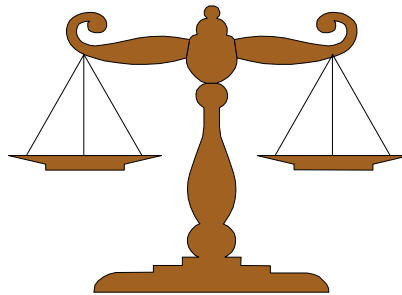


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### Disclaimers

This Consumer Guide to Small Claims **Will Not:**

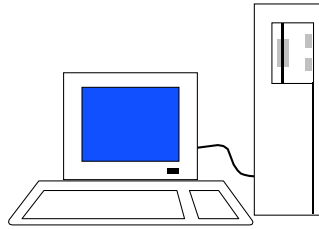
- ...provide you with any legal advice,
- ...make you an authority on Small Claims,
- ...guarantee you will win your case or collect a judgment,
- ...take the place of an attorney, or
- ...even answer all of your questions.

But the Small Claims Guide **Should:**

- ...help you understand the Small Claim's process,
- ...provide step by step guidance through numerous procedures,
- ...increase your chances of collection (if you win), and
- ...overwhelm you with information.

This manual is offered as a source of information and is not offered as professional legal advice. The information contained herein is based upon sources believed to be accurate and reliable. Reasonable care has been exercised to assure the accuracy of the information. However, no representation or warranty is made as to such accuracy. Manual users should check primary information sources where appropriate and use traditional legal research techniques to make sure that the information has not been affected or changed by recent developments. If legal advice or other professional advice is required, the services of a competent professional should be sought.

**Internet & Automated Phone Information.** Basic information about Small Claims is available on the Small Claims automated phone line at 946-5580. You may also access small claim information and forms through the Clerk of Courts Internet address at [www.courtclerk.org](http://www.courtclerk.org). There is also an interactive small claim form that may be filled out on the computer. Fill it out, print a copy, and you are ready to bring it down to the clerk's office for filing. Look for on-line filing in the future.



**What is Small Claims?** Small Claims is a division of the Hamilton County Municipal Court (every Ohio county has one). Small Claims was created by the Ohio Legislature to permit easy access to the court system for persons with disputes involving relatively small amounts of money. A Magistrate (a lawyer appointed by the court) hears small claim cases. By filing a small claim action, you waive your right to trial by judge or jury. You may dismiss and refile in the regular division of the Municipal Court prior to your hearing date if you wish to proceed otherwise. **Note:** an alternative to filing a small claims suit is the Private Complaint Mediation Services which is further explained in the back of this booklet.

**Need a Lawyer?** If you need an attorney, but do not know where to turn, you may want to call The Bar Association's *Lawyer Referral Service* at 381-8359. They will provide a name from a list of attorneys who have agreed to accept referrals and will charge no more than \$30 for the first thirty minutes of consultation. **Note:** the clerks may give some help in filling out the small claim form, but the clerks are not attorneys and they cannot give legal advice. See an attorney for legal advice.

### **Rules for Filing a Small Claims Suit**

1. **The most you can sue for in Small Claims Court is \$3,000.**
2. You may not separate your claim into a multiple suit in order to exceed the \$3,000 maximum.
3. You must know the address of the party you file suit against.
4. If you are under 18, you must have your parent or legal guardian file the suit for you.
5. You may sue a minor only through the parent or legal guardian.
6. The party filing the suit must prove their case by preponderance of the admissible, credible evidence.
7. The date of hearing is the date of trial.
8. **Auto accidents, or any suits regarding damage to a motor vehicle, require proof of title in court. You must be the owner of the vehicle in order to file suit, and you must present your title in court.**
9. Individuals filing on their own behalf do not need an attorney. A corporation, company, an LLC, a partnership or general partnership **may** appear in small claims court through an officer of the company. However, the officer **may not** engage in cross-examination, argument or other acts of advocacy, per section 1925.17 ORC.

