

Small Claims

(DC 84, DC 85, DCI 84)

<p>When to Use:</p>	<ul style="list-style-type: none"> Someone owes you money or has caused damage to your property or possessions; and You cannot resolve the dispute through mediation or other means; and The maximum amount of your claim is \$7,000. <p>You cannot use the small claims division:</p> <ul style="list-style-type: none"> To file cases for fraud, libel, slander, malicious destruction of property, assault/battery, or intentional torts. If your case is against the State of Michigan or a state agency. If your case is against a local governmental unit that involves issues of governmental immunity. If you are an assignee or third-party beneficiary of the obligation. If you have filed more than five small claims cases in the same week.
<p>Filing Fees:</p>	<p>Claims up to \$600 = \$30 Claims \$601 - \$1,750 = \$50 Claims \$1,751 - \$7,000 = \$70</p>
<p>Method of Payment:</p>	<ul style="list-style-type: none"> Cash Credit Card Personal Check Money Order payable to: <i>58th District Court</i>
<p>Where to File:</p>	<p>You must look at the defendant's zip code (see below) to determine where to file <i>unless</i> the small claims action arises out of a landlord/tenant case already being handled by the 58th District Court. If there is already a landlord/tenant case, the small claims action should be filed in the same location</p> <p>Grand Haven: 49404, 49417, 49409, 49456, 49448 414 Washington, Grand Haven, MI 49417</p> <p>Holland: 49422, 49423, 49424, 49464, 49460 85 West 8th St., Holland, MI 49423</p> <p>Hudsonville: 49426, 49401, 49403, 49428, 49427, 49544, 49435 3100 Port Sheldon Rd., Hudsonville, MI 49426</p> <p>You can file the affidavit and claim in person or by mail. If you choose to file by mail, you must include the filing fee with your paperwork.</p>
<p>Copies:</p>	<p>None</p>
<p>Additional Information:</p>	<p>The affidavit and claim form must be signed in front of a notary or the clerk of the court.</p>



Instructions – Small Claims



For more information about small claims, read “An Overview of Small Claims Court” and “Taking a Small Claims Case to Court” at www.michiganlegalhelp.org.

Step 1: Complete Paperwork

Check the boxes below as you complete each form.



Required:

Affidavit and Claim, Small Claims (DC 84)

Optional:

Fee Waiver Request (MC 20)

Request for Interpreter (MC 81)

Step 2: File Paperwork

Return your completed forms to the appropriate district court. You can return your forms in person or by mail. You must look at the **defendant’s zip code** to determine where to file **unless** the small claims case arises out of a landlord/tenant case already being handled by the 58th District Court. If there is already a landlord/tenant case, the small claims case should be filed in the same location.



You must submit your filing fee along with your paperwork. The cost to file a small claims case will be **\$30, \$50, or \$70** depending on how much money you are asking for. You may pay the fee with a money order, credit card, cash or personal check.

Fee Waiver

If there is some financial hardship that will keep you from paying the filing fee, you may ask the court for a fee waiver. You will need to complete a Fee Waiver Request (MC 20). The Fee Waiver Request is included in this packet. If the judge denies your request, you must pay the filing fee before your case can be started.



For more information about fee waivers, read “Fee Waivers in Court Cases” at www.michiganlegalhelp.org.

What to Expect When Filing

The clerk will take your paperwork and filing fee (or fee waiver) and get your case started. Once your case has been started, the clerk will complete the notice of hearing and make arrangements to have the paperwork served on (given to) the defendant. You will be billed for the cost to serve the defendant. It is possible the process server will require payment **before** serving the defendant. If this is the case, the process server will contact you. A copy of the paperwork with your court date included will be mailed to you.



