

# **SMALL CLAIMS DIVISION**

**A CITIZENS GUIDE**

**BELLEFONTAINE MUNICIPAL COURT  
226 WEST COLUMBUS AVENUE  
BELLEFONTAINE, OHIO 43311  
(937) 599-6120**

## FILING A SMALL CLAIMS CASE IN THE BELLEFONTAINE MUNICIPAL COURT

To file a small claims case, you must complete the small claims petition (application). You can get this form from the Small Claims Office at the Bellefontaine Municipal Court, or on the Bellefontaine Municipal Court's website. Copies of all documentation for your claim are to be supplied at the time of filing. (one copy for the court, and one copy for each defendant. In addition, the following information will be needed to complete the form:

- The correct name and mailing address of the person against whom you are filing
- A brief statement as to why you are filing the claim
- Two estimates, if the claim is for property damage, such as for the repair of an automobile, etc. the lowest of the two estimates will be considered the amount of the claim
- Two copies of an itemized invoice, if the claim is for a past due account
- Two copies of the lease, if your claim is a landlord/tenant dispute and there is a written rental agreement. If the claim is for rent, you must provide the exact time period for the rent claim; if there is property damage, estimates or invoices for the repair of the damages must be provided

You can only file a small claims for a monetary amount, which cannot exceed \$6,000.00. A deposit is required at the time of the filing. If you are successful in obtaining a judgment against the defendant, and the defendant does not voluntarily pay, you may be able to use certain procedures to force the defendant to pay, and additional deposits will be required at that time.

You cannot file a small claims against someone who is in the military service.

If the person you are filing against is operating a business, the claim should be filed against the individual and then the name of his/her firm. For example: John Smith, DBA Hi-Way Service Station.

If you are filing against a corporation, you will need to obtain the name and address of the Statutory Agent for that corporation. This information can be obtained by calling the Secretary of State's Office in Columbus at 877 767-3453. For example: Glasgo, Inc. % Tom Jones, Statutory Agent

When you file your claim, a hearing date will be assigned and a copy given or mailed to you and a copy mailed to the defendant by certified mail return receipt. Before the Judge can hear the case, valid service must be obtained. If we are unable to serve the defendant, we will notify you. It will be your responsibility to obtain a current address and to provide it to the court.

The defendant has the opportunity to pay the amount of the claim and the court costs prior to the hearing date. If this happens, a hearing will not be necessary. You will receive payment for the amount of the claim, plus a refund of your deposit, and the case will be dismissed.

If the defendant should pay direct to you the amount of your claim, or an amount satisfactory with you, and reimburse you for the filing fee, then you must notify the court in writing that you have settled the case and wish it dismissed.

7/29/22

## **COLLECTING THE JUDGMENT IN A SMALL CLAIMS CASE IN THE BELLEFONTAINE MUNICIPAL COURT**

Once you have obtained a judgment, the next step is collecting the money owed you. Small Claims is not a collection agency; you must initiate and follow through on collection steps.

In keeping with the traditions of this country which prohibit "Debtor's prisons," you may not have the judgment debtor (defendant) placed in jail. The judgment you have obtained is only as good as the economic worth of the defendant. In other words, if the defendant has no way of paying the judgment, the judgment may not be collectible. This should be taken into consideration before the case is filed to avoid false hopes and the waste of time and money. If the defendant has money, other assets, or is employed, there are procedures which may be followed to force the defendant to pay.

The Small Claims Office will not prepare legal papers for you; however, personnel will be available if you need assistance in completing any of the forms. All forms mentioned as part of the collection process are available in the Small Claims Office or on the Bellefontaine Municipal Court website.

The original deposit you paid at the time of filing, together with any or all deposits required for additional court actions, will be refunded to you when the court costs have been paid by the defendant. If, however, the costs are not paid by the defendant, or you do not pursue the collection of your judgment, these deposits are forfeited to cover the court costs involved.

After you have obtained your judgment, the Judge will handle any court hearings in regard to your forcing payment of your judgment. You may appear for a Debtor's Examination hearing, etc., but it is not necessary.

**JUDGMENT DEBTOR EXAMINATION AND SHOW CAUSE HEARING  
IN THE BELLEFONTAINE MUNICIPAL COURT**

**DEBTOR EXAMINATION HEARING**

If you have obtained a judgment and it has been unpaid for thirty days, and you know very little about the defendant, you may request a Debtor's Examination. After you file the proper papers, which are available in the Small Claims Office and on the Bellefontaine Municipal Court website, the Court will order the defendant to appear before the Judge and answer concerning his property, or to file with the Court a statement of his assets, liabilities, and personal earnings.