**What does it Cost & Where do I File?** The current minimum cost for filing a Small Claims case is \$42.00 for a suit against one defendant with service by certified mail, \$49.00 against one defendant by bailiff service. If you are filing against more than one defendant, add \$8.00 for each additional certified mail, or \$15.00 for each additional bailiff service. If you request service by certified mail, an optional Ordinary Mail Waiver for \$3.00 may be requested which covers all defendants. Both certified mail and bailiff service may be used together. If you are filing by mail, send your small claims complaint to the address listed below. If you file by mail, your signature **must** be notarized, and a check for filing fees and a self addressed stamped envelope must be included. Do not add the filing costs to the amount you are suing for. If you win, court costs will most likely be added to the amount of your judgment. **Costs subject to change.**

**Small Claims are filed at the Clerk of Courts office located in the Hamilton County Courthouse 1000 Main St. Rm. 115, Cincinnati, Ohio 45202. The Clerk's office is open 8:00 a.m. and 4:00 p.m., Monday-Friday.**

**Court Date.** Your court date will be approximately 28 days away from the day you file.

**What Kind of Cases are Heard?** Small Claims can only decide claims for money. The Small Claims Magistrate cannot order a defendant to do anything other than pay a specific sum of money. Thus, you must be able to put a price tag on any damages you have suffered as a result of the defendant's actions.

Small Claims **does not** have jurisdiction in such actions as libel, slander, repossession or any other kinds of cases which do not involve actual monetary damages. If you have a dispute with your mechanic, for example, you can base an action on your bills or the estimated cost of re-doing his work. However, you cannot ask the court to make the mechanic fix your car or release it before payment of a bill. Typical cases involve breach of contract disputes, security deposit claims, accident damages, loan defaults, etc. The following are examples of some typical cases.

**Rent Deposits.** Your landlord did not return your security deposit? File a small claim. If you can prove that you gave proper notice before leaving and left a forwarding address and, 30 days after moving the landlord has not returned your deposit or provided an itemized statement of damages to you, you can ask for double damages. **Note:** if you can prove that the landlord's damage claim is false, even though it was sent within 30 days, you may still claim double damages.

**Vehicle Damages. Only the titled owner may file the suit if your case involves damages to a motor vehicle.** If you are suing for damages to a motor vehicle, the Magistrate will want to know how much the car was worth (its fair market value) just before the damage occurred, and how much it was worth after the damage. The difference between these two values is the actual damage sustained. A "Blue Book" or other such guide can help to appraise your car's worth. To determine your car's worth after the accident, you must have repair estimates. The court may also consider your car's value to you. Photographs may be helpful. For example, your car was worth \$1500 before the accident and only \$500 after the accident. Your damage claim would be for \$1000, the difference between the two amounts.

**Deceptive Sales.** Ohio's basic consumer protection law, The **Consumer Sales Practices Act** (1345 ORC), includes a set of "substantive rules" that explains specific consumer rights on various kinds of transactions. Small Claims has the authority to hear cases in which a consumer claims a rule has been violated and to grant judgments equal to the greater of \$200 or triple the amount of actual damages.

**Determine Your Damages.** Since you can collect only money from a Small Claims action, it is very important that you put the right price tag on your claim. Estimates and receipts will help the Magistrate in determining your loss. If there is no stipulated interest rate, the current statutory rate may be awarded from the date of judgment.

**Filing Your Case.** Make sure you know the true, legal name of the person or business you intend to sue. Suing the wrong party may cause the case to be dismissed (thrown out), or you could wind up with an uncollectable judgment. A common mistake is for a tenant to sue the resident manager for the return of a rent deposit instead of the owner. Similarly, a mistake would be for a customer of a repair shop to sue the mechanic instead of the shop owner.

A similar problem can result from suing a business name (such as NM's Car Repair) without making sure it is the legal name. Unless the business is actually incorporated under the name, there may be no chance of collection, even if you win. An unincorporated business (sole owner or partnership) should be sued in the personal name of the owner or partner, i.e., Joe Sleaze d.b.a. Sleazy Joe's (d.b.a. means "doing business as").

Only a corporation (NM Car Repair, Inc.) can actually be sued in the company name. **If you are unsure whether the business is incorporated, call the Ohio Secretary of State at (614) 466-3910.** If incorporated, get the name and address of the statutory agent. You may discover the business name is totally different from the actual corporate name, and it is the corporate identity you should be suing.

Finally, as a general rule, you should sue a person or business in the county in which they reside or do business.



