

Rule 33
SMALL CLAIMS

(A) Any plaintiff may file in Small Claims for the recovery of money only when the payer does not exceed \$6000.00. Small Claims proceedings shall be governed by Ohio Revised Code Chapter 1925. Cases will initially be heard by a magistrate of the court with sessions set by the administrative judge. Any change in the schedule of Small Claims hearings will be published in the Toledo Legal News.

(B) In all claims where defendant appears personally or through counsel or files an answer, the case will be assigned to the magistrates' Small Claims trial docket without further deposit of costs. Any written document received from the defendant before hearing will be construed to be an answer, and is to be considered as such in any application for a default judgment.

(C) A corporation may, through any bona fide corporate officer or salaried employee, file and present its claim or defense in any action in a small claims division arising from a claim based on a contract to which the corporation is an original party or any other claim to which the corporation is an original claimant, provided such corporation does not engage in cross examination, argument, or other acts of advocacy (Ohio Revised Code Section 1925.17).

(D) In all unliquidated damage cases in which the defendant has failed to appear or answer, the plaintiff shall have judgment in the same manner as provided in Rule 29 with regard to supporting documentation verified by affidavit or sworn testimony of the plaintiff.

(E) Once a hearing has been set before the magistrate, motions for a continuance must be filed within 7 days before the hearing.

(F) The Small Claims magistrate will conduct all proceedings in accordance with Ohio Revised Code Chapter 1925. The Ohio Rules of Evidence do not apply but certain rules of civil procedure do apply (Ohio Revised Code, Section 1925.16). No depositions or interrogatories shall be taken in Small Claims cases except by leave of the court, and all relevant evidence shall be admitted at the discretion of the magistrate.

(G) In all contested matters, the magistrate shall prepare, sign, and file a magistrate's decision with the clerk who shall serve copies on all the parties or their attorneys. If any party makes a request for findings of fact and conclusions of law under Civil Rule 52, the magistrate's decision shall include proposed findings of fact and conclusions of law.

Within 14 days of filing of a magistrate's decision, a party may file written objections to the magistrate's decision. If any party timely files objections any other party may also file objections not later than 10 days after the first objections are filed. If a party makes a request for findings of fact and conclusions of law under Civil Rule 52, the time for filing objections begins to run when the magistrate files a decision including findings of fact and conclusions of law. Any extension must satisfy Civil Rule 53(E)(3).

Following the 14-day objection period, the magistrate's decision together with any motions and objections submitted by any party will be submitted to the duty judge who will then adopt, reject, or modify the magistrate's decision, hear additional evidence, recommit the matter to the magistrate with instructions, or hear the matter. If the judge orders a new hearing or if there are any post-judgment motions, those matters shall be referred to the judge who ruled on the magistrate's recommendations.

(H) If any defendant defaults on payments which have been ordered by the court, plaintiff may file garnishment or executions.

(I) Transfer - Crossclaims or counterclaims exceeding \$6000.00 shall be transferred to the regular docket. Motions to transfer a small claims case to the regular docket in the amount of

\$6000.00 or less shall be referred to the administrative judge for ruling. Where cases have been transferred to the regular civil docket, the party causing the transfer shall be required to pay the appropriate filing fee to the clerk within 10 days of the granting of the motion. Failure to pay the fee on time will cause the case to be assigned a new hearing date on the Small Claims docket.

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