Missouri Small Claims Court Handbook

The Missouri Bar Young Lawyers' Section

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I. INTRODUCTION TO THE SMALL CLAIMS COURT

The small claims court is a division of the circuit court presided over by an associate circuit judge. The small claims court is a people's court and was established to help people handle their small cases without an attorney. The clerks are there to help prepare the proper papers to file a claim and, if you win, to help collect your money. However, if you feel you cannot adequately represent yourself and protect your own interests, you may retain an attorney to assist you. For those who are unable to pay for legal assistance and are eligible for legal aid, the legal services project in your area may be able to help.

Small claims proceedings are informal in nature. You must fill out all required forms and present your own evidence in court. There are no jury trials. While the small claims court system was designed to settle uncomplicated disputes, filing and winning a claim as well as collecting your money can be far from uncomplicated. There are specific rules that must be followed if you are to succeed on your claim. This handbook is designed to introduce you to many of those rules and to assist you in pursuing your claim in small claims court.

II. THINGS TO CONSIDER BEFORE BRINGING A CLAIM

A. WHO YOU CAN SUE AND WHAT YOU CAN SUE FOR

Any person or business with a civil claim that DOES NOT EXCEED $5,000.00 may bring a suit in small claims court. The $5,000.00 limit does not include court costs and interest on the $5,000.00 which the judge may award you. You may still file a claim if the amount exceeds $5,000.00. However, if you choose to do this, you give up your right to claim any amount exceeding $5,000.00 both in your present suit and in any other claim involving the same person or business and the same issues.

You can only file a claim in small claims court against someone who owes you money; you may not file a claim against a person who owes someone else money. Furthermore, an assignee of a claim (i.e., a person or business that purchases or otherwise has the right to a claim) may not file in small claims court. You may file no more than twelve claims in small claims court in any calendar year. THE COURT CAN ONLY HANDLE CLAIMS FOR MONEY. Therefore, the court cannot force anyone to return property to you, nor can the small claims court be used by landlords to evict tenants. Furthermore, THE COURT IS NOT RESPONSIBLE FOR COLLECTING THE MONEY THAT THE JUDGE MAY DETERMINE IS OWED TO YOU.

B. WHEN YOU MUST SUE

Depending on the type of claim you are making, you have a certain amount of time in which to file the claim. This time limit is called the statute of limitations, and you must file your claim before the time period expires. The time period begins to run when the injury or damage occurs or when the injury or damage should have been discovered.

The time period allowed varies with different types of claims. Claims for personal injury or damage to your property and claims for money damages for breach of contract must be filed within five years. Claims to recover money for breach of a written promise to pay must be filed within ten years from the date of the breach of the written promise. The time periods for other types of actions vary, however, you generally have two years to file a claim. To be safe, you should file your claim as soon as possible.

C. ATTEMPT TO SETTLE YOUR CLAIM BEFORE YOU SUE

Pursuing a claim in court is a serious matter with unpredictable results. If you sue you may lose. Be sure you feel you can adequately explain and prove your claim to a judge. Even if you win, you are responsible for collecting the money from the defendant.

(The defendant is the person or business you name in the claim.) If the defendant refuses to pay you voluntarily, you must use specific court procedures in order to compel your opponent to pay—THE SMALL CLAIMS COURT DOES NOT PAY YOU MONEY IF YOU WIN. Furthermore, the defendant may file a valid claim against you (a counterclaim) and the judge could decide that you owe the defendant money. The courts should be used as a last step to get what you think you are owed. If the court, in its discretion, decides that you are only suing in order to harass the defendant, your case may be dismissed, your court costs forfeited, and your access to the small claims courts barred for up to one year.

Given the difficulties of going to court, YOU SHOULD FIRST TRY TO SETTLE THE CLAIM. A successful settlement will save you the time and money you would have spent on going to court. Furthermore, if you are unable to settle, your attempts to do so may be looked on favorably by the judge. You can settle your case at any time before the case is heard by the judge or after it is heard if you and the defendant are willing.

