

HOW TO GET A MONEY JUDGMENT IN SMALL CLAIMS COURT

Form DC 84

AFFIDAVIT AND CLAIM, SMALL CLAIMS

Use this form if you want to bring a lawsuit against someone who owes you money or who has caused damage to your property or possessions and you cannot resolve the dispute through mediation or other means. The maximum you can collect through a judgment in small claims court is \$3,000.00.

If you require special accommodations to use the court because of a disability, or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

INSTRUCTIONS FOR COMPLETING "AFFIDAVIT AND CLAIM, SMALL CLAIMS"

Please type or print neatly. You must file four copies plus one additional copy for each added defendant.

Numbers 1 through 13 must be completed before your claim can be filed with the court. Please read the instruction for each number. Then fill in the correct information for that number.

1. On the lines provided, print the name and address of the party who is suing (this may be someone other than you). This person is called the plaintiff.
2. On the lines provided, print the name and address of the party who is being sued. This person is called the defendant.
3. Check the box that best describes your relationship to the plaintiff. For example, if you are the plaintiff, check the box "plaintiff;" if you are a partner in business with the plaintiff and are suing for the partner, check the box "partner;" if you are a full-time employee of the plaintiff and are suing for the plaintiff, check the box "full-time employee." If you are not the plaintiff and do not have direct and personal knowledge of the facts in this dispute, you cannot complete this form for the plaintiff.
4. Check the box that best describes the plaintiff. For example, if the plaintiff is an individual, check the box "an individual;" if the plaintiff is a partner in a business partnership, check the box "partnership;" if the plaintiff is a corporation, check the box "corporation;" if the plaintiff is a private business owner without a partner, check the box "sole proprietorship."
5. Check the box that best describes the defendant. For example, if the defendant is an individual, check the box "an individual;" if the defendant is a partner in a business partnership, check the box "partnership;" if the defendant is a corporation, check the box "corporation;" if the defendant is a private business owner without a partner, check the box "sole proprietorship."
6. Print the date that the dispute occurred. For example, if the defendant owed money on a certain date and did not pay on that date, print that date here. Or, if the defendant damaged something that belonged to you, print the date that the damage occurred.
7. Print the amount of the money owed or you feel is owed to cover any damage. The amount cannot be more than \$3,000.00. If the amount owed to the plaintiff is more than \$3,000.00 and you file this form with the court, the plaintiff gives up the right to any amount over \$3,000.00. The plaintiff cannot file another form to get a judgment for the balance. If the plaintiff wants a judgment for an amount over \$3,000.00, a lawsuit should be filed in the civil division of the district court.
8. Check this box if this matter is related to another case. Provide the name of the court and case number, if known.
9. Explain the reasons for the claim. Include what happened to cause the dispute.
11. Check the boxes that are most accurate.
12. Check the box that is most accurate.
13. Sign your name and hand this form to the court clerk. The court clerk will fill in the rest of the information, will give you your copy, and will explain what to do next.

What happens next.

- If you are not completing this form at the court and want to send it in, call the court for instructions. The court will tell you how to get this form signed by a notary and how to pay the filing and service fees.
- You must pay the court clerk a fee for filing the form. If you are requesting \$600.00 or less in item 7, pay \$25.00. If you are requesting more than \$600.00 but not more than \$1,750.00 in item 7, pay \$45.00. If you are requesting more than \$1,750.00 in item 7, pay \$65.00.
- You must have this affidavit and claim served on the defendant. You may do this by registered or certified mail or by having a process server hand the form to the defendant (personal service). If you choose to use mail, the court clerk will mail it for you and charge the appropriate fee. The court clerk can provide you with information if you wish to have a process server deliver the form. The fee and method of payment for personal service varies and will be explained to you by the court. The defendant must be served before the expiration date in item 14. If this form cannot be served on the defendant before the expiration date, you can ask the court clerk to renew your claim. You must ask before the expiration date.
- You must attend the hearing. The hearing date, time, and location is stated in item 15. Be sure to bring along any witnesses, books, papers, or other physical evidence which will help prove to the court that you are entitled to a money judgment.
- Ask the court clerk for the pamphlet "Small Claims Court." Read it so you understand how to prepare for your hearing and how to collect a money judgment if the court gives you one.

**STATE OF MICHIGAN
JUDICIAL DISTRICT**

**AFFIDAVIT AND CLAIM
Small Claims**

CASE NO.

Court address

Court telephone no.

See instructions on the back of plaintiff and defendant copies.

1. _____
Plaintiff

Address

City, state, zip Telephone no.

2. _____
Defendant

Address

City, state, zip Telephone no.

3. I have knowledge or belief about all the facts stated in this affidavit and I am (check one) the plaintiff. a partner. a full-time employee of the plaintiff.