Instructions – Small Claims

Prepare for Your Hearing

Gather the evidence you need to prove your case. Evidence may include:

- **Witnesses.** A letter or affidavit from a witness will be accepted but it is better if you have the witness come to court. If the witness is unwilling to come, you can ask the clerk to issue an order to appear (subpoena). If you request an order to appear, you will be responsible for paying any witness fees. You must give (serve) the order to appear (along with any witness fees) to the witness at least two days before the hearing. If you need help with service, contact the clerk of the court.
- **Records.** Records may include books, papers, receipts, etc.
- **Other physical evidence.**

Make a list of information you think is important for the judge/magistrate to know. You can use this list at your hearing as a reminder to bring up the points you think are important.



If you need a foreign language interpreter or require special accommodations because of a disability, contact the court immediately.



If you need to change your hearing date, you must contact the court, in writing, at least 24-hours before your hearing.

Step 3: Attend Your Hearing



If your case is heard (tried) in the small claims division, you give up the right to an attorney, to a jury trial, and to appeal the judge's decision.

Dress neatly. Go into the assigned courtroom 10-15 minutes before your hearing time. Bring your witnesses with you. The judge/magistrate will not look for you in the hallway. The judge/magistrate may be listening to another case. That is ok. Sit quietly in the courtroom and wait for your case to be called. If you are not in the courtroom when your case is called, your case will probably be dismissed.



When your case is called, go to the front of the courtroom. Conduct yourself in a courteous manner and follow the court clerk and judge/magistrate's directions.



For more information about collecting your judgment, read "Collecting Your Judgment" at www.michiganlegalhelp.org.

STATE OF MICHIGAN JUDICIAL DISTRICT	AFFIDAVIT AND CLAIM Small Claims	CASE NO. and JUDGE
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Court address _____ Court telephone no. _____

See additional notice and instructions on page 2.

1. _____
Plaintiff

Address

City, state, zip Telephone no. _____

2. _____
Defendant

Address

City, state, zip Telephone no. _____

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

3. 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 this court _____ Court. It was given case number _____ and assigned to Judge _____ . The action remains is no longer pending.

4. I have knowledge or belief about all the facts stated in this affidavit and I am the plaintiff or his/her guardian, conservator, or next friend. a partner. a full-time employee of the plaintiff.

5. The plaintiff is an individual. a partnership. a corporation. a sole proprietor. _____ .

6. The defendant is an individual. a partnership. a corporation. a sole proprietor. _____ .

7. The date(s) the claim arose is/are _____ .
Attach separate sheets if necessary

8. 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.)

9. The reasons for the claim are: _____

10. The plaintiff understands and accepts that the claim is limited to \$7,000 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.

Signature

Subscribed and sworn to before me on _____
Date

Deputy clerk/Notary public signature

My commission expires on _____
Name (type or print)

Notary public, State of Michigan, County of _____ Acting in the County of _____

This notarial act was performed using an electronic notarization system or a remote electronic notarization platform.

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 the case is tried in the small claims division, you give up the right to an attorney, to a jury trial, and to appeal the judge's decision.

If you require 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 decide 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 the notice of hearing 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 8, including the costs of this action.
- 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 pay the amount stated in item 8, including the costs of this action, or to make arrangements for installment payments.

PROOF OF SERVICE

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

CERTIFICATE OF SERVICE / NONSERVICE

I served personally by registered or certified mail, return receipt requested, and delivery restricted to the defendant or the defendant's agent (copy of return receipt attached) a copy of the affidavit and claim, together with the attachments listed below, on:

I have attempted to serve a copy of the affidavit and claim, together with the attachments listed below, and have been unable to complete service on:

Name	Date and time of service
Place or address of service	
Attachments (if any)	

I am a sheriff, deputy sheriff, bailiff, appointed court officer or attorney for a party.

I am a legally competent adult who is not a party or an officer of a corporate party. I declare under the penalties of perjury that this certificate of service has been examined by me and that its contents 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)

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of a copy of the affidavit and claim, together with

Attachments (if any) on _____
Date and time

Signature on behalf of _____

Name (type or print)

STATE OF MICHIGAN JUDICIAL DISTRICT	JUDGMENT / DISMISSAL Small Claims	CASE NO. and JUDGE
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Court address _____ Court telephone no. _____

Plaintiff's name and address

v Personal service

Defendant's name and address

Personal service

Damages \$ _____
 Costs \$ _____
 Other (specify) \$ _____
 \$ _____
 Judgment \$ _____ This judgment will earn interest at current statutory rates.