One method of settlement is to confront the person you believe owes you money, explain why and how much is owed you, and request payment. This can be done in person, over the telephone or by writing a letter. (If you write the defendant, be sure to keep copies of all correspondence sent and received.) If you end up going to small claims court, you can use this written correspondence to show the judge that you have made reasonable attempts to settle the claim and that you are not suing just to harass the defendant.

If your dispute is with a business, there are consumer protection agencies in some areas that may assist you in settling your claim before you sue. One such agency is the Better Business Bureau in your area which often acts as a mediator to settle claims by agreement between both sides in the suit. If this settlement is unsatisfactory, you do not have to accept it. An additional agency you might want to report your problem to is the Consumer Protection Division of the Missouri Attorney General's Office at 1-800-392-8222.

If you settle your dispute after you have filed your action but before going to trial, be sure to notify the clerk, or your case may be dismissed. If your settlement is not to be paid immediately, you should put the agreement in writing in the form of a judgment, signed by the parties and filed with the court. If the defendant then fails to pay, you can file an appropriate action in court to collect your money. (See Section IV, Collecting on Your Claim.) The defendant should be sure that the plaintiff files a "Dismissal" form if the defendant pays the judgment before the court hears the case. If the plaintiff does obtain a judgment and the defendant pays this amount, the defendant should be sure that a "Satisfaction of Judgment" is filed with the court.

III. PROCEDURES FOR BRINGING A CLAIM

A. PREPARING TO BRING YOUR CLAIM

If efforts to settle your claim have failed, there are a number of things you should do before going to the courthouse to file your claim in small claims court. Remember, if you have any questions, ASK THE CLERK OF THE COURT.

Get Correct Name, Address and Telephone Number of Person or Business to be Sued: To begin with, be sure that the person you want to sue is the one who actually injured you or owes you money. It is essential that you name the defendant properly. If you do not have the correct legal name of the person or business you want to sue, your case may be dismissed by the judge or you may not be able to collect your judgment. In addition, the defendant's correct address is also essential. The court notifies the defendant of the suit by certified mail, and the address is also important for you in determining the proper court in which to file your claim. It is your responsibility to obtain this information.

As a general rule, there are three types of plaintiffs and defendants. The following are examples of how each must be listed on a small claims petition:

For individuals, use their full name. For example, "John Doe" not "J. Doe."

For unincorporated businesses or partnerships, use the following: "Name of Owner d/b/a the Name of the Business." For example, "John Doe and James Roe d/b/a Roe's Tractor." If the business is unincorporated but is a partnership, you must find out who the partners are. You must sue and serve notice on EACH PARTNER INDIVIDUALLY (d/b/a means "doing business as").

For a corporation, use the correct business name. For example, "Doe's Tractor, Inc." You must also have the name and address of the Registered Agent of the corporation. The agent is the person who will receive the summons (notice of the suit filed). In addition to the name of the agent, the officers of the business may be named in the claim.

How to Determine Type of Business for Purpose of Naming Defendant: To determine whether the business you are dealing with is incorporated, unincorporated, or is a partnership, call the Secretary of State's Office in Jefferson City at (573) 751-4153, in Kansas City at (816) 889-2925, or in St. Louis at (314) 340-7490 (information about business ownership may also be available through the Occupational Licenses office at your City Hall). Ask them if the business is incorporated and for the correct business name. If it is incorporated, ask for the name of the registered agent's name and address. If it is not incorporated or is not listed with the Secretary of State's Office and you know the name of the owner, list the name of the business as shown above. If the business is a partnership, ask if the Office can assist you in finding the names of the individual partners. The Secretary of State's Office will provide this information over the telephone free of charge or you can send $10.00 and a written request for this information to: Corporation Information, Secretary of State's Office, 615 East 13th Street, Room 513, Kansas City, Missouri 64106, or in Jefferson City, to Secretary of State, State of Missouri, 600 W. Main, P.O. Box 778, Jefferson City, Missouri 65102. Be sure to bring the answer you received from the Secretary of State with you when you go to the courthouse to file your claim. The clerk can assist you in determining what name to put on the summons.

