

**PUTNAM COUNTY
SMALL CLAIMS COURT**

Judge Chad Niese

WHAT IS SMALL CLAIMS COURT?

The purpose of Small Claims Court is to resolve minor disputes fairly, quickly and inexpensively. No one need hire a lawyer, but anyone can have a lawyer represent them if he or she wishes. The procedure is simple; hearings are informal; there is no jury; cases are decided by the Municipal Court Judge or a referee (a qualified attorney appointed by the Judge); court costs are much lower than in regular court.

WHO IS THE PLAINTIFF?

The Plaintiff is the person who filed the complaint against another.

WHO IS THE DEFENDANT?

The Defendant is the person being sued.

HOW MANY CLAIMS CAN I FILE IN A ONE YEAR PERIOD?

A maximum of 24 claims per year may be filed for each plaintiff.

AS A PLAINTIFF:

WHAT TYPES OF CASES CAN BE FILED?

You can file to recover a security deposit or to collect past due rent, or to recover monetary damages to your property or to recover money borrowed on personal loan. On most other civil matters a plaintiff may recover up to the monetary limits.

HOW MUCH CAN BE FILED FOR IN SMALL CLAIMS?

The amount of claim amount cannot exceed \$6,000.00.

WHO CAN SUE OR BE SUED?

Anyone over 18 years of age can sue or be sued. Defendants cannot be in the military service; minors must be represented by a parent or guardian in Small Claims Court. The transaction must have occurred in Putnam County, or the defendant live in Putnam County.

ARE CORPORATIONS ALLOWED TO FILE OR BE SUED IN SMALL CLAIMS COURT?

A corporation may commence an action and appear through an attorney or through any bona fide officer or salaried employee, in any action arising from a claim based on a contract to which the corporation is the original claimant. Such corporation may not, in the absence or representation by an attorney at law, engage in cross-examination, argument or other acts of advocacy.

HOW MUCH WILL IT COST TO TAKE SOMEONE TO SMALL CLAIMS COURT?

The filing fee is \$51.00. All costs approved on the case will automatically be recovered by the Plaintiff unless the court determines otherwise. Defendants are charged \$51.00 to file any counter-claim.

HOW LONG WILL IT TAKE FOR MY CASE TO BE HEARD?

Hearing dates are set approximately 30 days from the date of filing.

WHAT KIND OF INFORMATION OR PAPERS ARE NEEDED TO FILE A CLAIM?

You will need the Defendant's correct address for service of the summons (the order to appear in Court) by certified mail. Any exhibits, such as statements, invoices, etc. can be submitted to attach with the complaint and summons. One copy of the exhibit is needed for the Court's file and one copy is needed for each defendant.

DOES THE PLAINTIFF HAVE TO APPEAR AT THE FIRST HEARING?

Yes, a mandatory appearance in Court is required. The case will be dismissed if the Plaintiff fails to appear. The Plaintiff is not required to appear if satisfaction of the claim and costs have been paid directly to the Plaintiff prior to the court date, and if a signed notice is issued to the court.

DO I NEED ANY ADDITIONAL EVIDENCE ONCE MY CLAIM IS FILED?

You will need all records, documents, etc. at the time of hearing or trial, which will substantiate your claim. You should also have your witnesses available to testify.

SUBPOENAS FOR A WITNESS MAY BE REQUESTED FOR TRIAL NO LATER THAN 5 DAYS PRIOR TO THE TRIAL AT A COST OF \$25.00 EACH.

AS A DEFENDANT:

I'VE BEEN SUED, WHAT DO I DO NOW?

If you admit the claim, you may pay the plaintiff the full amount of the claim, plus court costs. The Plaintiff will then notify the court and the hearing will be cancelled. A dismissal entry will be filed.

WHAT HAPPENS IF I DO NOT RESPOND TO THE SUMMONS?

If you do not respond, a judgment by default could be entered against you, meaning, you defaulted by doing nothing, and therefore the Plaintiff will be awarded what was requested.

WHAT IF I HAVE A CLAIM AGAINST THE PERSON WHO IS SUING ME?

If you believe you have a claim against the person who is suing you, you can file a Counter-Claim against them. As per Ohio Revised Code 1925.02 (c), your Counter-Claim along with a \$51.00 filing fee and service upon the other parties must be filed no later than seven days prior to the hearing date.

WHAT IF I DON'T BELIEVE I OWE THE CLAIM?

If you believe you don't owe the amount claimed, you must appear at the hearing and present your position. At the hearing you will need to bring any documents, photos and/or witnesses to support your position. After the Judge hearing the case, a written decision will be issued in approximately one week. All parties are notified of this decision.