If the defendant files a financial statement with the Court, you will be given a copy. This information is yours to use in the collection of your judgment, and it may be used to attach the defendant's checking account, garnish his/her wages, etc.

If the defendant appears in Court for a debtor's examination, you may appear also, if you desire, and ask any pertinent questions; or you may have the Judge conduct the examination, and a copy of the information will be sent to you.

The defendant may propose a payment schedule when he files a financial statement or appear in Court for a Debtor's Examination. If this happens, you may be contacted for your approval; or if it is a reasonable amount the Judge may order a payment schedule. If the defendant does not adhere to the ordered payment schedule, then you are free to follow any measure you wish to collect your judgment, such as the garnishment of wages etc.

**SHOW CAUSE HEARING**

If the defendant fails to appear for the debtor's examination, or fails to file a statement of his assets, liabilities and personal earnings, you may request the Court to issue a Show Cause Order. The defendant then must appear before the Judge and Show Cause why he/she should not be held in contempt of Court for not having appeared for the debtor's examination. This order is personally served by the Bailiff or Sheriff.

If the defendant should fail to appear at the Show Cause Hearing after having been properly served, you may request a bench warrant to be issued.

**WAYS TO COLLECT THE MONEY OWED TO YOU  
IN THE BELLEFONTAINE MUNICIPAL COURT**

**EXECUTION UPON SAVINGS OR CHECKING ACCOUNT**

You need to obtain the name and address of the bank where the defendant's money is deposited before executing upon his saving and/or checking account. Bring this information to the Small Claims Office and you will then be given the proper forms to file.

The Court will send an order to the bank, and the bank will remit to the Court the amount that is currently in the defendant's account, up to the amount of your judgment and costs.

The defendant has the right to request a hearing if he feels that his funds are legally exempt from attachment. A hearing date will be set when the papers are sent to the bank, and you will be notified of the date. A hearing will only be held if requested by the defendant, so you will want to call the Small Claims Office on the day of the hearing to find out if the defendant has requested a hearing; if a hearing is requested, the only matter that will be discussed at the hearing is whether the defendant's funds are or are not exempt.

**REVOCAION OF DRIVING RIGHTS**

If your judgment is for personal injury or damage to property caused by the negligent operation of a motor vehicle, and it remains unpaid for thirty days, you may have the defendant's driving rights revoked. This is done by requesting the Court to send a certified copy of the judgment to the Bureau of Motor Vehicles of the State of Ohio.

Before a request to revoke driving rights can be sent to the Bureau of Motor Vehicles, you must first obtain information about the defendant to clearly identify him or her; this should include the date of birth, social security number, and driver's license number. This information is usually most easily obtained from law enforcement's accident report. Bring this information to the Small Claims office and you will be given the proper forms for filing.

It is your responsibility as plaintiff to notify the Bureau of Motor Vehicles when the judgment has been paid, so that the defendant's driving rights may be restored.

7/29/22

## **JUDGMENT LIEN**

If you know that the defendant owns real estate in a particular county, you can obtain a judgment lien on his/her real estate by filing a Certificate of Judgment in that county. Although obtaining such a lien will probably not cause the defendant to immediately pay your judgment, it will guarantee that the defendant's real estate cannot be transferred without dealing with your judgment lien. Thus, is an effective device for obtaining some assurance that your judgment will be paid at some point in time.

To obtain a Certificate of Judgment, file instructions with the Small Claims Office and a Certificate of Judgment will be prepared and mailed to you. File this Certificate of Judgment with the Common Pleas Court in the county in which the defendant owns real estate. There normally is a filing for doing this. Call ahead to find out. A Certificate of judgment is effective for five years from the date that you file it – a new Certificate of Judgment must be filed every five years.

After you have filed your judgment lien, you should advise the defendant that a lien has been filed on their real estate, and will not be removed until he/she pays you the full amount of your judgment. This may be enough to cause the defendant to begin payment.

When the defendant does pay your judgment, you must have the lien released. Contact the Small Claims Office and they will explain to you how to release the lien.

## **GARNISHMENT OF WAGES**

If you know where the defendant is employed, you can garnishee his/her wages. First, obtain from the Small Claims Office two copies of the form entitled, "Notice of Court Action to Collect Debt." Complete this form in duplicate, retain the copy and mail the original to the defendant at his/her home address regular mail with certificate of mailing.

The defendant has 15 days to respond to this notice. If you do not hear from him/her in 15 days, on the 16<sup>th</sup> day bring your copy of the form, "Notice of Court Action to Collect Debt", and the Certificate of Mailing showing the postmark of the date it was mailed.