Choose the Right Court ("Venue"): You must choose the correct court in which to file your claim. If you file in the wrong court, you will have to refile in the right court and pay the filing fee again. You have a number of courts to choose from, but CHECK WITH THE CLERK to be sure you are in the right court and the right county. A claim can be filed in the small claims court:

in the county where the defendant lives. If the plaintiff is suing more than one defendant on the same claim, filing is proper in the county in which at least one of the defendants lives;

in the county where the transaction occurred that is the basis of your claim;

in the county where the plaintiff lives and the defendant may be found in that county (i.e., the defendant works in that county or has other regular business there);

in any county where the defendant has an office if the defendant is a business; or

in the county of the registered agent of a business.

The safest choice is to file your claim in the county in which the defendant lives, because there is no question you have filed in the correct court.

Filing for Minors (Under Age 18): If you are under the age of 18 you may still file a claim, but you must also bring someone over the age of 18 with you to the courthouse when you go to file your claim and when you go to trial. This person must be willing to act as your "next friend" (the person who will formally act in court for you). The clerk of the court has all the appropriate forms for this procedure and can answer your questions.

State Your Claim: Be prepared to state your claim as simply and as precisely as possible on the form provided by the clerk. For example, "I paid Mr. Doe $200.00 for plumbing work, and he never did the work." Generally, you should ask for the amount of money you spent or lost because of the claim. Receipts

and other similar documents can be very helpful in determining the amount of money you are owed. If you have difficulty with wording your complaint, the clerk can assist you.

Pay the Court Costs: When you go to the courthouse to file your claim, you should have enough cash to pay the filing fee and to pay for one certified letter for each defendant. Some courts only accept cash. As of October 2011, the cost of a certified letter was $5.59, but check with your post office. The filing fee ranges from $5 to $35 plus the cost of mailing a certified letter, depending on the circumstances. Contact the county clerk's office to learn the precise charges.

Be prepared to pay costs in addition to the filing fee and certified letter. For example, if you are unable to serve the defendant with notice of your claim by certified mail, you will have to pay additional costs for the Sheriff or another special process server to serve the defendant.

If you are unable to pay the filing fee, you must ask the judge to let you file without paying the fee and you must show the judge that you are too poor to pay. One way to show the judge is to file a written statement or "affidavit" with the court stating specifically that you have a good claim and why you cannot afford to pay the fee. You must be very poor to file a claim without having to pay the fee.

B. FILING YOUR CLAIM

After collecting all of the required information and selecting the right court as discussed in SECTION A above, you should be ready to go to the courthouse to file your claim. Go to the courthouse, locate the associate division or small claims court, and ask for the clerk who works in small claims court. In addition to providing you with helpful information, the clerk of the court will help you fill out the required forms and tell you what you need to do for your trial. All the necessary forms for filing a small claims case are provided by the court. Your claim will be filed in the form of a petition. You are the "plaintiff." You must properly identify yourself on the petition and sign it. If one or more people are joining you in the claim, each person must be named as a plaintiff and sign the petition.

When you file your petition, or shortly thereafter by mail, you will receive a copy of your petition containing the case number, court date, time of hearing, and division in which your case will be heard.

Mailing in your petition, rather than filling it out in person at the courthouse, is not recommended. However, if you do mail in your petition, you should mail all copies of the petition back to the court, along with a stamped, self-addressed envelope so the court can return a copy to you. Before mailing, you should make a copy of all documents in case they are lost or destroyed. Be sure the form is legible and signed by all the plaintiffs if there are more than one.

C. GETTING THE DEFENDANT INTO COURT

Serving Notice on the Defendant: After you have filed your claim, the court will mail a notice to the person you have sued (the defendant). This is the summons. The summons is sent by certified mail, and the defendant receives it by signing for it. This notice will state the date and time the defendant is to come to court and will be attached to a copy of the petition you completed and filed with the court. (This is why you need the defendant's correct address.) If the defendant signs for the letter, you will need to be in court on the date set by the court ready to present your claim. The defendant must receive the summons at least ten (10) days before your court date. Therefore, you should check with the court to find out if the defendant has acknowledged receipt of the summons. This should be done before your court date in order to provide time for you to arrange an alternative method of service.