**Counterclaim.** The defendant (person being sued) may file a counterclaim against you. If the defendant wins, you will have to pay them.

**No Service...No Case.** Until the defendant has been served (received a summons) nothing can happen. The best case in the world is worthless if you cannot get service on the defendant. Listed below are the ways service is usually attempted.

Certified mail is usually the first choice for service. If the certified mail is not signed for (accepted) and if the post office

returns the letter to the clerk's office "refused" or "unclaimed", it may then be sent out regular mail. As long as the regular mail letter is not returned, it is assumed that there is proper service. This second try will cost \$3.00. If certified mail is returned

for any other reason, such as addressee unknown, moved, etc., you will be notified by the clerk's office of failure of service.

If certified mail fails, you may try a bailiff to attempt personal or resident service of summons. Bailiff service can be your first choice for service if you choose, but there is no ordinary mail option available if the bailiff is unable to serve the complaint on the defendant. Again, you will be notified by the clerk's office of failure of service.

If you hear nothing from the Clerk's office, do not assume service was successful. Call the clerk at 946-5700 a few days before the court date to make sure of service or check your case on the clerk's web site.

**Beware!** Unfortunately, filing suit in Small Claims does not guarantee the case will be heard there. A defendant may file a motion to transfer and ask that the case be taken out of Small Claims and put into the regular division of the Municipal Court. The court usually grants such motions. If this happens, your case will be assigned to a Municipal Court Judge and this may make it harder for you to continue without an attorney. While you still may represent yourself in Municipal Court, you will not enjoy the relaxed rules of Small Claims, and should consider consulting an attorney.

**Preparing Your Case. Organize...Rehearse...Observe!** Organize your case before going to Court. Plan what you will say. Organize your testimony and arguments so the Magistrate will be able to understand what happened. Bear in mind, you will have to convince the Small Claim's Magistrate that not only are you right, but that you are also entitled to a specific sum of money from the defendant. Try out your presentation on someone before going to court. If you have the time, visit the court as a spectator some time before your court date. Watch and listen carefully. You may learn some valuable lessons about presenting your own case.

**Gather Evidence.** Collect all documents related to your case: receipts, canceled checks, estimated bills, contracts, photos, etc.

**Round up Witnesses.** Line up your witnesses. Hearsay (what someone else said) is permitted in Small Claims Court at the discretion of the Magistrate, as the rules of evidence are not as strictly enforced. While you may be allowed to tell the Magistrate what someone else said, witnesses are better. If a mechanic says your car was improperly repaired or repairs cost a certain amount, the mechanic may not need to be present to testify as an affidavit from the mechanic could suffice.

If witnesses are reluctant to testify, you can have them subpoenaed. Subpoenas are filed at the Clerk's Office (there's a fee), and should be requested at least a week before trial. If you plan to call an "expert" witness to give expert opinion, you should be prepared to pay that person for their service.

**Continuances.** If you cannot make it to court on your trial date, you may file for a continuance. This should be done at least 5-7 days prior to the hearing. Continuances are granted at the discretion of the Magistrate. Usually, first continuances are granted automatically, one to each side.

**Going to Court. BE ON TIME!** Court starts promptly at the time shown on your form. If you're late, you may lose.

Before court starts, a docket is posted beside the courtroom door; check it. If your case is not listed, or if a line has been drawn through it, see the clerk. The line means your case will probably not be heard.

The Magistrate will start court by calling the cases set for that day. If the plaintiff (the one suing) is absent, the case will be dismissed. If a defendant (the one being sued) is absent, the Magistrate will probably grant a default judgment, which means the plaintiff has automatically won. **Remember:** if you are absent or late, you lose, whether you are plaintiff or defendant.



**Present Your Best Case.** Each side gets a chance to present testimony and evidence. The plaintiff speaks first. Present your case in an orderly manner, stating all relevant facts and the amount you are claiming. Explain how you arrived at this amount. Present your evidence. The other side will have a chance to question (not argue with) your testimony. The

Magistrate may also ask you clarifying questions. Remember you are under oath and must answer truthfully and as completely as possible.

If you have witnesses, they will have their chance to explain what they know about the case after you have finished with your testimony. They may also be questioned (cross-examined) by the other side. Remember that “hearsay” is generally permitted at the discretion of the Magistrate, as the rules of evidence are not as strictly enforced.