JUDGMENT

For: _____

Against: _____

After trial Consent*
 Nonappearance default**

DISMISSAL

Without prejudice With prejudice

**For a defendant on active military duty, default judgment shall not be entered except as provided by the Servicemembers Civil Relief act.

IT IS ORDERED this judgment is granted and:

1. The defendant must pay the judgment to _____ in full
Name (type or print)
 installments of \$ _____ weekly biweekly monthly starting _____
Date

until paid in full. No further proceedings to collect the judgment will issue as long as defendant(s) complies with this order.

2. If this judgment is not paid within 30 days from the date of this judgment, or if any installment payment plan is not approved by the court within this time, you must pay the judgment in full or disclose to the court and plaintiff, in writing, your place of employment and the location of your accounts in all banks, savings and loan associations, or credit unions.

3. Other:

 Judge/Attorney magistrate signature and date

An attorney magistrate's judgment after trial is final unless appealed within 7 days.

NOTICE: If this judgment is not paid as ordered or within 21 days, you may be ordered into court for questioning regarding your assets, your property may be seized, or garnishment may issue after 21 days. When judgment is paid in full, the plaintiff should file a signed satisfaction of judgment with the clerk, or the defendant may file a motion for entry of an order of satisfaction.

CERTIFICATE OF MAILING

I served a copy of this judgment or dismissal on the parties by first-class mail addressed to their last-known addresses as defined by MCR 2.107(C)(3). If a judgment was entered, I also sent a copy of the instructions "Collecting Money for Small Claims Judgment" (form DCi 84) to the plaintiff. I declare under the penalties of perjury that this certificate of mailing has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Deputy clerk signature and date

***Approved:** _____
Date

Defendant's signature

Date

Plaintiff's signature

COLLECTING YOUR MONEY FROM A SMALL CLAIMS JUDGMENT

If you receive a money judgment through a lawsuit, you have the right to collect the money by the means allowed by law. An attorney may not represent you for the purpose of collecting a small claims judgment.

How Much can I Collect?

You can collect the amount stated in your small claims judgment (form DC 85) plus any interest that accumulates during the time the other party pays off the judgment.

How can I Collect my Money?

There are several ways to collect your money.

1. If the party who lost the lawsuit (called a judgment debtor) has the money and is present at the trial, s/he can pay you (called a judgment creditor) right then.

2. If the judgment debtor does not have the money at that time, the judge can set up a payment schedule.

If the judgment debtor is not present at the trial, the court will send a copy of the small claims judgment to the judgment debtor. The judgment will order the judgment debtor to pay you in full within 30 days or to tell you and the court where the judgment debtor works and the location of his/her bank accounts.

3. If the judgment debtor doesn't pay the judgment as ordered, you can collect your money through proceedings to seize property or to garnish income of the judgment debtor.

What is Seizure of Property?

Seizure of property is a court procedure that allows a court officer to seize property belonging to the judgment debtor that can be sold to pay the money owed to you. To file a request to seize property, use form MC 19, *Request and Order to Seize Property*.

What is Garnishment?

Garnishment is a court procedure that allows you to collect the money owed to you by taking in from the judgment debtor's wages, bank account, or another source (such as income tax refunds). To file a garnishment, contact the court clerk for the proper forms. Instructions are provided with the form.

How do I get an Order to Seize Property or a Garnishment?

To get an order to seize property or for garnishment, you must know where the

judgment debtor lives and works, what assets s/he has and where these assets are located, and any other information that identifies the judgment debtor and his/her property.

- If you already have the information described above, you can start the process for an order to seize property or for garnishment.

- If you don't have the information described above, you can order the judgment debtor to appear in court for questioning through a process called discovery. You can start this process by filing a discovery subpoena.

How to File a Discovery Subpoena

You must wait 21 days after your small claims judgment was signed before you can file a discovery subpoena. Use form MC 11, *Subpoena (Order to Appear and/or Produce)*.