You will then be given the proper forms for filing. This must be done within 45 days from the date you mailed the "Notice of Court Action to Collect Debt."

The Court will then send an order to the defendant's employer, who will withhold from his wages the amount dictated by law and remit this to the Court. Garnishment answers normally take at least three weeks.

The defendant has the right to request a hearing if he feels his wages are legally exempt from garnishment. If he does so, you will be notified. At the hearing the Judge will rule on whether the defendant's wages are or are not exempt.

If you do not obtain the full amount of your judgment and costs from the first garnishment, you may follow the same procedure and continue garnisheeing his/her wages until you have received full payment. A person's wages can only be garnisheed once every thirty days.

If the defendant is in trusteeship, you cannot garnishee his wages.

## I'VE BEEN SUED! WHAT DO I DO?

If someone has filed a small claim against you, the court will send you official notice. This notice will give you important information: the name and address of the plaintiff (person filing against you), the basis and amount of the claim, the name and address of the court, and the date and time you must appear in court to resolve the claim.

You have two options.

First, if you do not dispute the claim, you may voluntarily pay the amount claimed, plus the court costs. If the claim and the court costs are paid in full prior to the scheduled hearing date, you need not appear in Court. No hearing will be held.

Second, if you contest or dispute the amount claimed, then you should appear in the Municipal Court on the hearing date as shown on the summons. At this time, you will have an opportunity to explain your side of the story to the Judge. You should bring to the hearing any papers or documents you have to show the money is not due. Either side may have an attorney, but neither side is required to have one.

If the plaintiff has named multiple defendants and you have a claim against those defendants, you may file a claim against that defendant, a "cross-claim"

If you believe the plaintiff actually owes you money, you may answer with a claim of your own call a "counterclaim"

If you wish to attend the hearing but cannot on the date set, you must immediately notify the Small Claims Office in writing a minimum of 7 days prior to the hearing to ask that the case be rescheduled for another date. Postponements are granted only for good reasons and only if requested in sufficient time so that the other side can be notified.

If you do nothing after receiving the petition and do not appear at the hearing, the Judge will make a court order, referred to as a default judgment, that you owe the person filing the claim a certain amount of money and that you are to pay court costs. A copy of that order or judgment will be sent to you. You may then pay the total amount due. If you do not pay the judgment, you may be forced to pay through the procedures discussed under "Collecting the Judgment".

Therefore, if you do dispute or contest the claim, you should not ignore it and you should appear at the hearing. Once a judgment is made against you, this will happen if you do not appear at the hearing, the party filing the claim will be able to use legal procedures to force you to pay the amount of the judgment.

## **HOW DO I PREPARE MY CASE?**

Whether you are the plaintiff or the defendant, your job at the formal hearing (Trial) is to give the judge the facts and convince the judge that he or she should decide in your favor.

Before the hearing, collect your evidence, contact your witnesses, and make a written outline of your case.

Your evidence may include:

- Your testimony
- The testimony of witnesses
- Written items such as sales receipts, contracts, leases, warranties, promissory notes, IOU's, memos, notes, letters, postal return receipts, unclaimed letter notices, etc.,
- Items relevant to the case – for example, a piece of faulty merchandise on which your claim or defense is based,
- Photos or diagrams, perhaps of the damage to some item or of the scene of the accident.

In summary, anything that can support your case may be useful as evidence.

Certain kinds of witness testimony may be especially useful as evidence. For example, when poor or incomplete workmanship is an important question, a professional repair-person could be a good witness. Useful witnesses may also include friends, neighbors, or bystanders who are familiar with some aspect of the incident or transaction.

If a witness will not voluntarily testify, you can ask the court to order the witness to testify. Such an order is called a subpoena. You will find a subpoena request on our court's website or you may obtain one from the Small Claims Office at Municipal Court.

If you cannot attend the hearing on the date the court has scheduled, file a request for continuance with the court a minimum of 7 days before the hearing. You may file your request in person or by fax. The fax number is 937 599-2488.



**HOW DO I REQUEST A SUBPOENA**  
**IN THE BELLEFONTAINE MUNICIPAL COURT?**

If you need to subpoena a witness for your hearing, if you need to subpoena a witness to bring documents (or any tangible thing) to your trial, or if you need to subpoena someone to have documents (or any tangible thing) sent to the court for your hearing, you must fill out the Praecipe and Summons for Witness form.

This form can be obtained from the Bellefontaine Municipal Court website, or from the clerk's office.