After the plaintiff has finished, it is the defendant’s turn. Permit the defendant or their witnesses to complete their testimony. Do not interrupt or argue. The Magistrate will give you the opportunity to question the defendant and their witnesses. The Magistrate may ask questions to clarify the case, and then announce the decision.

You will either win or lose. If you win, the Magistrate will set the amount of your judgment (how much money you are entitled to collect from the losing party). This judgment is then entered into the court’s records, and all parties will be asked to sign the entry, acknowledging the decision.



**If You Lose.** If the Magistrate finds against you, there are procedures for appealing. The success of the appeal will hinge upon whether the Magistrate made any errors in reaching the decision. You have 14 days from the Magistrate’s ruling to make a written request for a detailed decision of the Magistrate. It may also be helpful to get a transcript of the proceedings (there is a charge for this). Check regularly with the clerk’s office to learn when the decision has been completed by the Magistrate and filed with the clerk. You will be mailed a copy of the Magistrate’s decision.

After the decision is filed, you have 14 days to file written objections to the Magistrate’s decision detailing the errors you believe the Magistrate has made. File a copy of your objections with the clerk, and send a copy to your opponent, or their attorney.

A Municipal Court Judge will review the report and objections. You will be mailed a copy of the Judge’s ruling. If you do not hear within 14 days, check with the clerk’s office. If your objections are upheld, you will probably be granted a new hearing. If your objections are overruled, you may appeal the Judge’s ruling to the First District Court of Appeals. At this point, however, the matter gets more complex and costly, requiring a transcript of the original hearing (you pay for it), and possibly the services of an attorney. Before taking this step, you should consult with an attorney as to the merits of your arguments.

**If You Win.** The losing party becomes a judgment debtor with 15 days to voluntarily pay the judgment. If you are lucky, the debtor will pay and the case will become a fond memory. If the debtor does not voluntarily pay within 15 days, you must still wait at least 15 days from the day you were in court (19 days is recommended to allow for delays in signing, weekends and holidays) before your judgment is signed and before you can start collection procedures. The 15 day waiting period is required by law to allow the losing party time to appeal the Magistrate’s decision (see If You Lose). If you have to use collection procedures, study the next section of this booklet, Collecting a Judgment.

**Collecting a Judgment.** Once the judgment has been awarded, the winning party is now a judgment creditor, and the losing party is a judgment debtor. The judgment creditor’s problem is collecting from the judgment debtor. The clerk’s office has the necessary forms needed to start collecting.

**Default Judgments.** Small Claims cases are often over even before they begin. The plaintiff shows up, ready for trial, but the defendant does not, and the Magistrate grants a default judgment. This judgment is just as enforceable as if the defendant had appeared and lost after putting on a defense. The only difference is that when the defendant actually appears in court, they hear the Magistrate explain that the case has been lost and there is an obligation to pay the judgment amount to the plaintiff. Although the defendant in a default case obviously has not heard this, the court assumes they understand the outcome. The court does nothing to inform the defendant that they now have become a judgment debtor, or confirm the amount of judgment. If you want, you may notify the defendant as to what happened and request payment; if the judgment debtor fails to pay, then your only hope of collecting lies with the collection procedures outlined in the following pages.

**It’s Up To You.** “The Magistrate told the defendant to pay me \$750, but he won’t pay, and the court won’t force them to pay me. That’s not fair!” No court, not just Small Claims, automatically forces a judgment debtor to pay. The court has confirmed that the debtor has a legal, enforceable obligation to pay, but it becomes the creditor’s job to collect that debt. The kinds of court actions you can take to collect are wage and non wage garnishments, attaching property (live executions), and liens.



**Step by Step.** Each collection step mentioned will require you to return to the clerk, fill out more forms, and pay more fees (they are added on to the judgment amount). It can be a lengthy and increasingly costly process, but it can work. **Note: you must wait until your judgment is signed before starting any collection procedures**

Before you collect from the reluctant debtor, you need to know whether they have a job, have bank accounts, own real estate, or own property that is attachable. This can be a major treasure hunt. If you already have this information, you may know enough to proceed with collection. If not, the Judgment Debtor Exam procedure may be your first step in the collection process.