Be sure to contact the court to set an appearance date and then put that date and location on the form. Complete the front of the *Subpoena* form and the "Affidavit for Judgment Debtor Examination" on the back of the form. The judge must sign the *Subpoena* before it becomes effective. After the *Subpoena* is signed, you must serve it on the judgment debtor.

The fee for filing the *Subpoena* with the court varies. The cost of serving it also varies.

How to File a Request to Seize Property

You must wait 21 days after your small claims judgment was signed before you can

get an order to seize property. Use form MC 19, *Request and Order to Seize Property*, to start the process. Complete the “Request” portion of form MC 19 and file it with the court.

The filing fee varies. The court will issue the order by signing the form, and it will be executed (property seized) by a sheriff or court officer.

When do I get my Money from Seized Property? Once property is seized and sold, the money will be given to you. The sheriff or court officer is entitled to fees, which will be deducted from the sale of the property.

How to File a Request for Garnishment

You must wait 21 days after your small claims judgment was signed before you can get a garnishment. There are **three types of garnishment**: 1) periodic, 2) nonperiodic, and 3) income tax intercept. Use the appropriate form MC 12, MC 13 or MC 52, *Request and Writ for Garnishment*, to start the garnishment process.

A **periodic** writ of garnishment (form MC 12) is used to garnish the judgment debtor’s wages, rent payments, land contract payments, or other debt that is paid to the judgment debtor on a periodic basis. A periodic garnishment is valid until the judgment, interest, and costs are paid off, or further court order, whichever occurs first.

A **nonperiodic** writ of garnishment (form MC 13) is used to garnish the judgment debtor’s bank account or other property. Once

money has been garnished under the nonperiodic writ, the writ is no longer valid. If there is a remaining balance due on the judgment, you must get another writ to collect more money.

An **income tax** writ of garnishment (form MC 52) is used to intercept the judgment debtor’s income tax refund. Once the tax refund has been intercepted by the Department of Treasury, the writ is no longer valid. If there is a remaining balance due on the judgment, you must get another writ to collect more money.

Write or type in the names and addresses of the defendant (judgment debtor) and the garnishee on the “Request” part of the form. The **garnishee** is the person or business who has control or possession of the judgment debtor’s money. After you complete the “Request,” you must file it with the district court that entered your small claims judgment. The filing fee is \$15.

The court will issue the “Writ” (order) by signing the form. The *Request and Writ for Garnishment* must be served on the garnishee along with the *Garnishee Disclosure*, form MC 14. There is a \$1 disclosure fee for non-periodic garnishment, \$6 disclosure fee for a garnishment of an income tax refund, and a \$35 disclosure fee for a periodic garnishment. The cost of serving the writ varies.

When do I get my Money from the Garnishment? The garnishee has 14 days after the writ is served to let you, the court,

and the judgment debtor know if any money is available for garnishment. This information will be provided on the *Garnishee Disclosure*, form MC 14. If you are trying to garnish the judgment debtor’s wages, you will only receive part of the wages, calculated by using a federal formula.

If money is available, it will be withheld from the judgment debtor right away. However, this money will be held for 28 days to allow the judgment debtor time to object. If the judgment debtor files no objections with the court, the withheld money will be automatically sent to you after 28 days. If the garnishment is for periodic payments, money will continue to be sent to you as payments become due to the judgment debtor until the writ expires.

What do I do when I have received all my Money owed from the Garnishment?

You should file a garnishment release (form MC 50) for each garnishee and a certificate of satisfied judgment (form MC 17) with the court.

What Else can I do?

If your case against the judgment debtor involved a traffic accident, you can ask the court for an abstract of judgment, which would suspend the judgment debtor’s Michigan driver’s license until s/he pays the judgment. You must wait 30 days after the date of judgment until you can get an abstract of judgment. You need to provide the judgment debtor’s full name, date of birth, and Michigan driver’s license number. There is no filing fee. The court clerk should have the necessary forms.

MichiganLegalHelp.org has tools that can help you with small claims cases.