WHAT IF THE OPPOSING PARTY RETAINS AN ATTORNEY?

You may request the court to continue the case to allow you time to retain an attorney also.

WHAT DO YOU DO IF YOU NEED TIME TO PAY THE CLAIM?

If you desire time to pay, you can make this request when you appear at the hearing. At that time a Consent Judgment Entry would be ordered. If you cannot appear, call and write the court as soon as possible.

**PUTNAM COUNTY MUNICIPAL COURT
OTTAWA, OHIO**

RECOVERING JUDGMENT

AFTER I AM AWARDED A JUDGMENT HOW DO I GET MY MONEY?

You must take action to force payment of your judgment. The court will not get your money for you but will assist. Four ways to collect on a judgment are:

Voluntary payment. If possible, make arrangement with the judgment debtor to pay the judgment, either all at once or in installments. The court may order that payment be made by a certain date or in installments.

Garnishment. If the judgment debtor will not pay voluntarily, the usual method of forcing payment is garnishment. In garnishment, the court orders the judgment debtor's employer or bank to satisfy the judgment by paying a portion of the judgment debtor's earnings or bank account to the court, which in turn pays the money to the judgment creditor (the person who is owed money under the judgment).

There are limitations on how much the employer or bank can pay the court. First, the amount cannot exceed the judgment. Second, a bank can pay only the money in the account. Third, if the source of the funds in the bank account can be directly traced to wages, social security payments or certain pension payments, these funds cannot be garnished. Fourth, in general an employer cannot pay more than 25 percent of the judgment debtor's net earnings.

It is possible that the judgment debtor whose wages you seek to garnish has other judgments pending. If so, garnishments will become effective in the order the debtor's employer receives them. A garnishment, once in effect, will remain in effect for at least six months or until the debt is paid, whichever occurs first.

As this process can be confusing and the court cannot provide legal advice it is strongly suggested that you seek an attorney to assist you with garnishment procedures.

Judgment lien. You may obtain a judgment lien on any real estate the judgment debtor may own or acquire. A judgment lien does not automatically force the payment of money, but it gives you a security interest, like a mortgage, in the judgment debtor's real property. When filed, the Certificate of Judgment imposes a lien on the judgment debtor's real estate that is located in the county where the certificate is filed. If the Judgment debtor wants to sell or refinance the real estate that is subject to your lien, he/she will have to pay the judgment in order to give clear title to a buyer. To get money from a judgment lien you must file foreclosure action, just like foreclosing on a mortgage. Foreclosing a lien is a complicated procedure, in general, it will require the services of an attorney.

Execution/Attachment. Another method of forcing payment is attachment or execution as this proceeding can also be called. Under attachment, the court orders some of the judgment debtor's personal property seized and sold to pay the judgment. Attachment is more complicated and time-consuming than garnishment and can be more costly. If you are considering this option, you may need to consult an attorney.

HOW CAN I GET HELP TO ENFORCE MY JUDGMENT?

You can obtain help in enforcing your judgment by contacting an attorney or by contacting the court that issued the judgment. After you have paid all court costs the court can explain necessary procedures to collect your judgment. The court will not however, provide legal advice and can only provide information on procedures as well as required forms. If it is necessary to take court action to collect your judgment, you will need both patience and persistence. The law allows judgment debtors to keep certain items or assets (or portions of assets) so that judgment debtors have the basics with which to support themselves. Creditors cannot take these exempt items or assets.

HOW CAN I FIND PROPERTY TO GARNISH OR ATTACH?

The easiest way to find the judgment debtor's property is to have the court order the judgment debtor to answer a standard questionnaire about his/her property and finances. Wait 30 days after you obtain your judgment. If in that time the judgment has not been paid and no arrangements have been made to pay it, go to the court which issued the judgment and ask for a Debtor's examination of the judgment debtor. Under a debtor's Examination, the court orders the judgment debtor to identify his/her assets, liabilities and earnings.

WHAT CAN I DO IF I NEED HELP PAYING THE JUDGMENT?

If you are in financial trouble you have several options: trusteeship, debt scheduling agreement or bankruptcy. If this is your situation however you should get professional legal assistance.

If you fail to pay the judgment against you, you may receive a "15-day Demand" also called "Notice of Court Proceeding to Collect Debt". This is the first step by the person who won a judgment against you in asking the court for help to collect the money. The notice will mention the possibility of trusteeships or debt scheduling agreements as alternatives to other court action.