**Judgment Debtor Exams.** A **Personal Judgment Debtor Exam** is a procedure whereby the debtor is summoned to appear in court to answer questions about their personal assets. The form, Order for Appearance and Examination of Judgment Debtor, is available in the clerk's office. The cost for filing is \$25 plus service. A court date will be given at the time of filing.

On the scheduled court date, check the docket outside the courtroom to see if the debtor has been served. If service was attempted by certified mail and the mail was returned "unclaimed or refused", you may request regular mail service (\$3.00). If the debtor is served but fails to appear, you may ask the Court to issue a citation or attachment to force their appearance. A "body attachment" can be issued to the judgment debtor demanding their appearance in court only after being personally served by a bailiff with the judgment debtor exam or citation.

When the debtor appears, you will have the right to ask any questions needed to determine where you might find enough of the debtor's assets to pay your judgment. You should have your questions prepared in advance to determine the following:

- Place of employment and identity of employer
- Amount of take-home pay
- Bank accounts and amounts in them
- Location of any land or houses owned
- Make, model, year, license plate & VIN number, title, number of vehicles owned, and any amount owed on them
- Address of any rental property owned, and identity of the tenants

The debtor will be under oath, but not on a witness stand. You will be seated at a table and will simply ask your questions and write down the answers. If you believe the debtor is lying or the debtor refuses to answer your questions, tell the bailiff, and the questions will then be asked in the Magistrate's presence. Once you have your information, proceed to use the various collection approaches outlined on the following pages.

**Small Claim Questionnaire (Mail Exam)...** Instead of filing a standard judgment debtor exam, the small claims victor may choose to file a Small Claims Questionnaire. **Note:** in most cases, this procedure does not produce the same satisfactory results as the personal exam.

Go to the clerk's office and ask for a Small Claim Questionnaire. The filing fee is \$20.00 plus service. Fill in the form with your case number, your name and address, and the name and address of the judgment debtor. You will be given a court date when you file. The clerk will mail this form to the judgment debtor, asking for a list of the debtor's assets, liabilities, and personal earnings. The judgment debtor will be given one week to return the information to the clerk. They will be informed that failure to respond within the week could result in being cited to court. To obtain the judgment debtor's answers, you will have to appear before the court on the scheduled hearing date. If the judgment debtor fails to return the exam to the clerk, the court will issue a citation charging the judgment debtor with contempt of court, providing there is service.

**Garnishments.** A debtor who is employed, has bank accounts, or collects rent as a landlord, may be "garnished" by the judgment creditor in order to satisfy a judgment.

Garnishment is the process that lets the judgment creditor take a judgment debtor's money. The money that is "garnished" is money that is currently being held by a third party, an employer, a bank, or tenant, and that is owed to the debtor. For example, if an employer is holding wages earned by an employee, they may be required to pay a portion of those wages into court to

satisfy the debt owed to the judgment creditor. Likewise, if a financial institution has money being held in an account, or if someone is holding money that is owed to the judgment debtor, be it commission, rent money, etc., they might be required to pay that money into court to satisfy the debt owed to the judgment creditor.

To begin the process of a wage garnishment, a “Notice of Court Proceedings to Collect Debt” must be mailed to the debtor. A certificate of mailing receipt must be obtained from the post office to show proof of mailing. After mailing this notice to the debtor, the creditor must wait 15 days before filing the wage garnishment. This form is available at the clerk’s office. **Note: do not send out this notice for a non-wage garnishment.**

When either a wage or non-wage garnishment is filed, all appropriate forms are to be filled out, and all required costs are to be paid to the clerk. Once the garnishee receives the garnishment, they must respond to the court within a given length of time, (this time differs between a wage and a non-wage garnishment). If the garnishee sends in no money, your garnishment may be unsuccessful. You might have to file a new garnishment when you obtain more or different information. The garnishment is successful if the clerk receives an answer from the garnishee indicating that they are withholding money. The money being held will be paid into court, and the clerk will issue a check to you. Under the new Ohio garnishment law, effective March 30, 1999, a wage garnishment can remain in effect until the judgment is paid in full. The only way the wage garnishment does not remain in effect is if the garnishee receives a subsequent garnishment order from a different creditor against the same debtor, or receives a garnishment of higher priority. A higher priority garnishment can be one from a court of higher jurisdiction, a child support order, a tax levy, etc. In most cases, however, your garnishment will be valid for at least 182 days from the date the garnishee began to process it. If a wage garnishment is filed by a different creditor against the same debtor, and your 182 days are up, simply repeat the garnishment procedures outlined to get back in line. Numerous non-wage garnishments may be filed, however, a non-wage garnishment differs from a wage garnishment in that it is a one-time deduction only. **Note: at all times, it is the responsibility of the judgment creditor to remain aware of the status of their garnishment.**