Alternative Methods of Serving Notice on Defendant: If the defendant does not sign for the letter, you may need to have the notice served by a process server, such as the sheriff or a court official, which will cost you an additional fee. This is called "personal service," and it means that a court official hands the summons to the defendant or a member of his or her

immediate family over the age of 15. While this type of service can be quite expensive, personal service is usually more reliable. Ask the clerk for information and assistance on arranging for personal service. Also, remember to bring the fee in cash to pay for this service and to avoid further delay.

Failed Service of Summons: In the event you are unable to get a summons served on the first attempt, ask the clerk to issue a second summons or an "alias summons." The second summons will require payment of additional fees and it may or may not result in successful service. You should consider the likelihood of obtaining service before spending additional money or pursuing the claim.

Postponement of the Trial: For good cause, a trial may be postponed by the judge. Such a postponement is referred to as a "continuance."

D. GUIDANCE FOR THE DEFENDANT

If You Are Being Sued: If you have received notice in the mail that you are being sued, DO NOT THROW IT AWAY. Be sure you understand it and bring it to court. If you do not appear on the day and time stated in the summons, THE JUDGE MAY ISSUE A DEFAULT JUDGMENT ORDERING YOU TO PAY THE PERSON WHO IS SUING YOU. After receiving the summons, if you believe you owe the plaintiff some but not all of the money claimed in the petition, you may try to settle the claim. If you do settle, be sure to put the agreement in writing and file it with the clerk of the small claims court. If you are unable to settle with the plaintiff or do not agree that you owe the plaintiff any money, prepare to go to court and present your side of the story. You may bring an attorney if you feel you need one to protect your rights. If you are under the age of 18, you may need to have a guardian appointed for the purpose of defending you in the action. Ask the clerk if you have any questions.

Counterclaims: If you think you have a claim against the person who is suing you, you may make this "counterclaim" against the plaintiff at the same time you are being sued. The defendant does not have to pay the filing fee but must pay for the cost of mailing the counterclaim to the plaintiff. Some counterclaims must be filed with the court within ten (10) days after you receive notice that the plaintiff has sued you, and others may be brought at any time up to and including the time of the hearing. Check with the clerk about when you must make your counterclaim. There are two types of counterclaims:

Counterclaim Arising Out of the Same Transaction: This is a claim that arises from the same transaction, occurrence, or set of facts as the plaintiff's claim. After receiving the summons, you may go to the clerk and file your counterclaim on forms provided by the clerk or the counterclaim may be raised at the hearing.

If you go to the clerk to file your counterclaim, go before the date of trial, and the clerk will assist you in filling out a form called "Counterclaim Arising Out Of Same Transaction." You should bring a stamped envelope to the clerk to use for mailing the counterclaim to the plaintiff. If your counterclaim is filed within ten (10) days of the trial date, the court is likely to postpone the case until a later date.

During the trial, if the defendant or judge discovers a counterclaim against the plaintiff arising out of the same transaction, the claim may be decided at the trial or at a separate hearing. If the defendant does not want to have the counterclaim decided in the present trial, only the plaintiff's claim will be decided. The defendant may then file a claim at a later date. The plaintiff may either agree to have the counterclaim decided immediately or have the trial postponed to allow the plaintiff an opportunity to prepare a defense to the counterclaim.

Counterclaim Arising Out of a Different Transaction: This is a claim which did not arise out of the same transaction, occurrence or set of facts as the plaintiff's claim. If you wish to have this counterclaim tried at the same hearing as the plaintiff's claim, you must see the clerk within ten (10) days of receiving your summons and file your counterclaim on forms provided by the clerk. The clerk will assist you in completing a "Counterclaim Not Arising Out Of Same Transaction" form. If you fail to file your claim within ten (10) days of RECEIVING THE SUMMONS, you will have to bring a separate suit at a later date in which you will be the plaintiff. Like the other type of counterclaim, you must

file this counterclaim at least ten days before the trial date on your summons if your counterclaim is to be heard on that same trial date.