Trusteeship is an arrangement made through the Putnam County Court which arranges for part of your earnings to be regularly divided and applied to your liquidated debts (debts where the final amount is known) until these debts are paid. You may need to pay a fee for the trusteeship, usually a percentage of the amount to be administered. If you enter a trusteeship, garnishment will be stopped and your creditors will generally be held off as long as you faithfully follow the trusteeship plan. Your creditors can object to the establishment of a trusteeship. A trusteeship does not prevent creditors from taking certain actions such as obtaining judgments or pursuant to court order attaching and selling property that is not exempt.

Debt Scheduling Agreement is developed through an approved consumer credit counseling service and is similar to a trusteeship. A person who wishes to establish a debt scheduling agreement meets with a representative of an approved consumer credit counseling service to determine if an agreement can be arranged. If an agreement can be arranged, the debtor deposits the non-essential portion of income with the service and the service distributes funds to creditors pursuant to the agreement. Approved consumer credit counseling services do not charge debtors for the services they provide. Once an agreement is established creditors voluntarily participate in the debt scheduling plan and may not garnish wages as long as the debtor faithfully follows the agreement. Creditors who have accepted the plan may still take some other legal actions to collect the debt such as garnishment of bank accounts or the attachment of property that the judgment debtor pledges as security but has failed to pay for.

Bankruptcies are administered by the federal courts. In bankruptcy, the debtor's property is divided among the creditors and most of the debtor's obligations are completely discharged, even if the property is not worth enough to pay all the debts. If you are thinking of filing for a bankruptcy, contact a lawyer, the local bar association or the local legal aid society.

PUTNAM COUNTY MUNICIPAL COURT
245 E. MAIN ST., SUITE 303
OTTAWA, OHIO 45875

Plaintiff

VS

Case No. _____

General Precipe

Please issue the following document/s:

Please serve document/s to the respective party by following service type:

If hearing date is necessary please set for:

Signature

Date

Putnam County Municipal Court

245 E. Main St., Suite 303, Ottawa, Ohio 45875

Small Claim Complaint

Case No _____

Costs \$ _____

Date _____

PLAINTIFF _____

DEFENDANT _____

DBA/FDBA/FKA _____

ADDRESS _____

ADDRESS _____

(CITY, STATE AND ZIP CODE)

(CITY, STATE AND ZIP CODE)

TELEPHONE NO: _____

TELEPHONE NO: _____

IS DEFENDANT PRESENTLY IN THE MILITARY OR NAVAL SERVICE OF THE UNITED STATES? _____
(Yes or No)

COMPLAINT _____

AMOUNT CLAIMED \$ _____ WITH INTEREST THE STATUTORY RATE FROM
THE _____ DAY OF _____, 20____.

THE UNDERSIGNED, BEING FIRST DULY SWORN ON OATH, STATES THAT THE ABOVE
NAMED COMPLAINT IS TRUE TO THE BEST OF THEIR BELIEF

SUBSCRIBED AND SWORN TO BEFORE ME THIS

_____ DAY OF _____, 20__.

Clerk/Deputy Clerk/Notary Public

Plaintiff (Signature)

Putnam County Municipal Court
245 E. Main St., Ottawa, Ohio 45875
Small Claims Division
Defendant's Statement of Counterclaim

_____ VS _____

Plaintiff - Name and Address

Defendant - Name and Address

Phone _____

Phone _____

To: _____

The defendant, _____, asks judgment in this court against you in the amount of \$ _____ upon the following counterclaim.

AFFIDAVIT OF DEFENDANT'S COUNTERCLAIM

_____, being first duly sworn, on oath states that he/she is the defendant in the above entitled cause; that the said cause is for the payment of money; that the nature of defendant's demand is as stated, and that there is due to defendant from the plaintiff the amount stated above and plaintiff is not now in the military or naval service of the United States.

This _____ day of _____ 200_____.

Sheriff, Deputy Bailiff or Notary Public

Signed _____

NOTICE AND SUMMONS IN ACTION FOR MONEY ONLY

To:

(1) _____ (2) _____
Plaintiff Plaintiff

Address Address

The Court will hold trial upon this claim at the Small Claims Division of the _____ Court located _____ in the Court Room at _____ o'clock _____ M. on _____ 200_____.

If you do not appear at the trial, judgment may be entered against you by default, and your earning may be subjected to garnishment or your property may be attached to satisfy said judgment if your defense is supported by witnesses, account books, receipts, or other documents, you must produce them at the trial. Subpoenas for witnesses, if requested by a party, will be issued by the clerk.

If you admit the claim but desire time to pay, you may make such a request at the trial.

seal

Clerk

Deputy Clerk