**Limits & exceptions.** Income from sources such as Social Security, Unemployment Compensation, Welfare Benefits, etc. is exempt and protected by law from garnishment. It is also possible for the judgment debtor to block any action against a bank account if it can be shown that the money in the account came from these types of sources. The filing with a credit counseling service, a trusteeship, or a bankruptcy may also affect your garnishment. Ohio law regulates the amount that can be deducted from the debtor’s wages. Creditors cannot attach the debtor’s entire paycheck. The most the creditor can ever obtain is 25% of the debtor’s take home pay per pay period.

**Live Execution.** If the judgment debtor fails to pay, the judgment creditor may, through the court, seize the debtor’s property, sell it, and collect the judgment from the proceeds. This process of “attachment and sale” is commonly referred to as a “Live Execution”. Although the concept is rather simple, the laws on execution have made it a bit more complicated. Execution against personal property will usually make sense only when the property involved is worth considerably more than the amount of the judgment.

**Exemptions.** Thanks to some legal protections, a judgment creditor cannot use an execution to “take the shirt off the debtor’s back”. Ohio law defines certain property as being “exempt” from execution. Prior to processing an execution, therefore, the judgment creditor must have some reasonable expectation that the property to be attached and sold is not exempt. For example, the law exempts the debtor’s dollar interest in a motor vehicle at \$1,000. That means if the car is attached and sold, the first \$1,000 goes back to the judgment debtor. Thus, a judgment creditor seeking to collect a \$500 judgment would gain nothing at all from execution on a car which ultimately sold for \$999. The judgment could not be fully collected unless the car sold for at least \$1,500. Below are some examples of exemptions, found in Section 2329.66 ORC, which can be claimed by the debtor:

- \$1,000 interest in one motor vehicle.
- up to \$200 in any one particular item, in wearing apparel, beds and bedding.
- up to \$300 in a refrigerator, stove, or cooking unit.
- up to \$200 per item of household furnishings, goods, books, animals, etc. that are held primarily for personal, family, or household uses of the person.
- up to \$400 in one or more items of jewelry.
- up to \$400 in cash on hand.
- up to \$5,000 for the judgment debtor’s residence (\$10,000 if jointly owned); and
- up to \$750 for tools of the debtor’s trade or profession.

This is not a complete list. If you have questions as to whether a particular item of property has some exemption, check the above-mentioned section of the Ohio Revised Code and/or consult an attorney.

Another obstacle to collecting your money through execution could arise if the debtor owes money on the property to someone else (a bank, for example). In that case, you could be second in line when it comes time to collect from the sale proceeds.

**Before Execution.** Determine what property you intend to attach. Remember, the property will have to sell for more than any exemptions in order for you to benefit. Confirm that the property belongs to the judgment debtor. Motor vehicles must be titled to the debtor. If you are attaching a vehicle a **\$400 cash bond** must be posted before attachment is attempted. The vehicle must be towed and stored by a court-approved towing and storage facility. If property other than a vehicle is to be physically seized, an Actual Possession, you must post a **\$400 cash bond** before the property is attached and taken to a court approved storage facility. It is possible to leave the property in the judgment debtor's possession pending sale, called a Constructive Possession. In such cases, the bailiff tags the property instead of seizing it, which is supposed to assure the property is not removed before the sale. No \$400 bond is required if the property is only tagged and not seized by the bailiff.