Note on Counterclaims Over $5,000.00: For both types of counterclaims, if the defendant's counterclaim is over $5,000.00, both the defendant and the plaintiff must agree to have it heard in the small claims court. If one or both do not agree, the defendant will have to bring the claim in a separate action in the appropriate division of the court. If, however, the defendant's counterclaim is over $5,000.00, the counterclaim may still be heard in the small claims court, even if the plaintiff does not agree to it, but the defendant gives up any right to recover more than $5,000.00.

E. PLAINTIFF AND DEFENDANT: PREPARING FOR THE TRIAL

Here are some suggested guidelines to consider that will assist you in pursuing your claim, whether you are a plaintiff asking for money in a petition, a defendant asking for money in a counterclaim, or a defendant claiming that you owe the plaintiff nothing:

Before Court: Preparing Yourself:

Mark your court date on a calendar which you look at often. On the day you were told your claim would be heard, BE THERE. IF YOU MISS YOUR COURT DATE, YOUR CASE MAY BE DISMISSED. If you fail to show up and your case is dismissed, you cannot refile your claim in small claims court.

Get together everything you need, such as books, papers, documents, receipts, cancelled checks, photographs, etc., and put them in the order that you need for presentation to the court. Bring anything that you think will help you in proving your claim to the judge.

Make sure all witnesses necessary for you to prove your case are in the courtroom on time. If you have a witness who does not want to come to court, you have the right to "subpoena" the witness, which is a legal method used to require that person's presence. The clerk will issue the subpoena at your request. It must be personally served before your court date on the witness by you or someone over age 18. (This is different from the summons to the defendant which must be served by a court official or special process server.) There may be a small additional fee for this service.

Be prepared, by making notes to yourself or otherwise, to give details of your claim to the judge as he or she questions you about it.

If you have the opportunity, sit in on a session of the small claims court to familiarize yourself with the process. Also, it might be a good idea to practice your presentation before you go to trial.

Remember, at any time before the case is heard by the judge, you and the other party can settle your claim. If you settle, notify the clerk as soon as possible. Also, you should put the settlement agreement in writing and file it with the clerk so that you may enforce it in court if the other party later refuses to pay.

Either party can ask the judge for a continuance, a postponement of the trial date, if they will not be ready for trial at the date set. The better the reason for not being ready for trial, the more likely the judge will grant a continuance. You should show the judge you have done everything you could to be prepared for trial. In addition, you should notify the other party that you will be asking for a continuance. If a continuance is granted, you should then notify the other party of the new court date.

During Court: Proving Your Claim:

Be there early. If you are not there when your case is called, it can be dismissed, postponed to another day, or decided without you.

When your case is called, walk to the front of the court. You will talk to the judge who will ask you and your witnesses to tell your sides of the story. Show the judge your evidence as you tell your story rather than giving all the evidence at one time after finishing your presentation. The plaintiff and plaintiff's witnesses go first then the defendant and defendant's witnesses. It is suggested that you only address the judge and not argue with the judge or the other party. Do not interrupt the other party. Remember, you must only convince the judge you are right, not the other party. There are no juries.

Be courteous to both the judge and the other party.

Have all your evidence (pictures, papers, estimates, witnesses, etc.) available to the judge. The burden is on you to prove your side of the story.

The judge will decide who is owed how much money. This may be done after hearing both sides, or the judge may wait to think about the case and then mail you the decision. Once the judge announces the decision, THE JUDGE CANNOT HELP YOU ANY FURTHER. Do not argue with the judge. It will do you no good. If you have any questions, please direct them to the small claims clerk who helped you file your claim. If you win, NEITHER THE JUDGE NOR THE CLERK WILL COLLECT THE MONEY FOR YOU.