Every subpoena shall state the name of the court from which it is issued, the case number, and the names of the Plaintiff(s) and Defendant(s). You must include the correct names and addresses of those you call to testify.

A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena.

All praecipis for subpoenas must be filed in writing no later than five days before your hearing, excluding Saturdays, Sundays, and holidays. Failure to do so may not be grounds for a continuance of any hearing without showing good cause.

Praecipis submitted for service less than five days before trial will be accepted and service may be attempted, but the failure of said service in a timely fashion may not be grounds for a continuance of any hearing.

The Clerk's Office will begin serving subpoenas to Law Enforcement by email, effective January 1, 2021. We will continue to use fax or personal service when necessary.

## **CERTIFICATE OF SERVICE INFORMATION**

ANYTIME you file something in your civil case, in the Municipal Court, it MUST contain the case number and names of the parties. If your communication does not include this information, the clerk will not accept it for filing.

When you file something with Municipal Court for your case, you are required to show service on the other party. You must submit a "Certificate of Service" with your filing in the court. This shows the judge that you have also given a copy of what you are filing to the opposing party. If you fail to send a copy to the opposing party and file the "Certificate of Service" with the court, your communication that you are trying to submit will be returned to you unfiled. You Must have the "Certificate of Service" with your filing.

There are four ways to serve the other party:

By Personal Service (handing the person the information you are filing with the court)

Residential Service (by leaving the information on their door)

Ordinary U.S. Mail with Certificate of Mailing (Certificate of Mailing is obtained at the Post Office)

Certified Mail

A Certificate of Service form is provided for your convenience.

IN THE BELLEFONTAINE MUNICIPAL COURT  
LOGAN COUNTY, OHIO  
CIVIL DIVISION

CASE NO. \_\_\_\_\_

\_\_\_\_\_  
PLAINTIFF

-V-

\_\_\_\_\_  
DEFENDANT

CERTIFICATE OF SERVICE

I, the defendant herein, do certify that I served a copy of the attached document upon the plaintiff on (date) \_\_\_\_\_ at the following address \_\_\_\_\_

- (By  Personal Service  
 Residential Service  
 Ordinary U.S. Mail with Certificate of Mailing  
 Certified Mail

\_\_\_\_\_  
(signature)

**CIVIL AND SMALL CLAIMS FILING FEES**  
**IN THE BELLEFONTAINE MUNICIPAL COURT**

1. Civil Complaint - \$105.00 + \$25.00 per additional Defendant (Jurisdictional Limit \$15,000.00)
2. FED's (evictions) - \$115.00 + \$25.00 per additional Defendant
3. Amended Complaint - \$50.00 + \$25.00 per additional Defendant
4. Writ of Restitution/Execution - \$150.00 in Town; \$200.00 in County
5. Small Claims Complaint & Counterclaim - \$65.00 + \$15.00 per additional Defendant (Jurisdictional limit \$6,000.00)
6. Wage Garnishment - \$75.00
7. Bank Attachment - \$50.00 + \$1.00
8. Debtors Exam - \$40.00 + \$15.00 per additional Defendant
9. BMV Complaint - \$105.00
10. Contempt - \$50.00 + Sheriff/Bailiff Fees
11. Motion to Transfer to Common Pleas - \$50.00
12. Motion to Transfer Small Claims to Civil Docket - \$40.00 + \$10.00 per additional Defendant
13. Certificate of judgment - \$35.00
14. Transfer Certificate of Judgment from another county - \$45.00
15. Revivor – Small Claims/Civil - \$85.00 + mailing cost (\$15.00 per Defendant)
16. Pre Trial Motions - \$10.00
17. Cognovit - \$105.00 + Bailiff Fees
18. Subpoena - \$20.00 local + Service Fees; \$45.00 out of county + Service Fees
19. Witness Fee - \$12.00 full day/\$6.00 half day
20. Bench Warrant - \$50.00
21. Bailiff Service - \$20.00 city; \$45.00 County
22. Jury Deposit - \$500.00 Four weeks before Trial date; Jury Demand - \$10.00
23. Juror Compensation - \$50.00 for Seated Juror; \$15.00 Juror Appears but Not Seated
24. Service by Publication - \$250.00 deposit
25. Copies - \$.05 per page; Exemplified Triple Seal Copy - \$15.00; Certified Copy \$2.00
26. Motion to Vacate - \$50.00
27. Motion to Set Aside - \$50.00
28. Returned Check Fee - \$30.00
29. Trusteeship – No Fee
30. 2% Trustee Poundage Fee – Varies
31. Civil Summary Judgment - \$75.00