**Executing.** Go to the clerk's office and ask for a praecipe (rhymes with recipe) for a Live Execution. Fill out the form with the required information, including an accurate description of the property to be seized, and leave it with the clerk for the judge to sign. Return in 3-4 days to pay a \$40.00 filing fee, and to post bond if necessary. Call the Civil Bailiff Division at 946-5599 Monday-Friday between 1:00-3:00 P.M. Rm. 149 in the courthouse to arrange a time for the attempt to seize the property. You may accompany the bailiff to help identify the property.

**Exemption Hearing.** At the time the property is seized, or tagged, the judgment debtor will be given a form explaining the debtor's right to claim an exemption, and a Request for a Hearing form. The defendant has 5 business days to request a hearing. Both creditor and debtor should appear at the hearing. The debtor has a chance to raise any claims for exemption permitted under Ohio law. This is not a re-trial of the case. If the judgment debtor fails to exempt some or all of the property seized, a sale may proceed. You may want to be present at the time of sale. Ohio law requires the property be sold for at least 2/3rds of its appraised value. Ask the bailiff how the property is to be appraised.

**Splitting the Pot.** The proceeds from the sale are divided as follows: 1<sup>st</sup>: any exempt amounts claimed by the debtor; 2<sup>nd</sup>: paying costs of the sale itself; 3<sup>rd</sup>: paying the judgment plus court costs and interest; 4<sup>th</sup>: surplus goes to the debtor. While all this may sound very complicated and time consuming, it can and does work. There's no denying you will have certainly worked for your money!



**Liens.** A lien (sounds like "lean") can be placed on real estate owned by the judgment debtor, and must be renewed every five years. The lien holder (judgment creditor) will recover the judgment amount when the property is sold. The procedure for filing a lien is fairly simple:

1. Go to the clerk's office and ask for a Praecipe for Certificate of Judgment.
2. Fill it out and file it, along with a \$15 fee.
3. Pick up your Certificate of Judgment two or three days later.
4. Take the Certificate to the Common Pleas Court Clerk in the county where the property is located, and ask for assistance in filing a lien on the judgment debtor's real property. There will be a fee for this.
5. If the lien is on "Registered Land", you will have to file your lien with the Registered Land Department of that County's Recorders Office. The lien will then be noted on the judgment debtor's Registered Land Certificate.

**License Suspension.** If your judgment is a result of a motor vehicle accident, and the debtor will not pay, you may suspend the debtor's driver's license. Go the Clerk's office and fill out a DL-6 form, and get a certified copy of the judgment (\$5.00). You must have the debtor's date of birth, social security number, and/or driver's license number. You must wait 30 days after judgment before filing.

**Mediation.** Mediation is a process where two parties may settle a dispute with a neutral third party (mediator). A Mediator is not a judge or magistrate. The Mediator will not decide if either party is right or wrong, and will not force any party into accepting a settlement. Mediation is a voluntary settlement process in which the mediator helps people make practical, informed decisions about how to resolve their conflict. Both parties must agree to mediation.

**How Does Mediation Work?** In a mediation session, the mediator and parties meet to discuss the dispute in a confidential setting. The parties take turns explaining their side of the story. The mediator listens to both parties and asks questions. The



mediator will summarize what each party has said to make sure everyone understands. The mediator then allows each party to suggest how the issues might be resolved. The mediator helps the parties to look at suggested solutions to see if they would work, and if they are agreeable to the solution. Once agreement is reached, the mediator will record the agreement. The mediator's role is to facilitate the negotiation. The mediator does not impose settlement, issue orders or make judgments. If the agreement is broken, the case can be filed in Small Claims.

**Why Mediate?** Mediation is free! It is conducted in an informal manner in a private, confidential setting. The parties are always in control of the outcome; since mediation is voluntary, a party may terminate the process at will. A mediated settlement is a "win/win" solution whereby both parties can feel good about the outcome. No one gives up the right to bring legal action in the Small Claims Division or in any appropriate civil court if the dispute is not resolved.

#### **How Can I Schedule Mediation?**

**Contact Private Complaint Mediation Service  
230 East Ninth Street – 1st floor - Room 1150  
Cincinnati, Ohio 45202  
(513) 946-3400**

#### **Hours:**

**8:30a.m. – 4:00p.m. Monday & Friday**

**8:30a.m. – 7:30p.m. Tuesday, Wednesday & Thursday**

**Mediation may be scheduled any time during working hours.**