After Court: Getting Your Money and Appeals:

Getting Your Money: If you win the case, YOU ARE RESPONSIBLE FOR COLLECTING THE MONEY THE JUDGE DECIDED YOU ARE OWED. THE JUDGE AND THE CLERK WILL NOT DO IT FOR YOU. See Section IV for information on collecting on your claim.

F. APPEALS

Both parties have the right to appeal the judge's decision and to have a completely new trial before a new judge or before a jury. You must pay another fee and file a form called "Application for Trial de Novo" within ten (10) days of the day the judge decided your case. The fee is likely to be significantly greater than the small claims court fee. The clerk can assist you with this process.

The new trial will be heard in the circuit division. Because the rules of the circuit division are more complicated and the judge and the clerk are not permitted to help you, it is advisable to seek the assistance of an attorney.

Even if the losing party appeals the case, the winning party can still try to collect the money. To prevent this while the case is being appealed, the losing party may post a bond with the court. Posting a bond is not necessary in order to appeal the decision. The clerk can assist you with this process.

IV. COLLECTING ON YOUR CLAIM

After the judge has decided in your favor, and you have waited ten (10) days from the date the judge decided the case (losing party may not file an appeal after ten days), you may start trying to collect your money, if the losing party has not filed an appeal and posted a bond. If an appeal has been filed, but no bond has been posted, you may attempt collection. Check with the small claims court clerk to see if a bond has been posted. Remember, YOU ARE SOLELY RESPONSIBLE FOR COLLECTING YOUR MONEY. THE JUDGE AND THE CLERK WILL NOT DO IT FOR YOU. There are several ways to collect your money:

A. LOSING PARTY VOLUNTARILY PAYS

Whether the loser agrees to pay you in a lump sum or in installments over a period of time, an agreement between you and the losing party is the best and most efficient way to collect your money. You should attempt to arrange such an agreement, because collection procedures through the court cost money and will probably take longer. However, if you cannot agree on a method of payment or the losing party stops paying as originally agreed, you may start collection proceedings through the court on forms provided by the clerk. The clerk can assist you with this process.

B. GARNISHMENT

Garnishment is the most frequently used legal procedure to collect money in a small claims case. Under this procedure, an employer or other person holding money belonging to the losing party pays to the court the money owed to the winning party. (This employer, bank, or other person is called the "garnishee.") The court then pays the winning party.

To collect money this way, you must request the court to issue a garnishment, and you must pay a fee. Ask the clerk for assistance. You may file as many garnishment actions as you need in order to collect the entire amount you are owed. Be aware that the loser, a judgment debtor, has the right to certain legal exemptions from garnishment that may limit your ability to collect the debtor's money.

In order to garnish, you must first locate some cash assets of the losing party in the State of Missouri. These are most easily found in the form of paychecks (wages) or bank accounts.

Garnishing Wages: Garnishing wages is the surest form of collection. To do this, you must find out the name and address of the losing party's employer. The following may be helpful in discovering this information: Talk to businesses or other persons who might know about the losing party but be careful not to harass the losing party; examine court records for more details of the losing party's background. Under this procedure, the employer, usually for a period of 90 days, collects a portion of the losing party's wages and sends the money to the court. The amount an employer can collect is set by law. If the losing party makes less than a certain amount of money, you may not be able to garnish his or her wages at all.

Garnishing a Bank Account: As with garnishing wages, to do this you must find out the name and address of the losing party's bank. The following may be helpful in discovering this information: A check or other record the losing party gave you might indicate where the party banks; a cancelled check you wrote to the losing party may reveal the name of the bank on the back of the check. Be aware that if the bank account has another name on it, such as the losing party's spouse, you may not garnish it unless the judgment is against the spouse as well. Under this procedure, the bank, usually for a period of 30 days, collects from the losing party's account an amount of money up to the total of the judgment, court costs and garnishment filing fee. The bank then sends the money to the court.