4. The plaintiff is (check one) an individual. a partnership. a corporation. a sole proprietor.

5. The defendant is (check one) an individual. a partnership. a corporation. a sole proprietor.

6. The date(s) the claim arose are _____.

7. Amount of money claimed is \$ _____. (NOTE: Plaintiff's costs are determined by the court and awarded as appropriate. They are not part of the amount claimed.)

8. A civil action between these parties or other parties arising out of the transaction or occurrence alleged in this complaint has been previously filed in _____ Court. The case number, if known, is _____.
The action remains is no longer pending.

9. The reasons for the claim are _____

10. The plaintiff understands and accepts that the claim is limited to \$3,000.00 by law and that the plaintiff gives up the rights to (a) recover more than this limit, (b) an attorney, (c) a jury trial, and (d) appeal the judge's decision.

11. I believe the defendant is is not mentally competent. I believe the defendant is is not 18 years or older.

12. I do not know whether the defendant is in the military service. The defendant is not in the military service.
 The defendant is in the military service.

13. This affidavit is made on my personal knowledge and, if sworn as a witness, I can testify competently to the facts in this affidavit.

Applicant signature

Subscribed and sworn to before me on _____, _____ County, Michigan.

My commission expires: _____ Date Signature: _____
Deputy clerk/Notary public

Notary public, State of Michigan, County of _____

14. Expiration date: _____

NOTICE OF HEARING
For Court Use Only
15. The plaintiff and the defendant must be in court on
Day _____ Date _____
at _____ at <input type="checkbox"/> the court address above
Time _____
<input type="checkbox"/> _____
Location _____
Process server's name _____ Fee paid: \$ _____

**AFFIDAVIT AND CLAIM
Small Claims**

Case No. _____

PROOF OF SERVICE

TO PROCESS SERVER: You are to serve this affidavit and claim no later than 7 days before the hearing date. You must make and file your return with the court clerk. If you are unable to complete service, you must return this original and all copies to the court clerk.

CERTIFICATE / AFFIDAVIT OF SERVICE / NONSERVICE

<input type="checkbox"/> OFFICER CERTIFICATE I certify that I am a sheriff, deputy sheriff, bailiff, or appointed court officer (MCR 2.104[A][2]), and that: (notarization not required)	OR	<input type="checkbox"/> AFFIDAVIT OF PROCESS SERVER Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notarization required)
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- I served personally a copy of the affidavit and claim,
- I served by registered or certified mail (copy of return receipt attached) a copy of the affidavit and claim,
- together with _____, on the defendant(s):
Attachment _____

Defendant name	Complete address of service	Day, date, time
Defendant name	Complete address of service	Day, date, time
Defendant name	Complete address of service	Day, date, time

- I have personally attempted to serve the affidavit and claim, together with any attachments on the following defendant(s) and have been unable to complete service.

Defendant name	Complete address of service	Day, date, time
Defendant name	Complete address of service	Day, date, time
Defendant name	Complete address of service	Day, date, time

I declare that that statements above are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Fee	
\$		\$	
Incorrect address fee	Miles traveled	Fee	TOTAL FEE
\$		\$	\$

Signature _____
 Name (type or print) _____
 Title _____

Subscribed and sworn to before me on _____, _____ County, Michigan.
Date

My commission expires: _____ Signature: _____
Date Deputy court clerk/Notary public

Notary public, State of Michigan, County of _____

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of the affidavit and claim, together with _____
Attachment

_____ on _____
Day, date, time

_____ on behalf of _____
 Signature

ADDITIONAL NOTICE AND INSTRUCTIONS

TO BOTH THE PLAINTIFF AND THE DEFENDANT:

- You must bring to the hearing all witnesses, books, papers, and other physical evidence needed to prove or disprove this claim.
- Before the trial (hearing) starts, you have the right to
 1. **remove the case to the general civil division of the district court**, or
 2. have the case heard by a district court judge (if the hearing is scheduled before an attorney magistrate). If the case is heard by an attorney magistrate, you may appeal to the district judge within 7 days after the trial.

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

TO THE DEFENDANT:

- The affidavit and claim you have just received means you are being sued in the small claims division of the district court.
- The court is being asked to settle a matter that the plaintiff says is your obligation and responsibility.
- If you wish to deny this claim or arrange terms of payment, you must make your request by appearing at the date, time, and place stated in item 15 on the front of this form.
- If you do not appear at the date, time, and place stated, a default judgment may be entered against you for the amount stated in item 7, including the costs of this action.
- If the case is tried in the small claims division, you give up the right to (1) an attorney, (2) a jury trial, and (3) appeal the judge's decision.
- If the dispute is settled before or at the hearing, you may have to pay the plaintiff's costs.
- In case a judgment is entered against you at the hearing, you should be prepared to (1) pay the amount stated in item 7, including the costs of this action, or (2) make arrangements for installment payments.