** and **Attorney Magistrates**, **MAY NOT** and **WILL NOT** advise on matters they may have to rule on.

Starting A Small Claims Suit

To start a suit in this district:

- The defendant (*i.e., the person or business being sued*) must reside or work in the **COUNTY OF MONROE**.
- OR**.....
- The incident that resulted in the starting of the lawsuit occurred in the **COUNTY OF MONROE**.
 - You must have a direct interest in the suit.
 - Your claim may not exceed **\$3,000⁰⁰** (*\$500⁰⁰ for traffic accident claims under Michigan's no-fault minitort law*).
 - YOU MUST** waive certain rights. **YOU MAY NOT:**
 - have an attorney represent you in court for proceedings before or after Judgment;
 - have a jury decide the case;

The defendant cannot be forced to waive these rights and submit to the small claims division. If the defendant refuses, the matter can be transferred to the general civil division. This may not be known until the time of the hearing.

At the time you file a small claims suit, you must:

1. **Submit a completed AFFIDAVIT AND CLAIM Form** - This form requests information on the defendant's name and current address, the date and amount of the claim and the reason for the claim.
2. **Pay the filing fee** - if the amount of the claim is **\$600⁰⁰** or less, the filing fee is **\$25⁰⁰**. If the claim is **\$601⁰⁰-\$1,750⁰⁰**, the filing fee is **\$45⁰⁰**. If the claim is **\$1,751⁰⁰ - \$3,000⁰⁰**, the filing fee is **\$65⁰⁰**.
3. **Select and pay for services of process** - each defendant must be served with a copy of the Claim and Summons. There are three (3) ways to serve.
 - a) Service by Certified Mail with return receipt requested. The fee is **\$7²⁵** per defendant.
 - b) Personal service by a court officer. You will be billed directly by the Court Officer.

c) Personal service may also be made by any legally competent adult who **IS NOT** a party to the suit. However, please be advised that if you select this option, service must be in accordance with the Michigan Court Rules or the service will be considered invalid.

4. If your claim is more than two (2) years old, check with an attorney. It may be barred by a **Statute of Limitations on Lawsuits**.

NOTE: Personal service (*preferably by a Court Officer*) would be required if Certified Mail is returned "**UNCLAIMED**" by the Post Office or the return receipt is signed for by someone other than the defendant and the defendant fails to appear on the hearing date.

When a claim is filed, a hearing date is set within thirty (**30**) to sixty (**60**) days. This assures (*generally*) the defendant receiving notice by the required seven (**7**) days prior to the hearing date. **PLEASE** telephone the Court at **734.240.7090, 1-2 DAYS PRIOR TO THE COURT DATE** to verify service on the defendant. Judgment **CANNOT** be rendered without service.

Settlement Prior To Hearing Date

Frequently, the defendant may offer settlement prior to the hearing date. If lump sum settlement is not possible and you are agreeable to installment payments, **REDUCE THE AGREEMENT TO WRITING SIGNED BY BOTH PARTIES AND FILE A COPY WITH THE COURT** to avoid a future dispute as to the term of the agreement. If the claim is paid, you should dismiss the suit.

If the agreement is reached, but there has been no payment, you may wish to dismiss the suit. However, many people prefer to continue to judgment in the event there is a default on the agreement.

On The Hearing Date

Parties should check in with the **CIVIL DIVISION**, located on the **MAIN (2nd) FLOOR** of the Courthouse.

**ON THE DATE OF HEARING,
IT IS ESSENTIAL THAT YOU HAVE ALL PAPERS, PHOTOS, WITNESSES,
AND/OR OTHER EVIDENCE TO SUPPORT YOUR CLAIM.**

Hearing

Claims will be heard by the **Attorney-Magistrate**. When the case is called, the plaintiff is sworn in and makes a statement as to why he/she believes the defendant is liable. He/She may offer other witnesses and evidence, if any.

The defendant may then make a statement as to why they believe they are not liable and, likewise, may offer other witnesses and evidence.

Each party has the right to question the other party or his/her witnesses only **AFTER** they have completed their statements. This is called cross examination. This **MUST BE** in the form of questions. All statements are to be made to the Court. You should only address the other party or witness in the form of a question and should **NOT** argue with the other party or his/her witnesses directly.

After all the testimony and evidence has been presented, each party has an opportunity to summarize the matter before the **Magistrate**.

The Magistrate will then either render a decision at the end of the case or take the matter under advisement. In the latter event, the decision will be mailed to the parties.

If the Plaintiff prevails, the court costs are usually added to the amount of the judgment.



AGAIN, IT IS ESSENTIAL THAT EACH PARTY HAVE ALL THE EVIDENCE AND WITNESSES WITH THEM AT THE TIME OF THE HEARING. IT IS DIFFICULT FOR THE COURT TO RENDER A FAIR DECISION WITH LESS THAN ALL THE FACTS. EACH PARTY HAS SEVEN (7) DAYS TO APPEAL THE MAGISTRATE'S JUDGMENT TO A DISTRICT COURT JUDGE. THIS APPEAL WILL BE HEARD AS A SMALL CLAIMS CASE, WITH THE SAME WITNESSES AND EVIDENCE PRESENTED BEFORE THE MAGISTRATE. NO FURTHER APPEALS ARE ALLOWED AFTER THIS APPEAL.

If a Default Judgment is rendered against a defendant who fails to appear, that defendant cannot appeal, but may make a motion to set aside the default for good cause.

Collecting The Judgment

The Court encourages the parties to agree among themselves how to pay the judgment if a lump sum payment is not possible. Any agreement reached **SHOULD BE REDUCED TO WRITING, SIGNED BY BOTH PARTIES AND A COPY FILED WITH THE COURT** to eliminate a future dispute on the terms of agreement.

If agreement **CANNOT** be reached, the defendant has the right to petition the Court to set the payment. A hearing date will be scheduled and the plaintiff will be notified and may be present, if he/she chooses. The defendant must provide the Court with all income and expense information to permit the Court to set a payment that is reasonable, yet satisfying the judgment without undue delay. The plaintiff will have an opportunity to offer any facts or opinions if he/she wishes.

If payment is not offered within a reasonable period after the judgment is rendered (*not longer than twenty-one days*), there are other means to collect. Garnishments, Writ of Attachments and other methods of collections are somewhat complicated Court procedures. It is the Court's suggestion that if the Plaintiff is not familiar with Civil Court procedure, he/she should contact an attorney for advice. An attorney **MAY NOT** appear or sign documents for the parties in post judgment proceedings.

Changes in legislation covering Civil costs have changed many of the published fees. Please ask the Deputy Clerk for the correct amount owed.

PLEASE NOTIFY THE COURT IN WRITING WHEN YOU HAVE RECEIVED FULL PAYMENT OF YOUR JUDGMENT. THIS WILL ENABLE THE COURT TO HAVE COMPLETE AND ACCURATE RECORDS.

For Additional Information Please Contact

FIRST DISTRICT COURT CLERK'S OFFICE

106 East First Street • Monroe, Michigan 48161

Telephone: 734.240.7090 • Toll Free: 1.888.354.5500 ext. 7090

(Please Ask For Small Claims Clerk)

Effective 7/92

Revised 11/93 - 4/96 - 6/97 - 1/2000 - 9/2003