Executing Your Garnishment Action (Wages or Bank Account): When you have located assets of the losing party (the judgment debtor), either wages from an employer or a bank account, the following instructions will assist you in collecting the money owed to you:

Request for Execution: Obtain from the clerk of the small claims court and complete the form called "Request for Execution, Garnishment, or Sequestration." Provide the name and address of the "garnishee," i.e., the bank or employer. Second, specify how long the execution is to "run," i.e., how long the bank or employer will withhold money owed the judgment debtor. The execution may run for not less than 30 days or more than 90 days (a garnishment against a bank account usually should be no longer than 30 days while a garnishment against wages should probably run at least 90 days). Ask the clerk if you have questions.

Return Date: The last day the Garnishee may withhold money from the judgment debtor is called the "return date." For instance, if you requested that your execution be returnable in 60 days, then the 60th day from the date the garnishment is issued is the return date. You should call the small claims clerk one week after requesting your garnishment to find out the return date.

Interrogatories: Before the garnishment will be issued, you must complete a portion of the "interrogatories" (i.e. questions) which are to be served on the garnishee. The small claims court clerk may provide you a set of interrogatories. This set of questions asks the garnishee exactly how much money has been withheld from the judgment debtor. The garnishee must answer these interrogatories and return one copy to you and one copy to the court within ten (10) days of the return date. If you do not receive the completed interrogatories from the garnishee by ten days after the return date, it is suggested you call the garnishee and see if there is a problem. If the garnishee refuses to comply, you may have to retain an attorney. At this point, the clerk can no longer help you.

C. OTHER COLLECTION METHODS

There are other court methods you can use to collect the money that is owed you. These methods are much more complicated than garnishment proceedings and will usually require the assistance of an attorney. Be advised that no judgment of a small claims court may be a lien on real estate.

D. SATISFACTION OF JUDGMENT

If you lose a small claims case and are ordered to pay a money judgment to the winner, once you pay the judgment in full, you should demand that the winning party file a "Satisfaction of Judgment" form with the court to verify that you have paid the winner in full satisfaction of the judgment. You may do

this whether you paid the entire judgment voluntarily, through garnishment, or some other procedure. This is a good idea so as to prevent the plaintiff from attempting to sue you again or collecting again on the same claim.

V. COMMONLY USED TERMS IN THE SMALL CLAIMS COURT

appeal — The process of asking a higher court to review the lower court's decision. An appeal of a small claims case is called a "trial de novo."

associate circuit court — The lowest level state court in Missouri which can hear claims up to $25,000 in amount. The small claims court is a part of the associate circuit court.

assignee — A person or business that purchases or otherwise acquires the right to a claim.

bond — In small claims court, a deposit of money for the court to hold to prevent the winning party from collecting its money while the losing party appeals the case.

continuance — The postponement of a court hearing until a later date or time.

counterclaim — A claim presented by the defendant against the plaintiff.

default judgment — A judgment in favor of the plaintiff because the defendant failed to show up for the trial which the defendant had a duty to do.

defendant — The person against whom an action is brought.

docket — The court's list of all cases to be heard on a particular day.

execution — The legal process of enforcing a judgment.

garnishee — A third party, such as an employer or bank, who has money belonging to the losing party. The third party is ordered to give the money to the court rather than to the losing party.

garnishment — Process whereby the winning party is paid by a third party who owed that money to the losing party. Wages owed by an employer or deposits held by a bank are most commonly used.

judgment — The decision of the court.

judgment debtor — A person who owes money to someone else according to the decision of a court.

next friend — A person appointed to act formally for a minor in small claims court who is not the minor's regular guardian.

petition — A written request to the court.

plaintiff — A person who brings an action against another person.

registered agent — A person designated by a company to receive official documents for the company.

service — The delivery to a person of an official court document by an authorized court official.

special process server — A person appointed by the court to deliver official court documents, such as summonses, to people involved in a case.

statute of limitations — The time period in which one must file a claim.

subpoena — A legal method used to require someone, such as a witness, to appear in court if that person does not want to appear voluntarily.

summons — A document used to notify a party that a claim has been filed and that the party is required to answer the claim in court.

trial de novo — An appeal of a small claims case decision. A trial de novo is a new trial before a judge other than the one who originally decided the case.

If you have additional questions or for further information about local court rules, check with the small claims court clerk.

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