

# **How to Get a Money Judgment in Small Claims Court**

## **Affidavit and Claim, Small Claims**

(Form DC 84)

## INSTRUCTIONS FOR COMPLETING "AFFIDAVIT AND CLAIM, SMALL CLAIMS"

Please print neatly. Press firmly since you are printing on 4 copies.

Numbers 1 through 11. 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. Print the name and address of the party who is suing on the lines provided (this may be someone other than you). This person is called the plaintiff.
2. Print the name and address of the party who is being sued on the lines provided. This person is called the defendant.
3. Check the box which 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 which 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". If you checked a box other than "an individual", print in the name and address of the business if it is different from the name and address in item 1.
5. Check the box which 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". If you checked a box other than "an individual", print in the name and address of the business if it is different from the name and address in item 2.
6. Print the date that the dispute happened. 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 in the date that the damage happened.
7. Print in the amount of the money owed or which 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. Explain the reasons for the claim. Include what happened to cause the dispute.
11. 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. Staff 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 \$17.00. If you are requesting more than \$600.00 in item 7, pay \$32.00.
- 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 send it for you. The cost is about \$5.00. The court clerk can assist you 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 12. 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 13. 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.

<b>STATE OF MICHIGAN JUDICIAL DISTRICT</b>	<b>AFFIDAVIT AND CLAIM Small Claims</b>	<b>CASE NO.</b>
------------------------------------------------	---------------------------------------------	-----------------

Court address \_\_\_\_\_ Court telephone no. \_\_\_\_\_

1. \_\_\_\_\_  
Plaintiff's name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, state, zip Telephone no.

2. \_\_\_\_\_  
Defendant's name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, state, zip Telephone no.

**NOTICE OF HEARING**

**For Court Use Only**

13. Plaintiff and defendant must be in court on

Day \_\_\_\_\_ Date \_\_\_\_\_

at \_\_\_\_\_ at  the court address above

Time \_\_\_\_\_

\_\_\_\_\_

Location \_\_\_\_\_

Process server's name \_\_\_\_\_ Fee paid: \$ \_\_\_\_\_

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

\_\_\_\_\_  
Name of business Complete address (if different from item 1)

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

\_\_\_\_\_  
Name of business Complete address (if different from item 2)

6. Date(s) claim arose: \_\_\_\_\_ 7. Amount of money claimed: \$ \_\_\_\_\_

8. Reasons for claim: \_\_\_\_\_

9. 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.

10. I believe that the defendant is not in the military service, is not mentally incompetent, and is 18 years or older.

11. \_\_\_\_\_  
Signature

Subscribed and sworn to before me on \_\_\_\_\_, \_\_\_\_\_ County, Michigan.

My commission expires: \_\_\_\_\_ Date Signature: \_\_\_\_\_  
Deputy clerk/Notary public

12. Expiration date: \_\_\_\_\_

## ADDITIONAL NOTICE AND INSTRUCTIONS

### TO BOTH THE PLAINTIFF AND 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 disabilities, 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 which 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 13 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.

**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 / NON-SERVICE**

<input type="checkbox"/> <b>OFFICER CERTIFICATE</b> I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party [MCR 2.104(A)(2)], and that: (notary not required)	<b>OR</b>	<input type="checkbox"/> <b>AFFIDAVIT OF PROCESS SERVER</b> 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: (notary required)
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

- 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's name	Complete address of service	Day, date, time
Defendant's name	Complete address of service	Day, date, time
Defendant's name	Complete address of service	Day, date, time

After diligent search and inquiry, I have been unable to find and serve the following defendant(s):  
\_\_\_\_\_

I have made the following efforts in attempting to serve process: \_\_\_\_\_  
\_\_\_\_\_

I have personally attempted to serve the affidavit and claim, together with \_\_\_\_\_ Attachment \_\_\_\_\_  
on \_\_\_\_\_ at \_\_\_\_\_  
Name Address  
and have been unable to complete service because the address was incorrect at the time of filing.

Service fee	Miles traveled	Mileage fee	Total fee
\$		\$	\$

Signature \_\_\_\_\_  
Title \_\_\_\_\_

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

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

**ACKNOWLEDGMENT OF SERVICE**

I acknowledge that I have received service of the affidavit and claim, together with \_\_\_\_\_ Attachment \_\_\_\_\_  
\_\_\_\_\_ on \_\_\_\_\_  
Day, date, time  
Signature \_\_\_\_\_ on behalf of \_\_\_\_\_.